

STANDARD PROCUREMENT DOCUMENT

Request for Bids Management Services (Two-Envelope Bidding Process) (After Prequalification)

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Revisions

October 2017

This revision dated October, 2017 incorporates new provisions on beneficial ownership and Direct Payment.

January 2017

This revision dated January, 2017 includes a template for notification of intention to award a contract. A few editorial enhancements have also been made.

July 2016

This revision dated July, 2016 incorporates a number of changes reflecting the *Procurement Regulations for IPF Borrowers*, July, 2016.

Foreword

This SPD has been updated to reflect the World Bank's *Procurement Regulations for IPF Borrowers, July, 2016* as amended from time to time. This SPD is applicable to the procurement of Management Services funded by IBRD or IDA financed projects whose Legal Agreement makes reference to the *Procurement Regulations for IPF Borrowers*.

Prequalification is considered good practice for the hiring of Management Services. This SPD assumes that prequalification has taken place before Bidding.

Preface

This Standard Procurement Document (SPD) for Management Services has been prepared for use in contracts financed by the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA).¹ This SPD is to be used for hiring Management Services through international competitive procurement using a Request for Bids (RFB) method, two (2) envelope process after a prequalification process has taken place, in projects that are financed in whole or in part by the World Bank through Investment Project Financing.

Generally, in RFB, the evaluation of Bids is in monetary terms. As an exception, in this RFB for Management Services, the evaluation criteria are rated type combining technical scores and cost. The award is made on the basis of Quality and Cost Based Selection (QCBS), Lowest Evaluated Cost (LEC) or Fixed Budget Selection (FBS) as specified Section II, Bid Data Sheet and Section III, Evaluation and Qualification Criteria

To obtain further information on procurement under World Bank funded projects or for question regarding the use of this SPD, contact:

Chief Procurement Officer
Standards, Procurement and Financial Management Department
The World Bank
1818 H Street, NW
Washington, D.C. 20433 U.S.A.
<http://www.worldbank.org>

¹ IBRD and IDA are generally called the World Bank. Since the procurement requirements for IBRD and IDA are identical, “World Bank” in this SPD refers to both IBRD and IDA, and “loan” refers to either an IBRD loan, or an IDA credit or a grant.

Standard Procurement Document

Summary

Specific Procurement Notice

Notice of Request for Bids (RFB) for Prequalified Bidders

The template is the notice of Request for Bids for a Bidding process after prequalification.

Bidding Document: Request for Bids – Management Services (Two-Envelope Bidding Process) (After Prequalification)

PART 1 – BIDDING PROCEDURES

Section I - Instructions to Bidders (ITB)

This Section provides information to help Bidders prepare their Bids. It is based on a two envelope Bidding process. Information is also provided on the submission, opening, and evaluation of Bids and on the award of Contracts. **Section I contains provisions that are to be used without modification.**

Section II - Bid Data Sheet (BDS)

This Section includes provisions that are specific to each procurement and that supplement Section I, Instructions to Bidders.

Section III - Evaluation and Qualification Criteria

This Section specifies the methodology to determine the Most Advantageous Bid. The Most Advantageous Bid is the Bid of the Bidder that meets the qualification criteria and whose Bid is:

- (i) substantially responsive, and lowest evaluated cost; or
- (ii) the best evaluated Bid determined based on the selection method applied i.e. Quality and Cost Based Selection (QCBS) or Fixed Budget Selection (FBS) as specified in the applicable *Procurement Regulations for IPF Borrowers* (Procurement Regulations).

Section IV - Bidding Forms

This Section contains the forms for the Bid Submission, Price Schedules and Bid Security to be completed and submitted by the Bidder as part of its Bid.

Section V - Eligible Countries

This Section contains information regarding eligible countries.

Section VI - Fraud and Corruption

This section includes the Fraud and Corruption provisions which apply to this Bidding process.

PART 2 – SERVICES’ REQUIREMENTS**Section VII - Description of Services**

This Section contains the contract’s specific Management Services requirements.

PART 3 – CONDITIONS OF CONTRACT AND CONTRACT FORMS**Section VIII - General Conditions of Contract (GCC)**

This Section contains the general clauses to be applied in all contracts.

Section IX - Particular Conditions of Contract (PCC)

This Section consists of Part A, Contract Data, which contains data, and Part B, Specific Provisions, which contains clauses specific to each contract. The contents of this Section supplement the General Conditions and shall be prepared by the Employer.

Section X - Contract Forms

This Section contains the Letter of Acceptance, Contract Agreement and other relevant forms.

**Notice of Request for Bids
Template**

**Request for Bids
Management Services
(Two-Envelope Bidding Process)
(After Prequalification)**

Employer: *[insert the name of the Employer's agency]*

Project: *[insert name of project]*

Contract title: *[insert the name of the contract]*

Country: *[insert country where RFB is issued]*

Loan No. /Credit No. / Grant No.: *[insert reference number for loan/credit/grant]*

RFB No: *[insert RFB reference number from Procurement Plan]*

Issued on: *[insert date when RFB is issued to the market]*

1. The *[insert name of Borrower/Beneficiary/Recipient]* *[has received/has applied for/intends to apply for]* financing from the World Bank toward the cost of the *[insert name of project or grant]*, and intends to apply part of the proceeds toward payments under the contract¹ for *[insert title of contract]*². *[Insert if applicable: "For this contract, the Borrower shall process the payments using the Direct Payment disbursement method, as defined in the World Bank's Disbursement Guidelines for Investment Project Financing."]*
2. The *[insert name of implementing agency]* now invites sealed Bids from eligible Bidders for *[insert brief description of Management Services required, including quantities, location, delivery period, etc.]*³.
3. Bidding will be conducted through international competitive procurement using a Request for Bids (RFB) as specified in the World Bank's "Regulations for IPF Borrowers" *[insert date of applicable Procurement Regulations edition as per legal agreement]* ("Procurement Regulations"), and is open to all prequalified eligible Bidders.

¹ Substitute "contracts" where Bids are called concurrently for multiple contracts. Add a new para. 3 and renumber paras 3 - 8 as follows: "Bidders may Bid for one or several contracts, as further defined in the Bidding Document. Bidders wishing to offer discounts in case they are awarded more than one contract will be allowed to do so, provided those discounts are included in the Letter of Bid."

² Insert if applicable: "This contract will be jointly financed by *[insert name of co-financing agency]*. Bidding process will be governed by the World Bank's Procurement Regulations."

³ A brief description of the Management Services should be provided, including quantities, location, delivery period, and other information necessary to enable potential Bidders to decide whether or not to respond to the Request for Bids.

4. Prequalified eligible Bidders may obtain further information from *[insert name of implementing agency, insert name and e-mail of officer in charge]* and inspect the Bidding Document during office hours *[insert office hours if applicable i.e. 0900 to 1700 hours]* at the address given below *[state address at the end of this RFB]*⁴.
5. The Bidding Document in *[insert name of language]* may be purchased by prequalified eligible Bidders upon the submission of a written application to the address below and upon payment of a nonrefundable fee⁵ of *[insert amount in Borrower's currency or in a convertible currency]*. The method of payment will be *[insert method of payment]*.⁶ The document will be sent by *[insert delivery procedure]*.⁷
6. Bids must be delivered to the address below *[state address at the end of this RFB]*⁸ on or before *[insert time and date]*. Electronic bidding will *[will not]* be permitted. Late Bids will be rejected. Bids will be publicly opened in the presence of the Bidders' designated representatives and anyone who choose to attend at the address below *[state address at the end of this RFB]* on *[insert time and date]*.
7. All Bids must be accompanied by a *[insert "Bid Security" or "Bid-Securing Declaration," as appropriate]* of *[insert amount and currency in case of a Bid Security]*.
8. *[Insert this paragraph if applicable in accordance with the Procurement Plan: "Attention is drawn to the Procurement Regulations requiring the Borrower to disclose information on the successful bidder's beneficial ownership, as part of the Contract Award Notice, using the Beneficial Ownership Disclosure Form as included in the bidding document."]*
9. The address(es) referred to above is (are): *[insert detailed address(es)]*

[[Insert name of officer and title]

[Insert postal address and/or street address, postal code, city and country]

[Insert telephone number, country and city codes]

[Insert facsimile number, country and city codes]

[Insert email address]

[Insert web site address]

⁴ The office for inquiry and issuance of Bidding Document and that for Bid submission may or may not be the same.

⁵ The fee chargeable should only be nominal to defray reproduction and mailing costs. An amount between US\$50 and US\$300 or equivalent is deemed appropriate.

⁶ For example, cashier's check, direct deposit to specified account number, etc.

⁷ The delivery procedure is usually airmail for overseas delivery and surface mail or courier for local delivery. If urgency or security dictates, courier services may be required for overseas delivery. With the agreement of the World Bank, documents may be distributed by e-mail, downloading from authorized web site(s) or electronic procurement system

⁸ Substitute the address for Bid submission if it is different from address for inquiry and issuance of Bidding Document.

Request for Bids Management Services

(Two-Envelope Bidding Process)
(After Prequalification)

Procurement of:

[insert identification of the Management Services]

Employer: *[insert the name of the Employer's agency]*

Project: *[insert name of project]*

Contract title: *[insert the name of the contract]*

Country: *[insert country where RFB is issued]*

Loan No. /Credit No. / Grant No.: *[insert reference number for loan/credit/grant]*

RFB No: *[insert RFB reference number from Procurement Plan]*

Issued on: *[insert date when RFB is issued to the market]*

Standard Procurement Document

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PART 1 – Bidding Procedures

Section I - Instructions to Bidders

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Section I - Instructions to Bidders

A. General

1. **Scope of Bid**
 - 1.1 The Employer, as specified **in the BDS**, issues this Bidding Document for the provision of Management Services as specified in Section VII, Description of Services. The name and identification of this RFB are specified **in the BDS**.
 - 1.2 Throughout this Bidding Document:
 - (a) the term “in writing” means communicated in written form (e.g. by mail, e-mail, fax, including if specified in the BDS, distributed or received through the electronic-procurement system used by the Employer) with proof of receipt;
 - (b) if the context so requires, “singular” means “plural” and vice versa; and
 - (c) “Day” means calendar day, unless otherwise specified as “Business Day”. A Business Day is any day that is an official working day of the Borrower. It excludes the Borrower’s official public holidays.
2. **Source of Funds**
 - 2.1 The Borrower or Recipient (hereinafter called “Borrower”) indicated **in the BDS** has applied for or received financing (hereinafter called “funds”) from the International Bank for Reconstruction and Development or the International Development Association (hereinafter called “the Bank”) toward the cost of the project named **in the BDS**. The Borrower intends to apply a portion of the funds to eligible payments under the contract(s) for which this Bidding Document is issued.
 - 2.2 Payments by the Bank will be made only at the request of the Borrower and upon approval by the Bank in accordance with the terms and conditions of the Loan (or other financing) Agreement. The Loan (or other financing) Agreement prohibits a withdrawal from the loan account for the purpose of any payment to persons or entities, or for any import of equipment, plant, or materials, if such payment or import is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations. No party other than the Borrower shall derive any rights from the Loan

(or other financing) Agreement or have any claim to the funds.

3. Fraud and Corruption

- 3.1 The Bank requires compliance with the Bank’s Anti-Corruption Guidelines and its prevailing sanctions policies and procedures as set forth in the WBG’s Sanctions Framework, as set forth in Section VI.
- 3.2 In further pursuance of this policy, bidders shall permit and shall cause their agents (where declared or not), subcontractors, subconsultants, service providers, suppliers, and their personnel, to permit the Bank to inspect all accounts, records and other documents relating to any initial selection process, prequalification process, bid submission, proposal submission, and contract performance (in the case of award), and to have them audited by auditors appointed by the Bank.

4. Eligible Bidders

- 4.1 A Bidder may be a firm that is a private entity, a state-owned enterprise or institution, subject to ITB 4.6, or any combination of such entities in the form of a joint venture (JV) under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the entire Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the Bidding process and, in the event the JV is awarded the Contract, during contract execution. Unless specified **in the BDS**, there is no limit on the number of members in a JV.
- 4.2 A Bidder shall not have a conflict of interest. All Bidders found to have a conflict of interest shall be disqualified. A Bidder may be considered to have a conflict of interest with one or more parties in this bidding process, if:
- (a) directly or indirectly controls, is controlled by or is under common control with another Bidder; or
 - (b) receives or has received any direct or indirect subsidy from another Bidder; or
 - (c) has the same legal representative for purposes of this bid; or
 - (d) or has a relationship with another Bidder, directly or through common third parties, that puts them in a position to have access to information about or influence on the Bid of another Bidder, or influence the decisions

of the Employer regarding this Bidding process; or

- (e) or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of any works related to the services that are the subject of the Bid;
- (f) or any of its affiliates has been hired (or is proposed to be hired) by the Employer or Borrower as Employer's Representative for the Contract; or
- (g) would be providing goods, works, or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of the project specified in the BDS ITB 2.1 that it provided or were provided by any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm; or
- (h) has a close business or family relationship with a professional staff of the Borrower (or of the project implementing agency, or of a recipient of a part of the loan) who: (i) are directly or indirectly involved in the preparation of the Bidding Document or specifications of the Contract, and/or the Bid evaluation process of such Contract; or (ii) would be involved in the implementation or supervision of such Contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to the Bank throughout the Bidding process and execution of the Contract.

4.3 A firm that is a Bidder (either individually or as a JV member) shall not participate in more than one Bid. This includes participation as a subcontractor in other Bids. Such participation shall result in the disqualification of all Bids in which the firm is involved. A firm that is not a Bidder or a JV member, may participate as a subcontractor in more than one Bid.

4.4 A Bidder may have the nationality of any country, subject to the restrictions pursuant to ITB 4.8. A Bidder shall be deemed to have the nationality of a country if the Bidder is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be. This criterion also shall apply to the determination of the nationality of proposed subcontractors or sub-consultants for any

part of the Contract including related Services.

- 4.5 A Bidder that has been sanctioned by the Bank, pursuant to the Bank's Anti-Corruption Guidelines, and in accordance with its prevailing sanctions policies and procedures as set forth in the WBG's Sanctions Framework as described in Section VI paragraph 2.2 d., shall be ineligible to be initially selected for, prequalified for, bid for, propose for, or be awarded a Bank-financed contract or benefit from a Bank-financed contract, financially or otherwise, during such period of time as the Bank shall have determined. The list of debarred firms and individuals is available at the electronic address specified in the BDS.
- 4.6 Bidders that are state-owned enterprises or institutions in the Employer's Country may be eligible to compete and be awarded a Contract(s) only if they can establish, in a manner acceptable to the Bank, that they (i) are legally and financially autonomous (ii) operate under commercial law, and (iii) are not under supervision of the Employer.
- 4.7 A Bidder shall not be under suspension from Bidding by the Employer as the result of the operation of a Bid-Securing or Proposal-Securing Declaration.
- 4.8 Firms and individuals may be ineligible if so indicated in Section V and (a) as a matter of law or official regulations, the Borrower's country prohibits commercial relations with that country, provided that the Bank is satisfied that such exclusion does not preclude effective competition for the supply of goods or the contracting of works or services required; or (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Borrower's country prohibits any import of goods or contracting of works or services from that country, or any payments to any country, person, or entity in that country.
- 4.9 This Bidding is open only to prequalified Bidders.
- 4.10 A Bidder shall provide such documentary evidence of eligibility satisfactory to the Employer, as the Employer shall reasonably request.
- 4.11 A firm that is under a sanction of debarment by the Borrower from being awarded a contract is eligible to participate in this procurement, unless the Bank, at the Borrower's request, is satisfied that the debarment; (a) relates to fraud or corruption, and (b) followed a judicial or administrative proceeding that afforded the firm adequate due process.

- 5. Eligible Materials, Equipment and Services**
- 5.1 The materials, equipment and services to be supplied under the Contract and financed by the Bank may have their origin in any country subject to the restrictions specified in Section V, Eligible Countries, and all expenditures under the Contract will not contravene such restrictions. At the Employer's request, Bidders may be required to provide evidence of the origin of materials, equipment and services.

B. Contents of Bidding Document

- 6. Sections of Bidding Document**
- 6.1 The Bidding Document consists of Parts 1, 2, and 3, which include all the Sections indicated below, and should be read in conjunction with any addenda issued in accordance with ITB 9.

PART 1 Bidding Procedures

- Section I - Instructions to Bidders (ITB)
- Section II - Bid Data Sheet (BDS)
- Section III - Evaluation and Qualification Criteria
- Section IV - Bidding Forms
- Section V - Eligible Countries
- Section VI – Fraud and Corruption

PART 2 Services' Requirements

- Section VII - Description of Services

PART 3 Conditions of Contract and Contract Forms

- Section VIII - General Conditions of Contract
- Section IX - Particular Conditions of Contract
- Section X - Contract Forms

- 6.2 The notice of Request for Bids (RFB) issued by the Employer to the prequalified Bidders is not part of the Bidding Document.
- 6.3 Unless obtained directly from the Employer, the Employer is not responsible for the completeness of the document, responses to requests for clarification, the Minutes of the pre-Bid meeting (if any), or Addenda to the Bidding Document in accordance with ITB 9. In case of any contradiction, documents obtained directly from the Employer shall prevail.

6.4 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Document. Failure to furnish all information or documentation required by the Bidding Document may result in the rejection of the Bid.

7. Clarification of Bidding Document, Site Visit, Pre-Bid Meeting

7.1 A prospective Bidder requiring any clarification of the Bidding Document shall contact the Employer in writing at the Employer's address, and by the means of communication indicated **in the BDS**, or raise its enquiries during the pre-Bid meeting if provided for in accordance with ITB 7.4. The Employer will respond in writing to any request for clarification, provided that such request is received no later than twenty-one (21) days prior to the deadline for submission of Bids. The Employer shall forward copies of its response to all Bidders who have acquired the Bidding Document in accordance with ITB 6.3, including a description of the inquiry but without identifying its source. Should the Employer deem it necessary to amend the Bidding Document as a result of a request for clarification, it shall do so following the procedure under ITB 9 and ITB 23.2.

7.2 The Bidder is advised to visit and examine the site or sites that are the subject of the proposed Contract, and their surroundings and obtain for itself on its own responsibility all information that may be necessary for preparing the bid and entering into the Contract. Such visits to the sites (hereinafter referred to as Site Visits) shall be conducted in accordance with the procedures and during the dates defined **in the BDS**.

7.3 The Bidder and any of its personnel or agents will be granted permission by the Employer to enter upon its premises and lands for the purpose of inspection, but only upon the express condition that the Bidder, its personnel, and agents will release and indemnify the Employer and its advisors, personnel, consultants and agents from and against all liability in respect thereof, and will be solely responsible for death or personal injury, loss of or damage to property, and any other loss, damage, costs, and expenses incurred as a result of the inspection.

7.4 The Bidder's designated representative is invited to attend a pre-Bid meeting, if and as provided for **in the BDS**. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage. A site visit conducted by the Employer will be organized if provided for **in the BDS**.

7.5 The Bidder is requested to submit, as far as possible, any questions in writing, to reach the Employer not later than one week before the meeting.

- 7.6 Minutes of the pre-Bid meeting, including the text of the questions raised, without identifying the source, and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Bidders who have acquired the Bidding Document in accordance with ITB 6.3. Any modification to the Bidding Document that may become necessary as a result of the pre-Bid meeting shall be made by the Employer exclusively through the issue of an addendum pursuant to ITB 9 and not through the minutes of the pre-Bid meeting.
- 7.7 Nonattendance at the pre-Bid meeting will not be a cause for disqualification of a Bidder.

8. Data Room

- 8.1 If specified **in the BDS**, the Employer has established a data room (hereinafter called the Data Room) with a selection of relevant data to be accessible to Bidders or their representatives. The address of the Data Room, and other information considered relevant by the Employer (such as an inventory of materials, or dates, rules and procedures for access, and dates of availability) are as specified **in the BDS**.

9. Amendment of Bidding Document

- 9.1 At any time prior to the deadline for submission of Bids, the Employer may amend the Bidding Document by issuing addenda.
- 9.2 Any addendum issued shall be part of the Bidding Document and shall be communicated in writing to all who have obtained the Bidding Document from the Employer in accordance with ITB 6.3. No other communications of any kind whatsoever will modify the Bidding Document.
- 9.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their Bids, the Employer may, at its discretion, extend the deadline for the submission of Bids, pursuant to ITB 23.2.

C. Preparation of Bids

10. Cost of Bidding

- 10.1 The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the Employer shall not be responsible or liable for those costs, regardless of the conduct or outcome of the Bidding process.

11. Language of Bid

- 11.1 The Bid, as well as all correspondence and documents relating to the Bid exchanged by the Bidder and the Employer, shall be written in the language specified **in the BDS**. Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an

accurate translation of the relevant passages in the language specified **in the BDS** for the Bid, in which case, for purposes of interpretation of the Bid, such translation shall govern.

12. Documents Comprising the Bid

12.1 The Bid shall comprise two Parts, namely the Technical Proposal and the Financial Proposal. These two Parts shall be submitted simultaneously in two separate sealed envelopes (two-envelope Bidding process). One envelope shall contain only information relating to the Technical Proposal and the other, only information relating to the Financial Proposal. These two envelopes shall be enclosed in a separate sealed outer envelope marked “ORIGINAL BID”.

12.2 The **Technical Proposal** shall contain the following:

- (a) **Letter of Bid – Technical Proposal**, prepared in accordance with ITB 15.1;
- (b) **Bid Security or Bid-Securing Declaration**, in accordance with ITB 17;
- (c) **Authorization**: written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB 21.3;
- (d) **Conformity**: Methodology and Approach in accordance with ITB 13.1;
- (e) **Bidder’s Qualifications**: documents establishing the qualifications of the Bidder in accordance with ITB 18.1; and
- (f) any other documents required in the BDS.

12.3 The **Financial Proposal** shall contain the following:

- (a) **Letter of Bid – Financial Proposal**, prepared in accordance with ITB 14 and ITB 15;
- (b) **Price Schedules**: completed prepared in accordance with ITB 14 and ITB 15; and
- (c) any other document required in the BDS.

12.4 The Technical Proposal shall not include any financial information related to the Bid price. Where material financial information related to the Bid price is contained in the Technical Proposal the Bid shall be declared non-responsive.

12.5 In addition to the requirements under ITB 12.1, Bids submitted by a

JV shall include a copy of the Joint Venture Agreement entered into by all members. Alternatively, a letter of intent to execute a Joint Venture Agreement in the event of a successful Bid shall be signed by all members and submitted with the Bid, together with a copy of the proposed Agreement. The proposed JV Agreement shall indicate at least the parts of the services to be performed by the respective members.

12.6 The Bidder shall furnish in the Letter of Bid information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Bid.

**13. Documents
Comprising the
Methodology and
Approach**

13.1 The Methodology and Approach shall consist of the following sub-parts:

- (a) a detailed work plan (hereinafter referred to as the Work Plan) using the corresponding form included in Section IV, Bidding Forms, and setting out the manner in which the Bidder proposes to carry out the services as defined in the Contract and to meet any performance targets specified in the Contract;
- (b) a detailed staffing plan (hereinafter referred to as the Staffing Plan) setting out the Bidder's proposed staffing arrangements as they relate to the requirements in the Contractor's Personnel Schedule (Schedule B), included in Section VII, Schedule of Services Requirements; and
- (c) any other information as stipulated in Section IV, Bidding Forms.

**14. Documents
Comprising the
Financial
Proposal**

14.1 The Financial Proposal shall consist of a completed and properly executed Bid Price Form. The Price Schedule is included in Section IV of this Bidding Document. Bidders shall complete the Price Schedule in full and shall not amend or change the form in any way.

14.2 The Bidder may quote its prices in accordance with ITB 19.

14.3 All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 28 days prior to the deadline for submission of Bids, shall be included in the rates and prices and the total Bid Price submitted by the Bidder.

15. Letters of Bid

15.1 Each Bidder shall provide a completed Letter of Bid – Technical Proposal and Letter of Bid – Financial Proposal using the relevant forms furnished in Section IV, Bidding Forms. The forms must be completed without any alterations to the text, and

no substitutes shall be accepted except as provided under ITB 21.3. All blank spaces shall be filled in with the information requested.

16. Power of Attorney

16.1 Each Bidder shall provide a written power of attorney duly notarized, indicating that the person(s) signing the Bid has(ve) the authority to sign the Bid and thus that the Bid is binding upon the Bidder during the full period of its validity.

17. Bid Security

17.1 The Bidder shall furnish as part of the Technical Proposal of its Bid, either a Bid-Securing Declaration or a Bid Security as specified **in the BDS**. If a Bid Security is specified, the Bid Security shall be in the amount and currency specified **in the BDS**.

17.2 A Bid-Securing Declaration shall use the form included in Section IV, Bidding Forms.

17.3 If a Bid Security is specified pursuant to ITB 17.1, the Bid Security shall be a demand guarantee from a reputable source from an eligible country in any of the following forms at the Bidder's option:

- (a) an unconditional guarantee issued by a bank or non-bank financial institution (such as an insurance, bonding or surety company);
- (b) an irrevocable letter of credit;
- (c) a cashier's or certified check; or
- (d) another security indicated in the BDS,

from a reputable source from an eligible country. If the unconditional guarantee is issued by a non-bank financial institution located outside the Employer's Country the issuing non-bank financial institution shall have a correspondent financial institution located in the Employer's Country to make it enforceable unless the Employer has agreed in writing, prior to Bid submission, that a correspondent financial institution is not required. In the case of a bank guarantee, the Bid security shall be submitted either using the Bid Security Form included in Section IV, Bidding Forms, or in another substantially similar format approved by the Employer prior to Bid submission. The Bid security shall be valid for twenty-eight (28) days beyond the original validity period of the Bid, or beyond any period of extension if requested under ITB 20.2.

17.4 If a Bid Security or Bid Securing Declaration is specified

pursuant to ITB 17.1, any Bid not accompanied by a substantially responsive Bid Security or Bid-Securing Declaration shall be rejected by the Employer as non-responsive.

17.5 If a Bid Security is specified pursuant to ITB 17.1, the Bid Security of unsuccessful Bidders shall be returned as promptly as possible upon the successful Bidder's signing the contract and furnishing the Performance Security pursuant to ITB 46.

17.6 The Bid Security of the successful Bidder shall be returned as promptly as possible once the successful Bidder has signed the Contract and furnished the Performance Security.

17.7 The Bid Security may be forfeited or the Bid-Securing Declaration executed:

- (a) if a Bidder withdraws its Bid during the Period of Validity of Bids, except as provided in ITB 20.2; or
- (b) if the successful Bidder fails to:
 - (i) sign the Contract in accordance with ITB 46; or
 - (ii) furnish a Performance Security in accordance with ITB 47.

17.8 The Bid Security or Bid-Securing Declaration of a Joint Venture (JV) shall be in the name of the JV that submits the Bid. If the JV has not been legally constituted at the time of Bidding, the Bid Security shall be in the names of all future members as named in the letter of intent to execute the JV.

17.9 If a Bid Security is not required **in the BDS** pursuant to ITB 17.1, and:

- (a) if a Bidder withdraws its Bid during the Period of Validity of Bids specified by the Bidder on the Letters of Bid pursuant to ITB 20.1, except as provided in ITB 20.2; or
- (b) if the successful Bidder fails:
 - (i) to sign the Contract in accordance with ITB 46; or
 - (ii) furnish a Performance Security in accordance with ITB 47,

the Borrower may, if provided for **in the BDS**, declare the Bidder disqualified to be awarded a contract by the Employer for a period of time as stated **in the BDS**.

- 18. Documents Establishing the Qualifications of the Bidder**
- 18.1 To establish its qualifications to perform the Contract in accordance with Section III, Evaluation and Qualification Criteria, the Bidder shall provide the information requested in the corresponding information sheets included in Section IV, Bidding Forms.
- 19. Currencies of Bid and Payment**
- 19.1 The currency(ies) of the Bid and the currency(ies) of payments shall be the same. The Bidder shall quote in the currency of the Employer’s Country the portion of the Bid price that corresponds to expenditures incurred in the currency of the Employer’s Country, unless otherwise specified **in the BDS**.
- 19.2 The Bidder may express the Bid price in any currency. If the Bidder wishes to be paid in a combination of amounts in different currencies, it may quote its price accordingly but shall use no more than three foreign currencies in addition to the currency of the Employer’s Country.
- 20. Period of Validity of Bids**
- 20.1 Bids shall remain valid for the period specified **in the BDS** after the Bid submission deadline date prescribed by the Employer. A Bid valid for a shorter period shall be rejected by the Employer as non responsive.
- 20.2 In exceptional circumstances, prior to the expiration of the Bid validity period, the Employer may request Bidders to extend the period of validity of their Bids. The request and the responses shall be made in writing. If a Bid Security is requested in accordance with ITB 17.1, it shall also be extended for twenty-eight days (28) beyond the deadline of the extended validity period. A Bidder may refuse the request without forfeiting its Bid Security. A Bidder granting the request shall not be required or permitted to modify its Bid.
- 21. Format and Signing of Bid**
- 21.1 The Bidder shall prepare one original of the Technical Part and one original of the Financial Part as described in ITB 12.1, and clearly mark each as “ORIGINAL.” In addition, the Bidder shall submit copies of the Technical Proposal and the Financial Proposal, in the number specified **in the BDS** and clearly mark them “COPY.”
- 21.2 Bidders shall mark as “CONFIDENTIAL” information in their Bids which is confidential or proprietary to their business. This may include proprietary information, trade secrets or commercial or financially sensitive information..
- 21.3 The original and all copies of each Bid shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder. This authorization shall consist of a

written confirmation as specified **in the BDS** and shall be attached to the Bid. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Bid where entries or amendments have been made shall be signed or initialed by the person signing the Bid.

- 21.4 In case the Bidder is a JV, the Bid shall be signed by an authorized representative of the JV on behalf of the JV, and so as to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized representatives.
- 21.5 Any inter-lineation, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Bid.

D. Submission of Bids

22. Sealing and Marking of Bids

- 22.1 The Bidder shall deliver the Bid in two separate, sealed envelopes (the Technical Proposal and the Financial Proposal). These two envelopes shall be enclosed in a separate sealed outer envelope marked “ORIGINAL BID”.
- 22.2 In addition, the Bidder shall submit copies of the Bid in the number specified **in the BDS ITB 21.1**. Copies of the Technical Proposal shall be placed in a separate sealed envelope marked “COPIES: TECHNICAL PROPOSAL”. Copies of the Financial Proposal shall be placed in a separate sealed envelope marked “COPIES: FINANCIAL PROPOSAL”. The Bidder shall place both of these envelopes in a separate, sealed outer envelope marked “BID COPIES”. In the event of any discrepancy between the original and the copies, the original shall prevail. The envelopes marked “ORIGINAL BID” and “BID COPIES” shall be enclosed in a separate sealed outer envelope for submission to the Employer.
- 22.3 All inner and outer envelopes, shall:
- (a) bear the name and address of the Bidder;
 - (b) be addressed to the Employer in accordance with ITB 23.1;
 - (c) bear the specific identification of this Bidding process indicated in the BDS pursuant to ITB 1.1; and
 - (d) bear a warning not to open before the time and date for Bid opening.
- 22.4 If all envelopes are not sealed and marked as required, the Employer will assume no responsibility for the misplacement or

premature opening of the Bid.

23. Deadline for Submission of Bids

- 23.1 Bids must be received by the Employer at the address and no later than the date and time indicated **in the BDS**. When so specified **in the BDS**, Bidders shall have the option of submitting their Bids electronically. Bidders submitting Bids electronically shall follow the electronic Bid submission procedures specified **in the BDS**.
- 23.2 The Employer may, at its discretion, extend the deadline for the submission of Bids by amending the Bidding Document in accordance with ITB 9, in which case all rights and obligations of the Employer and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.

24. Late Bids

- 24.1 The Employer shall not consider any Bid that arrives after the deadline for submission of Bids, in accordance with ITB 23. Any Bid received by the Employer after the deadline for submission of Bids shall be declared late, rejected, and returned unopened to the Bidder.

25. Withdrawal, Substitution, and Modification of Bids

- 25.1 A Bidder may withdraw or modify its Bid after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include copies of the authorization in accordance with ITB 21.3, (except that withdrawal notices do not require copies). A Bidder's modification or withdrawal must be:
- (a) prepared and submitted in accordance with ITB 21 and ITB 22 (except that withdrawals notices do not require copies), and in addition, the respective envelopes shall be clearly marked "Withdrawal," "Substitution," "Modification," and
 - (b) received by the Employer prior to the deadline prescribed for submission of Bids, in accordance with ITB 23.
- 25.2 Bids requested to be withdrawn in accordance with ITB 25.1 shall be returned unopened to the Bidders.
- 25.3 No Bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of Bids and the expiration of the period of Bid validity specified by the Bidder on the Letter of Bid Form or any extension thereof.

E. Public Opening of Technical Proposal

26. Public Opening of Technical

- 26.1 Except as in the cases specified in ITB 24 and ITB 25.2, the Employer shall, at this Bid opening, publicly open and read out,

Proposals

in accordance with this ITB, all bids received by the deadline at the date, time and place specified **in the BDS** in the presence of Bidders' designated representatives and anyone who chooses to attend. Any specific electronic Bid opening procedures required if electronic Bidding is permitted in accordance with ITB 23.1, shall be as specified **in the BDS**.

- 26.2 First, envelopes marked "WITHDRAWAL" shall be opened and read out and the envelope with the corresponding Bid shall not be opened, but returned to the Bidder. If the withdrawal envelope does not contain a copy of the "power of attorney" confirming the signature as a person duly authorized to sign on behalf of the Bidder, the corresponding Bid will be opened. No Bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at the Bid opening.
- 26.3 Next, envelopes marked "Substitution" shall be opened and read out and exchanged with the corresponding Bid being substituted, and the substituted proposal shall not be opened, but returned to the Bidder. No Bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at Bid opening.
- 26.4 Next, envelopes marked "Modification" shall be opened and read out with the corresponding Bid. No Bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at the Bid opening.
- 26.5 Next, all other envelopes marked "TECHNICAL PROPOSAL" shall be opened one at a time. All envelopes marked "FINANCIAL PROPOSAL" shall remain sealed, and kept by the Employer in safe custody until they are opened, at a later public opening, following the evaluation of the Technical Proposal of the Bids. On opening the envelopes marked "TECHNICAL PROPOSAL" the Employer shall read out: the name of the Bidder and whether there is a modification, presence or absence of a Bid Security, or Bid-Securing Declaration, if required; and any other details as the Employer may consider appropriate.
- 26.6 Only envelopes that are opened and read out at the Bid opening shall be considered further in the evaluation. The Letter of Bid – Technical Proposal and the separate sealed envelope marked "FINANCIAL PROPOSAL" are to be initialed by representatives of the Employer attending Bid opening in the

manner specified **in the BDS**.

- 26.7 At the Bid opening the Employer shall neither discuss the merits of any Bid nor reject any Bid (except for late Bids, in accordance with ITB 24.1).
- 26.8 Following the Bid opening of the Technical Proposals of the Bid, the Employer shall prepare a record that shall include, as a minimum:
- (a) the name of the Bidder and whether there is a withdrawal, substitution, or modification;
 - (b) the presence or absence of a duly sealed envelope marked “FINANCIAL PROPOSAL”; and
 - (c) the presence or absence of a Bid Security or Bid-Securing Declaration.
- 26.9 The Bidders’ representatives who are present shall be requested to sign the record. The omission of a Bidder’s signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Bidders.

27. Public Opening of Financial Proposals

- 27.1 Following the completion of the evaluation of the Technical Proposals, and the Bank has issued its no objection (if applicable), the Employer shall notify, in accordance with option specified **in the BDS**, in writing those Bidders whose Bids were considered non-responsive to the Bidding Document or failed to meet the Qualification Criteria, advising them of the following information:
- (a) the grounds on which their Technical Proposal failed to meet the requirements of the bidding document;
 - (b) their envelopes marked “FINANCIAL PROPOSAL” will be returned to them unopened after the completion of the selection process and the signing of the Contract; and
 - (c) notify them of the date, time and location of the public opening of the envelopes marked “FINANCIAL PROPOSAL”.
- 27.2 The opening date should allow Bidders sufficient time to make arrangements for attending the opening. The Financial Proposal of the Bid shall be opened in the presence of Bidders’ designated representatives and anyone who chooses to attend.
- 27.3 Bidders who met the Qualification Criteria and whose Bids were evaluated as substantially responsive will have their envelopes

marked “FINANCIAL PROPOSAL” opened at the second public opening. Each of these envelopes marked “FINANCIAL PROPOSAL” shall be inspected to confirm that they have remained sealed and unopened. These envelopes shall then be opened by the Employer. The Employer shall read out the names of each Bidder, and the total Bid prices, per lot (contract) if applicable, including any discounts, technical score, if applicable, and any other details as the Employer may consider appropriate. Only discounts read out at the Bid opening shall be considered for evaluation. The Letter of Bid - Financial Proposal and the Price Schedules are to be initialed by a representative of the Employer attending the Bid opening in the manner specified **in the BDS.**

- 27.4 At the Bid opening the Employer shall neither discuss the merits of any Bid nor reject any envelopes marked “FINANCIAL PROPOSAL”.
- 27.5 The Employer shall prepare a record of the Financial Proposal of the Bid opening that shall include, as a minimum:
- (a) the name of the Bidder whose Financial Proposal was opened;
 - (b) the Bid price, per lot (contract) if applicable, including any discounts.
- 27.6 The Bidders whose envelopes marked “FINANCIAL PROPOSAL” have been opened or their representatives who are present shall be requested to sign the record. The omission of a Bidder’s signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Bidders.

28. Confidentiality

- 28.1 Information relating to the evaluation of Bids and recommendation of contract award, shall not be disclosed to Bidders or any other persons not officially concerned with the Bidding process until the Notification of Intention to Award the Contract is transmitted to all Bidders in accordance with ITB 42.
- 28.2 Any attempt by a Bidder to influence the Employer in the evaluation of the Bids or Contract award decisions may result in the rejection of its Bid.
- 28.3 Notwithstanding ITB 28.2, from the time of Bid opening to the time of Contract award, if any Bidder wishes to contact the Employer on any matter related to the Bidding process, it may

do so in writing.

29. General Clarification of Bids

- 29.1 To assist in the examination, evaluation, and comparison of the Bids, and qualification of the Bidders, the Employer may, at its discretion, ask any Bidder for a clarification of its Bid. Any clarification submitted by a Bidder that is not in response to a request by the Employer shall not be considered, and the Employer's request for clarification and the response shall be in writing. If the Bid includes a financial proposal, no change in the prices or substance of the Bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the Bids, in accordance with ITB 36.
- 29.2 If a Bidder does not provide clarifications of its Bid by the date and time set in the Employer's request for clarification, its Bid may be rejected.

30. Selection Method and Evaluation Process

- 30.1 Selection of the Most Advantageous Bid will be conducted using one of the following methods, as specified **in the BDS**: (i) Lowest-Evaluated Cost Selection, (ii) Quality- and Cost-Based Selection (QCBS), or (iii) Fixed-Budget Selection.
- 30.2 Prior to the evaluation of any Bid, the Employer will determine whether each Bid:
- (a) has been properly signed;
 - (b) is accompanied by the required securities; and
 - (c) is substantially responsive to the Bid requirements, pursuant to ITB 32.
- 30.3 If the selection method pursuant to ITB 30.1 is Lowest-Evaluated Cost, after a Bid is deemed substantially responsive in accordance with ITB 32, the next stage will be the evaluation of the Financial Proposal in accordance with ITB 35.
- 30.4 If the selection method pursuant to ITB 30.1 is QCBS or Fixed-Budget, after the Bid is deemed substantially responsive, the evaluation process will consist of two stages: (i) evaluation of the Technical Proposal in accordance with ITB 34 and (ii) Evaluation of the Financial Proposal in accordance with ITB 35.

31. Deviations, Reservations, and

- 31.1 During the evaluation of Bids, the following definitions apply:
- (a) "Deviation" is a departure from the requirements specified

Omissions

in the Bidding Document;

- (b) “Reservation” is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Document; and
- (c) “Omission” is the failure to submit part or all of the information or documentation required in the Bidding Document.

32. Determination of Responsiveness

32.1 The Employer’s determination of a Bid’s responsiveness is to be based on the contents of the Bid itself, as defined in ITB 12.

32.2 A substantially responsive Bid is one that meets all the requirements, terms, conditions and specifications of the Bidding Document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:

(a) if accepted, would:

(i) affect in any substantial way the scope, quality, or performance of the Services specified in the Schedules in Section VII; or

(ii) limit in any substantial way, inconsistent with the Bidding Document, the Employer’s rights or the Bidder’s obligations under the proposed Contract; or

(b) if rectified, would unfairly affect the competitive position of other Bidders presenting substantially responsive Bids.

32.3 If the selection method pursuant to ITB 30.1 is Lowest-Evaluated Cost, the determination of responsiveness will include the Employer’s examination of the technical aspects of the Bid submitted in accordance with ITB 12, Methodology and Approach, in particular, to confirm that all criteria in Section III, Evaluation and Qualification Criteria, and the Service Requirements described in Schedules B through F of Section VII, have been met without any material deviation or reservation.

32.4 If a Bid is not substantially responsive to the requirements of the Bidding Document, it shall be rejected by the Employer and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.

32.5 If a Bid is not substantially responsive, the Employer will notify the Bidder that its Bid has been rejected.

- 33. Nonmaterial Nonconformities**
- 33.1 Provided that a Bid is substantially responsive, the Employer may waive any nonconformities in the Bid that do not constitute a material deviation, reservation or omission.
- 33.2 Provided that a Bid is substantially responsive, the Employer may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities in the Bid related to documentation requirements. Requesting information or documentation on such nonconformities shall not be related to any aspect of the price of the Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid.
- 33.3 Provided that a Bid is substantially responsive, the Employer shall rectify nonmaterial nonconformities related to the Bid Price. To this effect, the Bid Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component in the manner specified **in BDS**.
- 34. Technical proposal Evaluation**
- 34.1 For those Bids that are found to be substantially responsive pursuant to ITB 32, and if QCBS or Fixed-Budget Selection is used pursuant to ITB 30.1, the Employer shall evaluate the Technical Proposals using the following evaluation methodology:
- (a) the Employer shall score Technical Proposals by applying the point system specified in Section III for each evaluation criterion. Each proposal will be given an aggregate technical score (St) by adding the scores assigned under each evaluation criterion;
 - (b) A proposal shall be rejected at this stage if it fails to achieve the minimum aggregate technical score specified in the BDS; and
 - (c) The Employer will apply any additional steps to the evaluation methodology as may be indicated in the BDS.
- 35. Financial Proposal Evaluation**
- 35.1 Only Bids that, in the case of the Lowest Evaluated Cost Selection, have been found substantially responsive in accordance with ITB 32 or, in the case of QCBS or Fixed Budget Selection, have been found substantially responsive in accordance with ITB 32 and have met the minimum technical score specified **in the BDS** pursuant to ITB 34.1, shall have their Financial Proposals evaluated.
- 35.2 To evaluate a Financial Proposal, the Employer shall consider:

- (a) price adjustment for correction of arithmetic errors in accordance with ITB 36;
- (b) The Employer shall apply any additional steps to the evaluation methodology as may be indicated in the BDS;
- (c) converting the amount resulting from applying (a) to (b) above, if relevant, to a single currency in accordance with ITB 37;
- (d) adjustment for nonconformities in accordance with ITB 33;

35.3 The Employer will determine the Most Advantageous Bid following one of the three procedures that follow, pursuant to ITB 30.1:

- (a) In the case of Lowest-Evaluated Cost Selection, the Employer shall compare all substantially responsive Bids to determine the lowest-evaluated cost;
- (b) In the case of QCBS, Bids will be ranked according to their combined technical (St) and financial (Sf) scores as defined in the BDS;
- (c) In the case of Fixed-Budget Selection, the Employer will determine the Bidder that submitted the highest ranked Technical proposal within the budget specified in the BDS.

36. Correction of Arithmetical Errors

36.1 Provided that the Bid is substantially responsive, the Employer shall correct arithmetical errors on the following basis:

- (a) if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity in the Technical Proposal, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Employer there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;
- (b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
- (c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in

which case the amount in figures shall prevail subject to (a) and (b) above.

36.2 If the Bidder that submitted the successful Bid does not accept the correction of errors, its Bid shall be disqualified.

37. Conversion to Single Currency

37.1 For evaluation and comparison purposes, the currency(ies) of the Bid shall be converted into a single currency as specified **in the BDS**. The source of the exchange rate shall be as specified **in the BDS**. The date for the exchange rate shall be the deadline for submission of proposals pursuant to ITB 23.1.

38. Abnormally Low Bids

38.1 An Abnormally Low Bid is one where the Bid price, in combination with other constituent elements of the Bid, appears unreasonably low to the extent that the Bid price raises material concerns as to the capability of the Bidder to perform the Contract for the offered Bid price.

38.2 In the event of identification of a potentially Abnormally Low Bid, the Employer shall seek written clarifications from the Bidder, including detailed price analyses of its Bid price in correlation to the subject matter of the contract, scope, proposed methodology, schedule, allocation of risks and responsibilities and any other requirements of the Bidding Document.

38.3 After evaluation of the price analyses, in the event that the Employer determines that the Bidder has failed to demonstrate its capability to deliver the contract for the offered tender price, the Employer shall reject the Bid.

39. Unbalanced or Front Loaded Bids

39.1 If a Financial Proposal is seriously unbalanced or front loaded in the opinion of the Employer, the Employer may require the Bidder to produce detailed analyses for any or all items of the Technical and Financial Proposals, to demonstrate the internal consistency of those prices with the methodologies and staffing proposed.

39.2 After evaluation of the price analyses, taking into consideration the schedule of estimated Contract payments, the Employer may:

(a) accept the Bid, or

(b) if appropriate, require that the total amount of the Performance Security be increased, at the expense of the Bidder, to a level not exceeding twenty percent (20%) of the Contract Price; or

(c) reject the Bid.

- 40. Employer’s Right to Accept Any Bid, and to Reject Any or All Bids** 40.1 The Employer reserves the right to accept or reject any Bid, and to annul the Bidding process and reject all Bids at any time prior to contract award, without thereby incurring any liability to Bidders. In case of annulment, all Bids submitted and specifically, Bid securities, shall be promptly returned to the Bidders.
- 41. Standstill Period** 41.1 The Contract shall not be awarded earlier than the expiry of the Standstill Period. The Standstill Period shall be ten (10) Business Days unless extended in accordance with ITB 45. The Standstill Period commences the day after the date the Employer has transmitted to each Bidder the Notification of Intention to Award the Contract. Where only one Bid is submitted, or if this contract is in response to an emergency situation recognized by the Bank, the Standstill Period shall not apply.
- 42. Notification of Intention to Award** 42.1 The Employer shall send to each Bidder (that has not already been notified that it has been unsuccessful) the Notification of Intention to Award the Contract to the successful Bidder. The Notification of Intention to Award shall contain, at a minimum, the following information:
- (a) the name and address of the Bidder submitting the successful Bid;
 - (b) the Contract price of the successful Bid;
 - (c) the total combined score of the successful Bid when QCBS is used for bid evaluation;
 - (d) the names of all Bidders who submitted Bids, their technical score, if applicable, and their Bid prices as readout and as evaluated;
 - (e) a statement of the reason(s) the Bid (of the unsuccessful Bidder to whom the notification is addressed) was unsuccessful;
 - (f) the expiry date of the Standstill Period; and
 - (g) instructions on how to request a debriefing or submit a complaint during the standstill period.

F. Award of Contract

- 43. Award Criteria** 43.1 Subject to ITB 40, the Employer shall award the Contract to the successful Bidder. This is the Bidder whose Bid has been determined to be the Most Advantageous Bid.
- 44. Notification of Award**
- 44.1 Prior to the expiration of the Bid Validity Period and upon expiry of the Standstill Period, specified in ITB 41.1 or any extension thereof, and, upon satisfactorily addressing any complaint that has been filed within the Standstill Period, the Employer shall notify the successful Bidder, in writing, that its Bid has been accepted. The notification of award (hereinafter, in the Conditions of Contract and Contract Forms called the “Letter of Acceptance”) shall specify the sum that the Employer will pay the Contractor in consideration of the execution of the Contract (hereinafter and in the Conditions of Contract and Contract Forms called “the Contract Price”).
- 44.2 Within ten (10) Business Days after the date of transmission of the Letter of Acceptance, the Employer shall publish the Contract Award Notice which shall contain, at a minimum, the following information:
- (a) name and address of the Employer;
 - (b) name and reference number of the contract being awarded, and the selection method used;
 - (c) names of all Bidders that submitted Bids, and their Bid prices as read out at Bid opening, and as evaluated;
 - (d) names of all Bidders whose Bids were rejected either as nonresponsive or as not meeting qualification criteria, or were not evaluated, with the reasons therefor;
 - (e) the name of the successful Bidder, the final total contract price, the contract duration and a summary of its scope; and
 - (f) successful Bidder’s Beneficial Ownership Disclosure Form, if specified in BDS ITB 46.1.
- 44.3 The Contract Award Notice shall be published on the Employer’s website with free access if available, or in at least one newspaper of national circulation in the Employer’s Country, or in the official gazette. The Employer shall also publish the contract award notice in UNDB online.
- 44.4 Until a formal Contract is prepared and executed, the Letter of Acceptance shall constitute a binding Contract.

45. Debriefing by the Employer

- 45.1 On receipt of the Employer’s Notification of Intention to Award referred to in ITB 42.1, an unsuccessful Bidder has three (3) Business Days to make a written request to the Employer for a debriefing. The Employer shall provide a debriefing to all unsuccessful Bidders whose request is received within this deadline.
- 45.2 Where a request for debriefing is received within the deadline, the Employer shall provide a debriefing within five (5) Business Days, unless the Employer decides, for justifiable reasons, to provide the debriefing outside this timeframe. In that case, the standstill period shall automatically be extended until five (5) Business Days after such debriefing is provided. If more than one debriefing is so delayed, the standstill period shall not end earlier than five (5) Business Days after the last debriefing takes place. The Employer shall promptly inform, by the quickest means available, all Bidders of the extended standstill period.
- 45.3 Where a request for debriefing is received by the Employer later than the three (3)-Business Day deadline, the Employer should provide the debriefing as soon as practicable, and normally no later than fifteen (15) Business Days from the date of publication of Public Notice of Award of contract. Requests for debriefing received outside the three (3)-day deadline shall not lead to extension of the standstill period.
- 45.4 Debriefings of unsuccessful Bidders may be done in writing or verbally. The Bidders shall bear their own costs of attending such a debriefing meeting.

46. Signing of Contract

- 46.1 The Employer shall send to the successful Bidder the Letter of Acceptance including the Contract Agreement, and, if specified in the BDS, a request to submit the Beneficial Ownership Disclosure Form providing additional information on its beneficial ownership. The Beneficial Ownership Disclosure Form, if so requested, shall be submitted within eight (8) Business Days of receiving this request.
- 46.2 The successful Bidder shall sign, date and return to the Employer, the Contract Agreement within twenty-eight (28) days of its receipt.
- 46.3 The **BDS** specifies whether the successful Bidder will be required to incorporate in the Employer’s Country as a “special vehicle” company or joint venture, and the additional requirement that the Successful Bidder shall comply if required to incorporate locally as a “special vehicle” company or joint

venture.

**47. Performance
Security**

- 47.1 The successful Bidder shall furnish the Performance Security after receipt of the Letter of Acceptance from the Employer, within 28 days upon the Bidder's receipt of the Letter of Acceptance and in accordance with the conditions of contract. The Bidder shall use for that purpose the Performance Security Form included in Section X, Contract Forms, or another form acceptable to the Employer. If the Performance Security furnished by the successful Bidder is in the form of a bond, it shall be issued by a bonding or insurance company that has been determined by the successful Bidder to be acceptable to the Employer. A foreign institution providing a bond shall have a correspondent financial institution located in the Employer's Country, unless the Employer has agreed in writing that a correspondent financial institution is not required.
- 47.2 Failure of the successful Bidder to submit the above-mentioned Performance Security or to sign the Contract Agreement shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security. In that event the Employer may award the Contract to the Bidder offering the next Most Advantageous Bid.

**48. Procurement
Related
Complaint**

- 48.1 The procedures for making a Procurement-related Complaint are as specified in the BDS.

Section II - Bid Data Sheet

The following specific data for the Management Services to be procured shall complement, supplement, or amend the provisions in the Instructions to Bidders (ITB). Whenever there is a conflict, the provisions herein shall prevail over those in ITB.

[Where an e-procurement system is used, modify the relevant parts of the BDS accordingly to reflect the e-procurement process.]

[Instructions for completing the Bid Data Sheet are provided, as needed, in the notes in italics mentioned for the relevant ITB.]

A. General	
ITB 1.1	The number of the Request for Bids is : _____ The Employer is: _____ The name of the RFB is: _____
ITB 1.2(a)	<i>[delete if not applicable]</i> Electronic – Procurement System The Employer shall use the following electronic-procurement system to manage this Bidding process: <i>[insert name of the e-system and url address or link]</i> The electronic-procurement system shall be used to manage the following aspects of the Bidding process: <i>[list aspects here and modify the relevant parts of the BDS accordingly e.g. issuing Bidding Document, submissions of Bids, opening of Bids]</i>
ITB 2.1	The Borrower is: _____ The name of the Project is: _____
ITB 4.1	Maximum number of members in the Joint Venture (JV) shall be: <i>[insert a number]</i> _____
ITB 4.5	A list of debarred firms and individuals is available on the Bank’s external website: http://www.worldbank.org/debarr .
B. Contents of Bidding Document	
ITB 7.1	For clarification purposes only, the Employer’s address is:

	Attention: _____ Street Address: _____ Floor/Room number: _____ City: _____ ZIP Code: _____ Country: _____ Telephone: _____ Facsimile number: _____ Electronic mail address: _____ <u>Communications may be sent by _____ [indicate all that apply from “mail”, “courier”, “fax”, and “email”] only.</u>
ITB 7.2	<i>[Indicate procedures and dates for site visits]</i>
ITB 7.4	A Pre-Bid meeting _____ <i>[insert “shall” or “shall not”]</i> take place at the following date, time and place: Date: _____ Time: _____ Place: _____ A site visit conducted by the Employer _____ <i>[insert “shall” or “sha</i>
ITB 8.1	The Employer _____ <i>[insert “has” or “has not”]</i> established a Data Room. If a Data Room has been established, the Data Room coordinates and other relevant information is as follows: _____ <i>[insert the Data Room coordinates and information considered relevant; otherwise, “not applicable”]</i>
C. Preparation of Bids	
ITB 11.1	The language of the Bid is: _____
ITB 12.2 (f)	Other documents required as part of the Bid Documents <i>[list them and provide reference to the relevant forms in Section IV]:</i>
ITB 12.3 (c)	Other documents required as part of the Bid Document <i>[list them and provide reference to the relevant forms in Section IV]”</i>
ITB 17.1	A <i>[insert “Bid security” or “Bid Securing Declaration”]</i> shall be furnished.

	If a Bid Security shall be furnished, the amount and currency of the Bid Security shall be _____.
ITB 17.3(d)	Other type of acceptable securities: <i>[insert name or description of type of acceptable security]</i>
ITB 17.9	<p><i>[Delete if not applicable: The following provision should be included and the required corresponding information inserted <u>only</u> if a Bid Security is not required under provision ITB 17.1 and the Employer wishes to declare the Bidder ineligible to be awarded a contract for a period of time should the Bidder perform any of the actions mentioned in provision ITB 17.9 (a) and (b). Otherwise omit.]</i></p> <p>If the Bidder performs any of the actions prescribed in ITB 17.9 (a) or (b) of this provision, the Borrower will declare the Bidder ineligible to be awarded contracts by the Employer for a period of <i>[insert number of years]</i>_____ years.</p>
ITB 19.1 (a)	The currency of the Employer’s Country is: _____
ITB 20.1	The Bid validity period shall be _____ <i>[insert number]</i> days.
ITB 21.1	In addition to the original of the Technical and Financial Part, the number of copies of the Technical Part is: _____ <i>[insert a number]</i> and the number of copies of the Financial Part is: _____ <i>[insert a number]</i>
ITB 21.3	The written confirmation of authorization to sign on behalf of the Bidder shall consist of: _____
D. Submission and Opening of Bids	
ITB 23.1	<p>The date and time for submission of Bids are:</p> <p>Date: _____</p> <p>Time: _____</p> <p>For <u>Bid submission purposes</u> only, the Employer’s address is:</p> <p>Attention: _____</p> <p>Street Address: _____</p> <p>Floor/Room number: _____</p> <p>City: _____</p> <p>ZIP Code: _____</p> <p>Country: _____</p>

	<p>Bidders <i>[insert “shall” or “shall not”]</i> have the option of submitting their Bids electronically.</p> <p><i>[The following provision should be included and the required corresponding information inserted <u>only</u> if Bidders have the option of submitting their Bids electronically. Otherwise omit.]</i></p> <p>The electronic Bidding submission procedures shall be: <i>[insert a description of the electronic bidding submission procedures.]</i></p>
ITB 26.1	<p>The opening of the Technical Proposals shall take place at:</p> <p>Street Address: _____</p> <p>Floor/Room number: _____</p> <p>City: _____</p> <p>Country: _____</p> <p>Date: _____</p> <p>Time: _____</p>
ITB 26.1	<p><i>[The following provision should be included and the required corresponding information inserted only if Bidders have the option of submitting their Bids electronically. Otherwise omit.]</i></p> <p>The electronic Bid opening procedures shall be: <i>[insert a description of the electronic Bid opening procedures.]</i></p>
ITB 26.6	<p>The Letter of Bid – Technical Proposal and the envelope of Financial Proposal of Bid priced shall be initialed by _____ <i>[insert number]</i> representatives of the Employer conducting Bid opening. _____</p> <p><i>[Insert procedure: Example: Each Bid shall be initialed by all representatives and shall be numbered.]</i></p>
ITB 27.1	<p>Following the completion of the evaluation of the Technical Proposals of the Bids, the Employer will notify all Bidders of the location, date and time of the public opening of Financial Proposals.</p> <p><i>[In addition to the above the Employer shall include one or both of the following two options]</i></p> <p><i>[Option 1, if available]</i> The Employer shall publish a notice of the public opening of the Financial Proposals on its website.</p> <p><i>[Option 2]</i> Any interested party who wishes to attend this public opening may contact <i>[insert name and contact details for responsible officer]</i> and request to be notified of the location, date and time of the public opening of Financial Proposals. The request should be made before the deadline for</p>

	submission of Bids, stated above.
ITB 27.3	<p>The opening of the Financial Part shall take place at:</p> <p>Street Address: _____</p> <p>Floor/Room number: _____</p> <p>City : _____</p> <p>Country: _____</p> <p>Date: _____</p> <p>Time: _____</p> <p>The Letter of Bid – Financial Proposal shall be initialed by _____ [insert number] representatives of the Employer conducting Bid opening. _____ <i>[Insert procedure: Example: Each Bid shall be initialed by all representatives and shall be numbered.]</i></p> <p>If Bidders have the option of submitting their Bids electronically, the electronic Bid opening procedures shall be: <i>[insert a description of the electronic Bid opening procedures; otherwise, “not applicable”]</i></p>
ITB 30.1	The following selection method will be used: <i>[insert “Lowest-Evaluated Cost”, or “Quality and Cost Based Selection (QCBS)”, or “Fixed Budget”]</i>
E. Evaluation, and Comparison of Bids	
ITB 33.3	The adjustment shall be based on the _____ <i>[insert “average” or “highest”]</i> price of the item or component as quoted in other substantially responsive Bids. If the price of the item or component cannot be derived from the price of other substantially responsive Bids, the Employer shall use its best estimate.
ITB 34.1 (b)	The minimum aggregate technical score is: _____ <i>[insert score if QCBS or Fixed-Budget apply; otherwise, “not applicable”]</i> _____
ITB 34.1 (c)	The Employer will apply the following additional steps to the evaluation methodology <i>[insert additional steps, if applicable; otherwise, “not applicable”]</i> .
ITB 35.2 (b)	The Employer will apply the following additional steps to the evaluation methodology <i>[Insert, for example: “The Employer shall calculate the cost of the Financial Proposal in net present value by applying an annual</i>

	<i>discount factor of 8 percent;” otherwise, “not applicable”]</i>
ITB 35.3 (b)	<p>In the case of QCBS evaluation, the formula for determining the financial scores is the following:</p> <p><i>[Insert the following formulae:</i></p> <p>$S_f = 100 \times F_m / F$, in which S_f is the financial score, F_m is the lowest price and F the price of the proposal under consideration.]</p> <p><i>Or</i></p> <p><i>[insert another formula acceptable to the Bank. Refer to the Technical Note for discussion of the advantages/disadvantages of the above formulae]</i></p> <p>The weights given to the Technical and Financial Proposals are:</p> <p>$T = \underline{\hspace{2cm}}$ <i>[insert weight: normally 0.8]</i>, and</p> <p>$P = \underline{\hspace{2cm}}$ <i>[insert weight: normally 0.2]</i></p>
ITB 35.3 (c)	<p><i>[Delete if FBS is not the selection method]</i></p> <p>The total available budget for this Fixed Budget contract is: $\underline{\hspace{2cm}}$ <i>[Indicate whether inclusive or exclusive of taxes]</i></p> <p>Proposals exceeding the total available budget will be rejected.</p> <p><i>[If inclusive, indicate tax estimate separately]</i></p>
ITB 37.1	<p>The currency that shall be used for Bid evaluation and comparison purposes to convert all Bid prices expressed in various currencies into a single currency is: <i>[insert name of local currency]</i></p> <p>The source of exchange rate shall be: <i>[insert name of Central Bank]</i></p>
E. Award of Contract	
ITB 46.1	The successful Bidder <i>[shall]</i> or <i>[shall not]</i> submit the Beneficial Ownership Disclosure Form.
ITB 46.3	<p>The successful Bidder <i>[insert “shall” or “shall not”]</i> incorporate in the Employer’s Country.</p> <p><i>[When “shall” is selected above, the following shall be added:]</i></p> <p>Additional requirement that a Successful Bidder shall meet when required to incorporate locally as a “special vehicle” company or joint venture:</p>

	<p><i>[select one of the following options as applicable:</i></p> <p>The Successful Bidder’s parent company shall co-sign the Contract Agreement.</p> <p><i>Or</i></p> <p>The successful Bidder shall furnish, along with the signed Contract Agreement and within the timeframe specified pursuant to ITB 45.2, an additional Parent Company Guarantee acceptable to the Employer, in an amount equivalent to a period of _____ <i>[insert number of months; 6 months is recommended]</i> months of expenses of the Management Contract.</p>
<p>ITB 48.1</p>	<p>The procedures for making a Procurement-related Complaint are detailed in the “Procurement Regulations for IPF Borrowers (Annex III).” If a Bidder wishes to make a Procurement-related Complaint, the Bidder should submit its complaint following these procedures, in writing (by the quickest means available, that is either by email or fax), to:</p> <p>For the attention: <i>[insert full name of person receiving complaints]</i></p> <p>Title/position: <i>[insert title/position]</i></p> <p>Employer: <i>[insert name of Employer]</i></p> <p>Email address: <i>[insert email address]</i></p> <p>Fax number: <i>[insert fax number] delete if not used</i></p> <p>In summary, a Procurement-related Complaint may challenge any of the following:</p> <ol style="list-style-type: none"> 1. the terms of the Bidding Documents; 2. the Employer’s decision to exclude a Bidder from the procurement process prior to the award of contract; and 3. the Employer’s decision to award the contract.

Section III - Evaluation and Qualification Criteria

This Section contains all the criteria that the Employer shall use to evaluate Bids and qualify the Bidders. No other factors, methods or criteria shall be used other than specified in this Bidding Document.

The Bidder shall provide all the information requested in the forms included in Section IV, Bidding Forms and/or update any information submitted during Prequalification using the relevant forms included in Section III.

Most Advantageous Bid - Evaluation Methodology

This Section specifies the methodology to determine the Most Advantageous Bid. The Most Advantageous Bid is the Bid of the Bidder that meets the qualification criteria and whose Bid is:

- i) Substantially responsive, and lowest evaluated cost or
- ii) the best evaluated Bid determined based on the selection method applied i.e. Quality and Cost Based Selection (QCBS) or Fixed Budget Selection (FBS) as specified in the applicable Procurement Regulations. for IPF Borrowers (“Procurement Regulations”)

1. Evaluation Criteria

The Employer will evaluate the Technical Proposals using the following criteria:

Methodology and Workplan					
	<i>[Percentage for, or must meet each criterion with separate row for each criterion]</i>	Methodology and Workplan	<i>[Criteria for evaluating Methodology and Workplan. See User’s Guide for Examples]</i>		Submission Requirement: TECH Form
Staffing Plan					
	<i>[Percentage for, or must meet each criterion with separate row for each criterion]</i>	Staffing Plan	<i>[Criteria for evaluating Staffing Plan. See User’s Guide for Examples]</i>		Submission Requirement: TECH Form

2. Selection Method

- (a) In the case of Lowest-Evaluated Cost Selection, the Employer shall compare all substantially responsive Bids to determine the lowest-evaluated cost. The Bid of the Bidder with the lowest-evaluated cost will be the Most Advantageous Bid.
- (b) In the case of QCBS, the financial scores (Sf) of each Financial Proposal will be computed **as indicated in the BDS**. Bids will be ranked according to their combined technical (St) and financial (Sf) scores using the weights (T = the weight given to the Technical proposal; P = the weight given to the Financial

Proposal; where $T + P$ must equal 1) **indicated in the BDS:** $S = S_t \times T + S_f \times P$. The Bid of the Bidder with the highest combined technical and financial score is the Most Advantageous Bid.

- (c) In the case of Fixed-Budget Selection, the Bid of the Bidder that submitted the highest ranked Technical proposal within the budget is the Most Advantageous Bid. Bids that exceed the indicated budget will be rejected.

3. Specific Additional Criteria

[Other specific additional criteria to be considered in the evaluation, and the evaluation method shall be detailed in BDS ITB 35.2(b)]

4. Qualifications

The Employer will verify that the Bidder continues to meet the criteria used for prequalification.

The Bidder shall provide updated information in the relevant forms included in the Prequalification Document.

5. Financial Resources

Using the relevant Forms in Section IV, Bidding Forms, the Bidder must demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other financial means, other than any contractual advance payments to meet the overall cash flow requirements for this Contract and its current services commitment.

6. Personnel

The Bidder must demonstrate that it has the personnel for the key positions that meet the following requirements:

[Specify requirements for each lot as applicable]

No.	Position	Total Work Experience (years)	In Similar Services Experience (years)
1			
2			
3			
4			
5			
...			

The Bidder shall provide details of the proposed personnel and their experience records in the relevant Information Forms included in Section IV, Bidding Forms.

7. Equipment

The Bidder must demonstrate that it has the key equipment listed hereafter:

[Specify requirements for each lot as applicable]

No.	Equipment Type and Characteristics	Minimum Number required
1		
2		
3		
4		
...		

The Bidder shall provide further details of proposed items of equipment using the relevant Form in Section IV, Bidding Forms.

Section IV - Bidding Forms

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Letter of Bid - Technical Proposal Form

INSTRUCTIONS TO BIDDERS: DELETE THIS BOX ONCE YOU HAVE COMPLETED THE DOCUMENT

Place this Letter of Bid in the first envelope “TECHNICAL PROPOSAL”.

The Bidder must prepare the Letter of Bid on stationery with its letterhead clearly showing the Bidder’s complete name and business address.

Note: All italicized text is to help Bidders in preparing this form.

Date of this Bid submission: *[insert date (as day, month and year) of Bid submission]*

RFB No.: *[insert number of Bidding process]*

To: *[insert complete name of Employer]*

We, the undersigned Bidder, hereby submit our Bid, in two parts, namely:

- (a) the Technical Proposal, and
- (b) the Financial Proposal.

In submitting our Bid we make the following declarations:

- (a) **No reservations:** We have examined and have no reservations to the Bidding Document, including Addenda issued in accordance with Instructions to Bidders (ITB 8);
- (b) **Eligibility:** We meet the eligibility requirements and have no conflict of interest in accordance with ITB 4;
- (c) **Bid-Securing Declaration:** We have not been suspended nor declared ineligible by the Employer based on execution of a Bid Securing Declaration or Proposal Securing Declaration in the Employer’s Country in accordance with ITB 4.7;
- (d) **Conformity:** We offer to supply in conformity with the Bidding Document and in accordance with the Schedules specified in the Schedule of Service Requirements the following Management Services: *[insert a brief description of the Management Services]*;
- (e) **Bid Validity Period:** Our Bid shall be valid for the period specified in BDS ITB 20.1 (as amended, if applicable) from the date fixed for the Bid submission deadline specified in BDS ITB 23.1 (as amended, if applicable), and it shall remain binding upon us, and may be accepted at any time before the expiration of that period;
- (f) **Performance Security:** If our Bid is accepted, we commit to obtain a performance security in accordance with the Bidding Document;

- (g) **One Bid per Bidder:** We are not submitting any other Bid(s) as an individual Bidder, and we are not participating in any other Bid(s) as a Joint Venture member or as a subcontractor, and meet the requirements of ITB 4.3.
- (h) **Suspension and Debarment:** We, along with any of our subcontractors, suppliers, consultants, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the World Bank Group or a debarment imposed by the World Bank Group in accordance with the Agreement for Mutual Enforcement of Debarment Decisions between the World Bank and other development banks. Further, we are not ineligible under the Employer's Country laws or official regulations or pursuant to a decision of the United Nations Security Council;
- (i) **State-owned enterprise or institution:** *[select the appropriate option and delete the other] [We are not a state-owned enterprise or institution] / [We are a state-owned enterprise or institution but meet the requirements of ITB 4.6];*
- (j) **Binding Contract:** We understand that this Bid, together with your written acceptance thereof included in your Letter of Acceptance, shall constitute a binding contract between us, until a formal contract is prepared and executed;
- (k) **Not Bound to Accept:** We understand that you are not bound to accept the lowest evaluated cost Bid, the Most Advantageous Bid or any other Bid that you may receive; and
- (l) **Fraud and Corruption:** We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption.

Name of the Bidder: **[insert complete name of Bidder]*

Name of the person duly authorized to sign the Bid on behalf of the Bidder: *** [insert complete name of person duly authorized to sign the Bid]*

Title of the person signing the Bid: *[insert complete title of the person signing the Bid]*

Signature of the person named above: *[insert signature of person whose name and capacity are shown above]*

Date signed *[insert date of signing]* **day of** *[insert month]*, *[insert year]*

*: In the case of the Bid submitted by a Joint Venture specify the name of the Joint Venture as Bidder.

** : Person signing the Bid shall have the power of attorney given by the Bidder. The power of attorney shall be attached with the Bid Schedules.

Form TECH – Attachment to the Technical Proposal Description of the Methodology and Work Plan

[in accordance with ITB 13.1]

I. Detailed Work Plan

[Employer to insert more specific requirements, if any, for this section]

II. Detailed Staffing Plan

[Employer to insert more specific requirements, if any, for this section]

Form ELI 1.1
Bidder Information Sheet

Date: _____

RFB No.: _____

Page _____ of _____ pages

1. Bidder's Legal Name
2. In case of JV, legal name of each party:
3. Bidder's actual or intended Country of Registration:
4. Bidder's Year of Registration:
5. Bidder's Legal Address in Country of Registration:
<p>6. Bidder's Authorized Representative Information</p> <p>Name:</p> <p>Address:</p> <p>Telephone/Fax numbers:</p> <p>Email Address:</p>
<p>7. Attached are copies of original documents of</p> <p><input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITP 4.4</p> <p><input type="checkbox"/> In case of JV, letter of intent to form JV or JV agreement, in accordance with ITP 4.1</p> <p><input type="checkbox"/> In case of state-owned enterprise or institution, in accordance with ITP 4.6, documents establishing:</p> <ul style="list-style-type: none"> • Legal and financial autonomy • Operation under commercial law • Establishing that the Bidder is not under the supervision of the Employer
<p>8. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership. <i>[If required under BDS ITB 46.1, the successful Bidder shall provide additional information on beneficial ownership, using the Beneficial Ownership Disclosure Form.]</i></p>

Form ELI 1.2
Party to JV Information Sheet

Date: _____

RFB No.: _____

Page _____ of _____ pages

1. Bidder's Legal Name:
2. JV's Party legal name:
3. JV's Party Country of Registration:
4. JV's Party Year of Registration:
5. JV's Party Legal Address in Country of Registration:
6. JV's Party Authorized Representative Information Name: Address: Telephone/Fax numbers: Email Address:
7. Attached are copies of original documents of <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or registration documents of the legal entity named above, in accordance with ITB 4.4. <input type="checkbox"/> In case of a state-owned enterprise or institution, documents establishing legal and financial autonomy, operation in accordance with commercial law, and that they are not under the supervision of the Employer, in accordance with ITB 4.6.
8. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership. <i>[If required under BDS ITB 46.1, the successful Bidder shall provide additional information on beneficial ownership for each JV member using the Beneficial Ownership Disclosure Form.]</i>

1 FORM CCC

Current Contract Commitments / Works in Progress

Bidders and each partner to a JV should provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

Name of contract	Employer, contact address/tel/fax	Value of outstanding work (current US\$ equivalent)	Estimated completion date	Average monthly invoicing over last six months (US\$/month)
1.				
2.				
3.				
4.				
5.				
etc.				

Form FIN 3.3
Financial Resources

Specify proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total construction cash flow demands of the subject contract or contracts as indicated in Section III, Evaluation and Qualification Criteria

Source of financing	Amount (US\$ equivalent)
1.	
2.	
3.	
4.	

Form EQU Contractor’s Equipment

The Bidder shall provide adequate information to demonstrate clearly that it has the capability to perform the contract. A separate Form shall be prepared for each item of equipment listed, or for alternative equipment proposed by the Bidder.

Item of equipment		
Equipment information	Name of manufacturer	Model and power rating
	Capacity	Year of manufacture
Current status	Current location	
	Details of current commitments	
Source	Indicate source of the equipment <input type="checkbox"/> Owned <input type="checkbox"/> Rented <input type="checkbox"/> Leased <input type="checkbox"/> Specially manufactured	

Omit the following information for equipment owned by the Bidder.

Owner	Name of owner	
	Address of owner	
	Telephone	Contact name and title
	Fax	Telex
Agreements	Details of rental / lease / manufacture agreements specific to the project	

Form PER -1 Proposed Personnel

Bidders should provide the names of suitably qualified personnel to perform the contract. The data on their experience should be supplied using the Form below for each candidate.

1.	Title of position
	Name
2.	Title of position
	Name
3.	Title of position
	Name
4.	Title of position
	Name

FORM PER-2

Resume of Proposed Personnel

Name of Bidder

Position					
Personnel information	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;">Name</td> <td style="width: 50%; padding: 5px;">Date of birth</td> </tr> <tr> <td colspan="2" style="padding: 5px;">Professional qualifications</td> </tr> </table>	Name	Date of birth	Professional qualifications	
	Name	Date of birth			
Professional qualifications					
Present employment	Name of employer				
	Address of employer				
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;">Telephone</td> <td style="width: 50%; padding: 5px;">Contact (manager / personnel officer)</td> </tr> </table>	Telephone	Contact (manager / personnel officer)		
	Telephone	Contact (manager / personnel officer)			
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;">Fax</td> <td style="width: 50%; padding: 5px;">E-mail</td> </tr> </table>	Fax	E-mail		
Fax	E-mail				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;">Job title</td> <td style="width: 50%; padding: 5px;">Years with present employer</td> </tr> </table>	Job title	Years with present employer			
Job title	Years with present employer				

Summarize professional experience over the last 20 years, in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

From	To	Company / Project / Position / Relevant technical and management experience

Form of Bid Security

Form of Demand Guarantee

Beneficiary: _____

Request for Bids No: _____

Date: _____

BID GUARANTEE No.: _____

Guarantor: _____

We have been informed that _____ (hereinafter called "the Applicant") has submitted or will submit to the Beneficiary its Bid (hereinafter called "the Bid") for the execution of _____ under Request for Bids No. _____ ("the RFB").

Furthermore, we understand that, according to the Beneficiary's conditions, Bids must be supported by a Bid guarantee.

At the request of the Applicant, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of _____ (_____) upon receipt by us of the Beneficiary's complying demand, supported by the Beneficiary's statement, whether in the demand itself or a separate signed document accompanying or identifying the demand, stating that either the Applicant:

- (a) has withdrawn its Bid during the period of bid validity set forth in the Applicant's Letter of Bid ("the Bid Validity Period"), or any extension thereto provided by the Applicant; or
- (b) having been notified of the acceptance of its Bid by the Beneficiary during the Bid Validity Period or any extension thereto provided by the Applicant, (i) has failed to execute the contract agreement, or (ii) has failed to furnish the performance security, in accordance with the Instructions to Bidders ("ITB") of the Beneficiary's Bidding Document.

This guarantee will expire: (a) if the Applicant is the successful Bidder, upon our receipt of copies of the contract agreement signed by the Applicant and the performance security issued to the Beneficiary in relation to such contract agreement; or (b) if the Applicant is not the successful Bidder, upon the earlier of (i) our receipt of a copy of the Beneficiary's

notification to the Applicant of the results of the Bidding process; or (ii) twenty-eight days after the end of the Bid Validity Period.

Consequently, any demand for payment under this guarantee must be received by us at the office indicated above on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758.

[Signature]

Note: All italicized text is for use in preparing this form and shall be deleted from the final product.

Form of Bid-Securing Declaration

Date: _____
Bid No.: _____

To:

We, the undersigned, declare that:

We understand that, according to your conditions, Bids must be supported by a Bid-Securing Declaration.

We accept that we will automatically be suspended from being eligible for Bidding or submitting proposals in any contract with the Employer for the period of time of _____ starting on _____, if we are in breach of our obligation(s) under the Bid conditions, because we:

- (a) have withdrawn our Bid during the period of Bid validity specified in the Letter of Bid;
or
- (b) having been notified of the acceptance of our Bid by the Employer during the period of Bid validity, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the ITB.

We understand this Bid-Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of (i) our receipt of your notification to us of the name of the successful Bidder; or (ii) twenty-eight days after the expiration of our Bid.

Signed: _____
In the capacity of _____

Name: _____

Duly authorized to sign the Bid for and on behalf of: [insert complete name of Bidder]

Dated on _____ day of _____, _____

Corporate Seal (where appropriate)

[Note: In case of a Joint Venture, the Bid-Securing Declaration must be in the name of all members to the Joint Venture that submits the Bid.]

Letter of Bid - Financial Proposal Form

INSTRUCTIONS TO BIDDERS: DELETE THIS BOX ONCE YOU HAVE COMPLETED THE DOCUMENT

Place this Letter of Bid - Financial Proposal in the second envelope marked “FINANCIAL PROPOSAL”.

The Bidder must prepare the Letter of Bid - Financial Proposal on stationery with its letterhead clearly showing the Bidder’s complete name and business address.

Note: All italicized text is to help Bidders in preparing this form.

Date of this Bid submission: *[insert date (as day, month and year) of Bid submission]*

RFB No.: *[insert number of Bidding process]*

Request for Bid No.: *[insert identification]*

To: *[insert complete name of Employer]*

We, the undersigned Bidder, hereby submit the second part of our Bid, the Financial Proposal

In submitting our Financial Proposal , we make the following additional declarations:

- (a) **Bid Validity Period:** Our Bid shall be valid for the period specified in BDS 20.1 (as amended, if applicable) from the date fixed for the Bid submission deadline specified in BDS 23.1 (as amended, if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (b) **Total Price:** The total price of our Bid, excluding any discounts offered in item (c) below is: *[insert the total price of the Bid in words and figures, indicating the various amounts and the respective currencies].*
- (c) **Discounts:** The discounts offered and the methodology for their application are:
 - (i) The discounts offered are: *[Specify in detail each discount offered]*
 - (ii) The exact method of calculations to determine the net price after application of discounts is shown below: *[Specify in detail the method that shall be used to apply the discounts];*
- (d) **Commissions, gratuities and fees:** We have paid, or will pay the following commissions, gratuities, or fees with respect to the Bidding process or execution of the Contract: *[insert complete name of each Recipient, its full address, the reason for which*

each commission or gratuity was paid and the amount and currency of each such commission or gratuity].

Name of Recipient	Address	Reason	Amount

(If none has been paid or is to be paid, indicate “none.”)

- (e) **Binding Contract:** We understand that this Bid, together with your written acceptance thereof included in your Letter of Acceptance, shall constitute a binding contract between us, until a formal contract is prepared and executed.

Name of the Bidder: *[insert complete name of the Bidder]

Name of the person duly authorized to sign the Bid on behalf of the Bidder: ** [insert complete name of person duly authorized to sign the Bid]

Title of the person signing the Bid: [insert complete title of the person signing the Bid]

Signature of the person named above: [insert signature of person whose name and capacity are shown above]

Date signed [insert date of signing] **day of** [insert month], [insert year]

*: In the case of the Bid submitted by a Joint Venture specify the name of the Joint Venture as Bidder.

** : Person signing the Bid shall have the power of attorney given by the Bidder. The power of attorney shall be attached with the Bid Schedules.

Price Schedule

[Form provided as sample only– Employer may change as necessary. See Technical Note for further discussion]

Contractor's Base Remuneration

Total Fixed Fee:

Section V - Eligible Countries

Eligibility for the Provision of Goods, Works and Non Consulting Services in Bank-Financed Procurement

In reference to ITB 4.8 and ITB 5.1, for the information of the Bidders, at the present time firms, goods and services from the following countries are excluded from this Bidding process:

Under ITB 4.8(a) and ITB 5.1: *[insert a list of the countries following approval by the Bank to apply the restriction or state “none”]*.

Under ITB 4.8(b) and ITB 5.1: *[insert a list of the countries following approval by the Bank to apply the restriction or state “none”]*

Section VI - Fraud and Corruption

(Section VI shall not be modified)

1. Purpose

1.1 The Bank's Anti-Corruption Guidelines and this annex apply with respect to procurement under Bank Investment Project Financing operations.

2. Requirements

2.1 The Bank requires that Borrowers (including beneficiaries of Bank financing); bidders (applicants/proposers), consultants, contractors and suppliers; any sub-contractors, sub-consultants, service providers or suppliers; any agents (whether declared or not); and any of their personnel, observe the highest standard of ethics during the procurement process, selection and contract execution of Bank-financed contracts, and refrain from Fraud and Corruption.

2.2 To this end, the Bank:

a. Defines, for the purposes of this provision, the terms set forth below as follows:

- i. "corrupt practice" is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
- ii. "fraudulent practice" is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
- iii. "collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- iv. "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- v. "obstructive practice" is:
 - (a) deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
 - (b) acts intended to materially impede the exercise of the Bank's inspection and audit rights provided for under paragraph 2.2 e. below.

b. Rejects a proposal for award if the Bank determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or

- indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- c. In addition to the legal remedies set out in the relevant Legal Agreement, may take other appropriate actions, including declaring misprocurement, if the Bank determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the procurement process, selection and/or execution of the contract in question, without the Borrower having taken timely and appropriate action satisfactory to the Bank to address such practices when they occur, including by failing to inform the Bank in a timely manner at the time they knew of the practices;
 - d. Pursuant to the Bank's Anti-Corruption Guidelines, and in accordance with the Bank's prevailing sanctions policies and procedures, may sanction a firm or individual, either indefinitely or for a stated period of time, including by publicly declaring such firm or individual ineligible (i) to be awarded or otherwise benefit from a Bank-financed contract, financially or in any other manner;¹ (ii) to be a nominated² sub-contractor, consultant, manufacturer or supplier, or service provider of an otherwise eligible firm being awarded a Bank-financed contract; and (iii) to receive the proceeds of any loan made by the Bank or otherwise to participate further in the preparation or implementation of any Bank-financed project;
 - e. Requires that a clause be included in bidding/request for proposals documents and in contracts financed by a Bank loan, requiring (i) bidders (applicants/proposers), consultants, contractors, and suppliers, and their sub-contractors, sub-consultants, service providers, suppliers, agents personnel, permit the Bank to inspect³ all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the Bank.

¹ For the avoidance of doubt, a sanctioned party's ineligibility to be awarded a contract shall include, without limitation, (i) applying for pre-qualification, expressing interest in a consultancy, and bidding, either directly or as a nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider, in respect of such contract, and (ii) entering into an addendum or amendment introducing a material modification to any existing contract.

² A nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider (different names are used depending on the particular bidding document) is one which has been: (i) included by the bidder in its pre-qualification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification requirements for the particular bid; or (ii) appointed by the Borrower.

³ Inspections in this context usually are investigative (i.e., forensic) in nature. They involve fact-finding activities undertaken by the Bank or persons appointed by the Bank to address specific matters related to investigations/audits, such as evaluating the veracity of an allegation of possible Fraud and Corruption, through the appropriate mechanisms. Such activity includes but is not limited to: accessing and examining a firm's or individual's financial records and information, and making copies thereof as relevant; accessing and examining any other documents, data and information (whether in hard copy or electronic format) deemed relevant for the investigation/audit, and making copies thereof as relevant; interviewing staff and other relevant individuals; performing physical inspections and site visits; and obtaining third party verification of information.

PART 2 – Services’ Requirements

Section VII - Schedules of Services Requirements

[This Section includes the various schedules that comprise the contract specific Management Services requirements, completed by the Employer as appropriate.]

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Schedule A: Recitals and Objectives

A.1 Recitals

[Insert Background and Context – See Section VIII, General Conditions, Sub-Clause 1.6]

A.2 Objectives

[Insert Objectives – See Section VIII, General Conditions, Sub-Clause 1.6]

Schedule B: Services

Table 1: Services

Services	Pre-Conditions
<p><i>[List services as required including:</i></p> <ul style="list-style-type: none"> ▪ <i>General management of the utility</i> ▪ <i>Specific Services such as</i> <ul style="list-style-type: none"> <i>i) Improving billing system</i> <i>ii) Developing maintenance plans</i> <i>iii) Managing network extensions</i> <i>iv) Managing meter installations</i> <i>v) Etc.]</i> 	<p><i>[For each service, list key complementary inputs, such as loans, capital costs, Government decisions, on which it depends]</i></p>

Schedule C: Know-how Transfer and Training

C.1 Know-how and systems to be transferred

C.2 Software, systems, and manuals to be left at the end of the contract

C.3 Training program required

Schedule D: Performance Targets

Table 2: Performance Targets

	Periods			

Performance Targets		<i>[Insert target value for each period]</i>		
<i>[Insert indicators to be used]</i>				

Schedule E: Contractor's Personnel

[List positions and Key Staff members and Key Subcontractors.]

[Specify Substitution Fee for Key Staff and Key Subcontractors. See Section VIII, General Conditions, Sub-Clauses 3.6 and 8.2. The Substitution fee should be high enough to deter changes, but not so large as to seem punitive to the Contractor. A figure of US\$10,000 might be about right, but this should be assessed case by case.]

Schedule F: Specified Capital Works and Finance

[Specify any Capital Works the Contractor is to manage, and its role.]

[Specify any Finance the Contractor is to procure, and its role. See Section VIII, General Conditions, Clause 9.]

[When the Contractor is to be responsible for sourcing, negotiating, and otherwise procuring finance for the Utility, these obligations need to be thoroughly spelled out.]

Schedule G: Contractor's Remuneration

[See Section VIII, General Conditions, Sub-Clause 12.1.]

G.1 Contractor's Base Remuneration

Table 3: Base Remuneration

Period					
Amount Currency Units					

[List Base Remuneration to be paid in each period or delete above and describe alternative basis for Base Remuneration payments, e.g., on basis of staff inputs times unit rates]

G.2 Contractor's Incentive Remuneration

[Insert here amount to be paid for achieving performance targets in schedule D]

G.3 Contractor's Capital Works Remuneration

[Insert remuneration for managing Capital Works. See Section VIII, General Conditions, Sub-Clause 9.2]

G.4 Contractor's Sourcing of Finance Remuneration

[Insert any remuneration for managing finance raising. See Section VIII, General Conditions, Sub-Clause 9.3]

G.5 Contractor's Other Remuneration

[Insert any other remuneration to be paid]

G.6 Payment Terms

[Insert payment terms.]

G.7 Advance Payments

Amount of Advance Payment _____

[Should generally be enough to cover Contractor's expected mobilization costs. See Technical Note, Section 4.8.3]

[Insert here rules for repaying advance payment, for example by deductions from Base Remuneration payments. See Section VIII, General Conditions, Sub-Clause 12.2]

G.8 Rate for Delayed Payments

[Insert here – see Section VIII, General Conditions, Sub-Clause 12.3]

G.9 Adjustment of Remuneration

[Note: In order to adjust the remuneration for foreign and/or local inflation, a price adjustment provision should be included here if the contract has duration of more than 18 months or if the

G.9 Adjustment of Remuneration

foreign or local inflation is expected to exceed 5% per annum. The adjustment should be made every 12 months after the date of the contract for remuneration in foreign currency and – except if there is very high inflation in the Employer’s Country, in which case more frequent adjustments should be provided for – at the same intervals for remuneration in local currency. Remuneration in foreign currency should be adjusted by using the relevant index for salaries in the country of the respective foreign currency (which normally is the country of the Contractor) and remuneration in local currency by using the corresponding index for the Employer’s Country. A sample provision is provided below for guidance:

Payments for remuneration made in accordance with Section VIII, General Conditions, Clause 12.1 in [foreign and/or] [local] currency shall be adjusted as follows:

- (a) Remuneration paid in foreign currency pursuant to the rates set forth in Section G.1 of Schedule G shall be adjusted every 12 months (and, the first time, with effect for the remuneration earned in the 13th calendar month after the date of the Contract) by applying the following formula:

$$R_f = R_{fo} \times \frac{I_f}{I_{fo}} \quad \{ \text{or} \quad R_f = R_{fo} \times [0.1 + 0.9 \frac{I_f}{I_{fo}}] \}$$

where R_f is the adjusted remuneration, R_{fo} is the remuneration payable on the basis of the rates set forth in Section G.1 of Schedule G for remuneration payable in foreign currency, I_f is the official index for salaries in the country of the foreign currency for the first month for which the adjustment is supposed to have effect, and I_{fo} is the official index for salaries in the country of the foreign currency for the month of the date of the Contract.

- (b) Remuneration paid in local currency pursuant to the rates set forth in Section G.1 of Schedule G shall be adjusted every [insert number] months (and, for the first time, with effect for the remuneration earned in the [insert number]th calendar month after the date of the Contract) by applying the following formula:

$$R_l = R_{lo} \times \frac{I_l}{I_{lo}} \quad \{ \text{or} \quad R_l = R_{lo} \times [0.1 + 0.9 \frac{I_l}{I_{lo}}] \}$$

where R_l is the adjusted remuneration, R_{lo} is the remuneration payable on the basis of the rates set forth in Section G.1 of Schedule G for remuneration payable in local currency, I_l is the official index for salaries in the Employer’s Country for the first month for which the adjustment is to have effect and, I_{lo} is the official index for salaries in the Employer’s Country for the month of the date of the Contract.]

Schedule H: Procurement Rules

[Insert in this Schedule any specific procurement rules the Contractor is to observe. See Section VIII, General Conditions, Sub-Clause 9.4]

- H1. Procurement for Utility Operations
- H2. Procurement for Services
- H3. Procurement for Utility Capital Works
- H4. Procurement for Specified Capital Works

Schedule I: Delegation of Management Authority

Table 4: Delegation of Management Authority

Delegations	Limits
Delegated power to manage Utility Personnel <i>[List here delegated powers if any]</i>	<i>[List here limits or controls on each delegated power]</i>
Delegated power to commit Utility to expenditure <i>[List here delegated powers if any]</i>	
Delegated power to commit Utility to borrowing <i>[List here delegated powers if any]</i>	
Delegated power to enter contracts <i>[List here delegated powers if any]</i>	
Any other delegated power <i>[List here delegated powers if any]</i>	

Schedule J: Financial Management of the Utility

[Specify here how to deal with cash shortfall and other Utility financial management issues- See Section VIII, General Conditions, Sub-Clause 12.6]

Schedule K: Reporting Requirements

[Insert reports either Party is to produce including contents, deadlines and formats. See Section VIII, General Conditions, Clauses 10 and 14.]

Schedule L: Utility Personnel Retrenchment

[Enter here any limits on retrenchment, or any retrenchment plan which is to be implemented. See Section VIII, General Conditions, Sub-Clause 11.7]

Schedule M: Insurance Required

Table 5: Insurance Required

Risk	Insuring Party	Amount per occurrence	Minimum Total Limit	Detailed description of risk
Protection of Contractor's Personnel				
Professional Indemnity				
Public Liability				
Motor Vehicle				

Schedule M: Insurance Required (continued)

Periods for submission of insurance:

[Insert period for submission of evidence of insurance and policy. Period may be from 14 days to 28 days.]

(a) evidence of insurance.	_____days
(b) relevant policies	_____days
Maximum amount of deductibles for insurance of the Employer's risks	<i>[Insert maximum amount of deductibles]</i>

Schedule N: Extension and Subsequent Bidding

[See Section VIII, General Conditions, Sub-Clause 19.5]

PART 3 – Conditions of Contract and Contract Forms

Section VIII - General Conditions of Contract

[Name of Employer]

[Name of Contract]

Section VIII - General Conditions of Contract

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General Conditions of Contract

1. Definition and Interpretation

1.1 Definitions

In the Contract the following words and expressions shall have the meanings stated below, unless otherwise required by the context.

1.1.1 The Contract

- (a) “Contract” means the General Conditions, the Particular Conditions which include Part A and Part B, the Letter of Acceptance, the Letter of Bid, the Schedules, and any Addenda.
- (b) “Contract Data” means the pages completed by the Employer entitled Contract Data which constitute Part A of the Particular Conditions.
- (c) “Letter of Acceptance” means the letter of formal acceptance, signed by the Employer, of the Letter of Bid, including any annexed memoranda comprising agreements between and signed by both Parties. If there is no such letter of acceptance, the expression “Letter of Acceptance” means the Contract Agreement and the date of issuing or receiving the Letter of Acceptance means the date of signing the Contract Agreement.
- (d) “Letter of Bid” means the document entitled Letter of Bid, which was completed by the Contractor and includes the signed offer to the Employer for the Services.
- (e) “Schedules” means the documents entitled Schedule of Services Requirements, included in Section VII of the bidding document used to award the Contract.
- (f) “Bid” means the Letter of Bid.

1.1.2 Parties and Persons

- (a) “Bank” means the financing institution (if any) **named in the Contract Data**.
- (b) “Borrower” means the person (if any) **named as the borrower in the Contract Data**.
- (c) “Contractor” means the person(s) named as contractor in the Letter of Bid and the legal successors in title to this person(s).
- (d) “Contractor’s Personnel” means the Contractor’s Representative and all personnel whom the Contractor utilizes on the Facilities, who may include the staff, labor and other employees of the Contractor and of each Subcontractor (including Key Subcontractors); and any other personnel assisting the Contractor in the execution of the Services.
- (e) “Contractor’s Representative” means the person named by the Contractor in the Contract or appointed from time to time by the Contractor under Sub-Clause 3.2 [Contractor’s Representative], who acts on behalf of the Contractor.
- (f) “Employer” means the person **named as employer in the Contract Data** and the legal successors in title to this person.

- (g) “Employer’s Representative” means the person named by the Employer in accordance with Sub-Clause 3.3 (a) to represent and act for the Employer at all times during the performance of the Contract.
- (h) “Employer’s Personnel” means all staff employed by the Employer.
- (i) “Government” means the Government of the Country.
- (j) “Independent Expert” means the person appointed in accordance with Sub-Clause 20.1.2 [Independent Expert].
- (k) “Key Staff” means those individuals listed as Key Staff in the Bid, or any person appointed, with the agreement of the Employer, as a Key Staff, for a part of the Services; and the legal successors in title to each of these persons.
- (l) “Key Subcontractor” means those Subcontractors listed as Key Subcontractors in the Bid, or any person appointed, with the agreement of the Employer, as a Key Subcontractor, for a part of the Services; and the legal successors in title to each of these persons.
- (m) “Party” means the Employer or the Contractor, as the context requires, and “Parties” means both.
- (n) “Subcontractor” means any person named in the Contract as a subcontractor, or any person appointed as a subcontractor, for a part of the Services; and the legal successors in title to each of these persons.
- (o) “Third Party” means a person or an entity other than a Party, the Utility, the Utility Board, the Government, the Borrower or the Bank.
- (p) “Utility” means the utility (if any) **named in the Contract Data**.
- (q) “Utility Board” means the Board or other body with governance and management supervision responsibilities over the Utility specified in the Contract Data pursuant to Sub-Clause 1.1.2(p).

1.1.3 Dates, Tests, Periods and Completion

- (a) “Base Date” means the date 28 days prior to the latest date for submission of the Bid.
- (b) “Commencement Date” means the date defined under Sub-Clause 2.2 [Commencement].
- (c) “Day” means a calendar day and “year” means 365 days.
- (d) “Effective Date” has the meaning given in Sub-Clause 2.1 [Conditions of Effectiveness].

1.1.4 Money and Payments

- (a) “Contractor’s Account” means paid for the by the Contractor, as defined in Sub-Clause 12.5.1.
- (b) “Contractor’s Base Remuneration” means the Remuneration specified in Schedule G to be the Contractor’s Base Remuneration, or is no such amount is specified, the amount of the Contractor’s Remuneration which is not dependent on meeting Performance Targets.
- (c) “Contractor’s Remuneration” means the price defined in Clause 12.1 [Contractor’s Remuneration], and includes adjustments in accordance with the Contract.

- (d) “Cost” means all expenditure reasonably incurred (or to be incurred) by the Contractor, whether on or off the Facilities, including overhead and similar charges, but does not include profit.
- (e) “Foreign Currency” means a currency in which part (or all) of the Contractor’s Remuneration is payable, but not the Local Currency.
- (f) “Liquidated Damages on Termination for the Employer’s Convenience” means the amount specified in the Contract Data pursuant to Sub-Clause 21.10(f)(i) to be payable in the event of Termination by the Employer for Convenience pursuant to Sub-Clauses 21.5 and 21.8.
- (g) “Local Currency” means the currency of the Country.
- (h) “Utility’s Account” means paid for the by the Utility, as defined in Sub-Clause 12.6.1.

1.1.5 Services and Goods

- (a) “Contractor’s Equipment” means all apparatus, machinery, vehicles and other things required for the execution and completion of the Services and the remedying of any defects. But excludes Employer’s Equipment (if any), Plant, Materials and any other things intended to form or forming part of the Facilities.
- (b) “Goods” means Contractor’s Equipment, Materials, Plant, or any of them as appropriate.
- (c) “Services” has the meaning given in Clause 4.1 [Services to be Performed and Other Obligations].

1.1.6 Fraud and Corruption

- (a) The Bank requires compliance with the Bank’s Anti-Corruption Guidelines and its prevailing sanctions policies and procedures as set forth in the WBG’s Sanctions Framework, as set forth in Appendix to the GCC.
- (b) The Employer requires the Contractor to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the Bidding process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee.

1.1.7 Other Definitions

- (a) “Arbitration” means the process described as arbitration in Sub-Clause 20.1.4 [Arbitration].
- (b) “Capital Works” means construction work or the procurement and installation of capital equipment intended to extend, rehabilitate or replace the Facilities.
- (c) “Condition Precedent” means one of the Conditions of Effectiveness listed in Sub-Clause 2.1 [Conditions of Effectiveness].
- (d) “Contractor’s Documents” means the calculations, computer programs and other software, drawings, manuals, models and other documents of a technical nature (if any) supplied by the Contractor under the Contract.
- (e) “Country” means the country in which the Facilities (or most of it) is located, where the Services are to be executed.

- (f) “Cure Period” means, in respect of a Default Notice given to the Contractor under Sub-Clause 21.1 [Notification and Cure Plans], the period specified in the Default Notice (or if no such period is specified 10 Business Days from the date of the Default Notice) as varied or extended under Sub-Clause 21.2 [Remedying the Default within the Applicable Cure Period].
- (g) “Default” means a failure by a Party to perform its obligations under the Contract.
- (h) “Delegation of Management Authority” means the delegation to the Contractor of authority to manage the Facilities and the Utility which is granted under Clause 11 [Delegation of Management Authority to the Contractor].
- (i) “Pre-Conditions” means something the Employer, the Utility or a third party shall do or provide, on which performance of the Service is contingent, and which is listed as a dependency in Schedule B.
- (j) “Employer’s Equipment” means the apparatus, machinery and vehicles (if any) made available by the Employer for the use of the Contractor in the execution of the Services, as stated in the Specification; but does not include Plant which has not been taken over by the Employer.
- (k) “Facilities” means all assets of the Employer which are to be managed by the Contractor, and any other places as may be specified in the Contract as forming part of the Facilities.
- (l) “Force Majeure” is defined in Sub-Clause 17.1 [Definition of Force Majeure].
- (m) “Laws” means all national (or state) legislation, statutes, ordinances and other laws, and regulations and by-laws of any legally constituted public authority.
- (n) “Objectives” has the meaning given under Sub-Clause 1.6.2 [Objectives].
- (o) “Performance Security” means the security (or securities, if any) under Sub-Clause 16.3 [Performance Security].
- (p) “Proposed Substitute Key Staff Member or Key Subcontractor” have the meaning given in Sub-Clause 8.2 [Substitution of Contractor’s Key Staff Member or Key Subcontractor].
- (q) “Recitals” has the meaning given under Sub-Clause 1.6.1 [Recitals].
- (r) “Specified Capital Works” means Capital Works which are the responsibility of the Contractor under Sub-Clause 9.2 [Responsibilities for Specified Capital Works].
- (s) “Substitution Fee” is the amount to be paid by the Employer for substituting another person in place of a Key Staff Member or Key Subcontractor, in accordance with Sub-Clause 8.2 [Substitution of Contractor’s Key Staff Member or Key Subcontractor].
- (t) “Unforeseeable” means not reasonably foreseeable and against which adequate preventive precautions could not reasonably be taken by an experienced contractor by the date for submission of the Bid.
- (u) “Utility Capital Works” means Capital Works which are not Specified Capital Works.
- (v) “Value Management Proposal” has the meaning given under Sub-Clause 19.2 [Value Management].

- (w) “Variation” means any change to the Services, which is instructed or approved as a variation under Clause 19.1 [Employer Variations].
- (x) “Variation Proposal” has the meaning given under Sub-Clause 19.1.1 [Decision on Employer’s Variation Request].
- (y) “Variation Request” has the meaning given under Sub-Clause 19.1 [Employer Variations].

1.2 Interpretation

In the Contract, except where the context requires otherwise:

- (a) words indicating one gender include all genders;
- (b) words indicating the singular also include the plural and words indicating the plural also include the singular;
- (c) provisions including the word “agree”, “agreed” or “agreement” require the agreement to be recorded in writing;
- (d) “written” or “in writing” means hand-written, type-written, printed or electronically made, and resulting in a permanent record;
- (e) the word “Bid” is synonymous with “bid” and “Bidder” with “bidder” and “Bid Document” with “bidding document”.
- (f) the marginal words and other headings shall not be taken into consideration in the interpretation of these Conditions.

1.3 Communications

Wherever these Conditions provide for the giving or issuing of approvals, certificates, consents, determinations, notices, requests and discharges, these communications shall be:

- (a) in writing and delivered by hand (against receipt), sent by mail or courier, or transmitted using any of the agreed systems of electronic transmission **as stated in the Contract Data**; and
- (b) delivered, sent or transmitted to the address for the recipient’s communications **as stated in the Contract Data**. However:
 - (i) if the recipient gives notice of another address, communications shall thereafter be delivered accordingly; and
 - (ii) if the recipient has not stated otherwise when requesting an approval or consent, it may be sent to the address from which the request was issued.

Approvals, certificates, consents and determinations shall not be unreasonably withheld or delayed. When a certificate is issued to a Party, the certifier shall send a copy to the other Party. When a notice is issued to a Party, by the other Party or the Independent Expert, a copy shall be sent to the Employer’s Representative or the other Party, as the case may be.

1.4 Law and Language

The Contract shall be governed by the law of the country or other jurisdiction **stated in the Contract Data**.

The ruling language of the Contract shall be that **stated in the Contract Data**.

The language for communications shall be that **stated in the Contract Data**. If no language is stated there, the language for communications shall be the ruling language of the Contract.

1.5 Priority of Documents

The documents forming the Contract (as attached hereto) are to be taken as mutually explanatory of one another. For the purposes of interpretation, the priority of the documents shall be in accordance with the following sequence:

- (a) the Contract Agreement (if any),
- (b) the addenda Nos. (if any)
- (c) the Letter of Acceptance,
- (d) the Particular Conditions,
- (e) these General Conditions,
- (f) the Schedules of Services Requirements
- (g) the Letter of Bid

If an ambiguity or discrepancy is found in the documents, the Independent Expert appointed in accordance with Sub-Clause 20.1.2 [Independent Expert] will rule as to the interpretation. This ruling will be binding, unless one of the Parties refers it to Arbitration with 30 days of the ruling being given.

1.6 Recitals and Objectives

1.6.1 Recitals

The Recitals are the background facts about the Parties, the provision of utility services in the Country, and other facts and intentions set out in Schedule A (A.1). The Recitals are not legally binding, but may be used as context to assist in interpretation of the contract.

1.6.2 Objectives

The Objectives the Employer wishes to achieve by entering the Contract are set out in Schedule A (A.2)

2. Commencement and Duration

2.1 Conditions of Effectiveness

This Contract shall become effective from the date, or Effective Date, on which all the following Conditions of Effectiveness are fulfilled, except for Sub-Clause 2.1 [Conditions of Effectiveness], Sub-Clause 19.5 [Extension and Subsequent Bidding], and Clauses 1 [Definitions and Interpretations] and 3 [General Provisions], which become effective on the date of signature of the Letter of Acceptance.

- (a) If the Contractor is an unincorporated joint venture, notification to the Employer by the member of a joint venture of their leader, as required by Sub-Clause 3.9 [Joint and Several Liability]

- (b) Notification of the Contractor's Representative to the Employer by the Contractor as required by Sub-Clause 3.2 [Contractor's Representative].
- (c) Notification of the Employer's Representative to the Contractor by the Employer as required by Sub-Clause 3.3 [Employer's Representative].
- (d) Appointment of the Independent Expert in accordance with Sub-Clause 20.1.2 [Independent Expert].
- (e) Delivery of the Performance Security to the Employer by the Grantor in accordance with Sub-Clause 16.3 [Performance Security].
- (f) Other conditions **listed in the Contract Data**.

2.2 Commencement

- (a) Within (7) days of the satisfaction of the conditions specified in Sub-Clause 2.1 [Conditions of Effectiveness], the Employer shall issue the Certificate of Commencement to the Contractor. The date of issue of the Certificate of Commencement shall be the "Commencement Date".
- (b) The Contractor shall commence the provision of the Services no later than 3 days after receipt of the Certificate of Commencement and the Employer shall return the Bid Security to the Contractor on such Date.
- (c) The Contractor and the Employer shall use their best effort and endeavors to procure the satisfaction of the Conditions of Effectiveness specified in Sub-Clause 2.1 [Conditions of Effectiveness] as soon as practicable and in any event no later than sixty (60) days after the date hereof.
- (d) If the conditions specified in Sub-Clause 2.1 [Conditions of Effectiveness] are not fulfilled or waived by mutual agreement of the Parties within ninety (90) days of the date hereof, each Party shall have the right to terminate this Contract immediately and neither Party hereto shall be liable to the other for any damages or losses in respect thereof, except that if the Contractor has intentionally failed to fulfill any of these conditions, the Contractor shall forfeit the Bid Security.

2.3 Duration

Unless terminated earlier in accordance with Clause 21 [Default and Termination], this Contract shall remain in effect until the period **stated in the Contract Data** has passed after the Commencement Date.

3. General Provisions

3.1 Assignment

Neither Party shall assign the whole or any part of the Contract or any benefit or interest in or under the Contract. However, either Party:

- (a) may assign the whole or any part with the prior agreement of the other Party, at the sole discretion of such other Party, and
- (b) may, as security in favour of a bank or financial institution, assign its right to any moneys due, or to become due, under the Contract.

3.2 Contractor's Representative

The Contractor shall appoint a Contractor's Representative and shall give him all authority necessary to act on the Contractor's behalf under the Contract. If the Contractor is an unincorporated Joint Venture, the Contractor's Representative shall have the authority to bind all members of the Joint Venture.

The Contractor's Representative may delegate any powers, functions and authority to any competent person, and may at any time revoke the delegation. Any delegation or revocation shall not take effect until the Employer Representative has received prior notice signed by the Contractor's Representative, naming the person and specifying the powers, functions and authority being delegated or revoked.

The Contractor's Representative shall be fluent in the language for communications defined in Sub-Clause 1.4 [Law and Language]. If these other persons are not fluent in the said language, the Contractor shall make competent interpreters available during all working hours in a number deemed sufficient by the Employer's Representative.

3.3 Employer's Representative

- (a) The Employer shall name its representative before the Effective Date.
- (b) The Employer may change its representative from time to time and shall give notice of the change without delay. The Employer shall not change its representative at a time and in such a manner as to impede the progress of the Services.
- (c) The Employer's Representative shall represent and act for the Employer at all times during the performance of the Contract. All notices, instructions, orders, certificates, approvals and all other communications under the Contract by the Employer shall be given by the Employer's Representative otherwise provided.

3.4 Communications by the Contractor

All notices, instructions, information and other communications given by the Contractor to the Employer under the Contract shall be given to the Employer's Representative except as herein otherwise provided.

3.5 Subcontractors

The Contractor shall not subcontract the whole of the Services.

The Contractor shall be responsible for the acts or defaults of any Subcontractor, his agents or employees, as if they were the acts or defaults of the Contractor. **Unless otherwise stated in the Contract Data:**

- (a) the Contractor shall not be required to obtain consent to suppliers solely of Materials, or to a subcontract for which the Subcontractor is named in the Contract;
- (b) the prior consent of the Employer's Representative shall be obtained to other proposed Subcontractors;
- (c) the Contractor shall give the Employer's Representative not less than 28 days' notice of the intended date of the commencement of each Subcontractor's work, and of the commencement of such work on the Facilities; and

- (d) each subcontract shall include provisions which would entitle the Employer to require the subcontract to be assigned to the Employer under Sub-Clause 3.7 [Assignment of Benefit of Subcontract] (if or when applicable) or in the event of termination under Sub-Clause 21.5 [Termination by Employer for Convenience].

The Contractor shall ensure that the requirements imposed on the Contractor by Sub-Clause 15.3 [Confidentiality Obligations of the Contractor] apply equally to each Subcontractor.

Where practicable, the Contractor shall give fair and reasonable opportunity for contractors from the Country to be appointed as Subcontractors.

3.6 Key Subcontractors

The Contractor shall use the services of any Key Subcontractor specified in its Bid, unless the Employer is reasonably satisfied that the:

- (a) The Key Subcontractor is not available; or
- (b) The performance of the Services will not suffer if the Subcontractor is not used.

The Contractor may provide another person (the “Proposed Substitute Key Subcontractor”) in substitution for a Key Subcontractor (as identified in Schedule E) only on fulfillment of the following conditions:

- (a) Proving to the reasonable satisfaction of the Employer that the Key Subcontractor is not available;
- (b) Proving to the reasonable satisfaction of the Employer that the Proposed Substitute Key Subcontractor is as suitable for the services as the Key Subcontractor that is not available.
- (c) Payment by the Contractor of a Substitution Fee of the amount specified in Schedule E.

3.7 Assignment of Benefit of Subcontract

If a Subcontractor’s obligations extend beyond the expiry date of the Contract and the Employer, prior to this date, instructs the Contractor to assign the benefit of such obligations to the Employer, then the Contractor shall do so. Unless otherwise stated in the assignment, the Contractor shall have no liability to the Employer for the work carried out by the Subcontractor after the assignment takes effect.

3.8 Compliance with Laws

The Contractor shall, in performing the Contract, comply with applicable Laws. **Unless otherwise stated in the Contract Data:**

- (a) the Employer shall have obtained (or shall obtain) the planning, zoning, resource abstraction, environmental discharge permission for the normal operation of the Facilities, and the Employer shall indemnify and hold the Contractor harmless against and from the consequences of any failure to do so; and
- (b) the Contractor shall give all notices, pay all taxes, duties and fees, and obtain all permits, licenses and approvals, as required by the Laws in relation to the execution and completion of the Services in so far as these relate to the Services themselves and not to the operation of the Facilities, and the Contractor shall indemnify and hold the Employer harmless against and from the consequences of any failure to do so.

3.9 Joint and Several Liability

If the Contractor constitutes (under applicable Laws) a Joint Venture of two or more persons:

- (a) these persons shall be deemed to be jointly and severally liable to the Employer for the performance of the Contract;
- (b) these persons shall notify the Employer of their leader who shall have authority to bind the Contractor and each of these persons; and
- (c) the Contractor shall not alter its composition or legal status without the prior consent of the Employer.

3.10 Inspections and Audit by the Bank

- (a) The Contractor shall keep, and shall make all reasonable efforts to cause its Subcontractors and subconsultants to keep, accurate and systematic accounts and records in respect of the Services in such form and details as will clearly identify relevant time changes and costs.
- (b) Pursuant to paragraph 2.2 e. of Appendix to the General Conditions the Contractor shall permit and shall cause its subcontractors and subconsultants to permit, the Bank and/or persons appointed by the Bank to inspect the Site and/or the accounts and records relating to the procurement process, selection and/or contract execution, and to have such accounts and records audited by auditors appointed by the Bank if requested by the Bank. The Contractor's and its Subcontractors' and subconsultants' attention is drawn to Sub-Clause 1.1.6 which provides, inter alia, that acts intended to materially impede the exercise of the Bank's inspection and audit rights constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to the Bank's prevailing sanctions procedures).

4. Obligations of the Contractor

4.1 Services to be Performed and Other Obligations

The Contractor shall perform the Services set out in Schedule B – Services and the other obligations described in Clauses 4, 5, 6, 7, 8, and 9.

4.2 Pre-Conditions

The performance by the Managing Contractor of its obligations under the Contract shall be contingent on the availability of the Pre-Conditions listed in Schedule B.

4.3 Non Availability of the Pre-Conditions

Unless Schedule B provides a different mechanism for determining the implications of non-availability of the Services, in the event that any of the Pre-Conditions pursuant to Sub-Clause 4.2 [Pre-Conditions] are not available to the extent that, in the opinion of the Independent Expert, the non-availability of such Pre-Conditions:

- (a) makes it unreasonable to expect the Contractor to perform some or all of the Services, the Contractor shall be relieved of its responsibilities to perform those services, or
- (b) affects the achievement of any of the Performance Targets, such Performance Targets shall be reduced for the duration for which the Pre-Conditions are not available to the extent that the Independent Expert determines at its sole discretion.

4.4 Cost of Performing the Services

The performance of the Services shall be at the cost of the Contractor, unless otherwise specified in Schedule B.

5. Conflict of Interest

5.1 General

The Contractor shall hold the Employer's interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.

5.2 Contractor not to benefit from commissions, discounts, etc.

- (a) The payment of the Contractor pursuant to Sub-Clause 12.1 [Contractor's Remuneration] shall constitute the Contractor's only payment in connection with this Contract and, subject to Sub-Clause 5.3 [Contractor and Affiliates not to Engage in Certain Activities] hereof, the Contractor shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations hereunder, and the Contractor shall use its best efforts to ensure that any Sub-Contractors, as well as the Personnel and agents of either of them, similarly shall not receive any such additional payment.
- (b) Furthermore, if the Contractor, as part of its obligations under the Contract, has the responsibility of advising the Employer on the procurement of goods, works or services, the Contractor shall comply with the Bank's applicable Procurement Regulations, and shall at all times exercise such responsibility in the best interest of the Employer. Any discounts or commissions obtained by the Contractor in the exercise of such procurement responsibility shall be for the account of the Employer.

5.3 Contractor and Affiliates not to engage in certain activities

The Contractor agrees that, during the term of this Contract and after its termination, the Contractor and any entity affiliated with the Contractor, as well as any Subcontractor and any entity affiliated with such Subcontractors, shall be disqualified from subsequently providing goods, works or services (other than consulting services) for a project resulting from or directly related to the Contractor's Services for the preparation or implementation of such project.

5.4 Prohibition of conflicting activities

The Contractor shall not engage, and shall cause its Personnel as well as their Sub-Contractors and their Personnel not to engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.

6. Know-How Transfer and Training

6.1 Requirement to transfer know-how and systems

The Contractor shall:

- (a) Transfer such know-how, management systems, manuals, utility management software and similar knowledge, tools and capacity for managing a utility as are specified in Schedule C.

- (b) Leave with the Utility such, at the Termination or expiration of the Contract, management systems, manuals, utility management software and similar tools as are specified in Schedule C.

6.2 Requirement to provide training

The Contractor shall provide such training and development of Utility Personnel as is specified in Schedule C.

6.3 Cost of know-how transfer and training

The performance of the obligations under this Clause 5 shall be at the cost of the Contractor, unless otherwise specified in Schedule C.

7. Performance Targets

The Performance Targets will be the targets for key indicators set out in Schedule D.

In performing the Services and exercising its Delegated Management Authority, the Contractor shall use its best endeavors to achieve or exceed the Performance Targets.

Achieving the Performance Targets is not to result in any additional remuneration to the Contractor, except to the extent specified in Schedule G (G.2).

Failure to achieve the Performance Targets is not to result in any penalty, or create ground for termination of the Contract, except to the extent specified in Schedule C or Schedule G.

8. Staff to be Provided by the Contractor

8.1 Provision of Contractor's Personnel

The Contractor shall provide the Contractor's Personnel set out in Schedule E, to fill the positions listed in Schedule E, for the periods or days specified in Contractor's Personnel.

All costs of providing the Staff specified in Schedule E are to be for the Contractor's Account, unless otherwise specified in Schedule E.

8.2 Substitution of Contractor's Key Staff Member or Key Subcontractor

The Contractor may provide another person (the "Proposed Substitute Key Staff Member" or "Proposed Substitute Key Subcontractor") in substitution for a Key Staff or a Key Subcontractor (as identified in Schedule E) only on fulfillment of the following conditions:

- (a) Proving to the reasonable satisfaction of the Employer that the Key Staff Member or Key Subcontractor is not available because of ill-health, death, or because he is no longer employed or subcontracted by the Contractor
- (b) Proving to the reasonable satisfaction of the Employer that the Proposed Substitute Key Staff Member or Key Subcontractor is as suitable for the job as the Key Staff Member or Key Subcontractor who is not available. To satisfy itself as to the suitability of the Proposed Substitute Key Staff Member or Proposed Substitute Key Subcontractor, the Employer may, among other things:
 - (i) check the references of the Proposed Substitute Key Staff Member or Proposed Key Subcontractor, and/or

(ii) require the Proposed Substitute Key Staff Member or Proposed Substitute Key Subcontractor to attend an interview with the Employer in the Country. Any costs incurred in the Proposed Substitute Key staff Member or Proposed Substitute Key Subcontractor attending the interview will be for the Contractor's Account.

(c) Payment by the Contractor of a Substitution Fee of the amount specified in Schedule E.

8.3 Labor Laws

The Contractor shall comply with all the relevant labor Laws applicable to the Contractor's Personnel, including Laws relating to their employment, health, safety, welfare, immigration and emigration, and shall allow them all their legal rights.

The Contractor shall require the Contractor's Personnel to obey all applicable Laws, including those concerning safety at work. The Contractor shall also require its Subcontractors to do the same with their respective personnel.

8.4 Health and Safety

The Contractor shall at all times take all reasonable precautions to maintain the health and safety of the Contractor's Personnel.

8.5 Contractor's Personnel Qualifications

The Contractor's Personnel shall be appropriately qualified, skilled and experienced in their respective trades or occupations. The Employer's Representative may require the Contractor to remove (or cause to be removed) from the Facilities or the performance of the Services, any Contractor's Personnel, including the Contractor's Representative if applicable, who:

- (a) persists in any misconduct or lack of care,
- (b) carries out duties incompetently or negligently,
- (c) fails to conform with any provisions of the Contract, or
- (d) persists in any conduct which is prejudicial to safety, health, or the protection of the environment.

If requested by the Employer, the Contractor shall then substitute the person removed with another person. This substitution must be in accordance with Sub-Clause 8.2.

8.6 Foreign Personnel

The Contractor may bring in to the Country any foreign personnel who are necessary for the execution of the Services except for the categories of staff **specified in the Contract Data** that, in accordance with applicable Country Laws, must be hired locally if and to the extent that a sufficient number of appropriately qualified staff is locally available. The Contractor shall ensure that these personnel are provided with the required residence visas and work permits. The Employer will, if requested by the Contractor, use his best endeavours in a timely and expeditious manner to assist the Contractor in obtaining any local, state, national, or government permission required for bringing in the Contractor's personnel.

The Contractor shall be responsible for the return of these personnel to the place where they were recruited or to their domicile. In the event of the death in the Country of any of these personnel or

members of their families, the Contractor shall similarly be responsible for making the appropriate arrangements for their return or burial.

9. Procurement and Management of Capital Works and Finance

9.1 Responsibility to Manage Utility Capital Works and Finance

Unless otherwise specified in Schedule F, the Contractor will not be directly responsible for Capital Works or sourcing finance, but will be responsible for managing the Utility Personnel responsible for these functions, to the extent that this is within the definition of Services to be performed, and the Delegation of Management Authority.

9.2 Responsibilities for Specified Capital Works

The Contractor will be responsible for designing, procuring, managing and supervising Capital Works to the extent set out in Schedule F.

The cost of Specified Capital Works will be to the Utility's Account, unless otherwise specified in Schedule F.

The Contractor will not receive any remuneration for discharging its responsibilities under this Sub-Clause 9.2, unless otherwise specified in Schedule G.

9.3 Responsibilities for Specified Finance

The Contractor will be responsible for sourcing, negotiating or otherwise procuring finance for the Utility as specified in Schedule F.

The Contractor will not receive any remuneration for discharging its responsibilities under this Sub-Clause, unless otherwise specified in Schedule G.

9.4 Procurement Rules

Procurement for Utility operations

In discharging its responsibilities to procure, or manage the procurement of, materials, supplies and services for the operations of the Utility, the Contractor will follow good commercial practice designed to ensure fairness, transparency and value for money, including any specific procurement rules set out in Schedule H.

Procurement for Provision of the Services

The Contractor is free to procure anything required for the provisions of Services as it wishes provided that:

- (a) This Contract was awarded competitively to the satisfaction of the Bank, and
- (b) The thing being procured is for the Contractor's Account.

Except that if there are any provisions governing the procurement of things required for the provisions of the Services stated in Schedule H, the Contractor shall comply with those provisions.

Procurement for Utility Capital Works and Specified Capital Works

In discharging its responsibilities to procure, or manage the procurement of anything required for Utility Capital Works and Specified Capital Works, the Contractor will follow good commercial practice designed to ensure fairness, transparency and value for money, including any specific procurement rules set out in Schedule H.

10. Contractor's reporting

10.1 Contractor's reporting requirements

Unless otherwise stated in Schedule K, monthly progress reports shall be prepared by the Contractor and submitted to the Employer's Representative in six copies. The first report shall cover the period up to the end of the first calendar month following the Commencement Date. Reports shall be submitted monthly thereafter, each within 7 days after the last day of the period to which it relates. The Contractor shall comply with all other reporting requirements specified in Schedule K.

11. Delegation of Management Authority to the Contractor

11.1 Delegation of Management Authority

Regardless of the relationship and interdependency between the Utility Board and the Employer, as may be defined by the Utility's charter or other internal documents, for the purpose of this Contract, the Employer is the Party to the Contract and is deemed to act on behalf and with the authorization of the Utility Board. In this capacity, the Employer confers on the Contractor the Delegated Management Authority over the areas and to the extent specified in Schedule I. This delegation is irrevocable during the term of the Contract.

11.2 Contractor to be advisor on other management matters

All management authority not explicitly delegated to the Contractor is retained by the Employer.

If in the Contractor's opinion it would be beneficial to the performance of the Services and achievement of the Objectives for such management authority to be exercised in a particular way, the Contractor shall advise the Employer of this, and provide reasons in writing. The Employer will give the Contractor written notice of its decision within the period **specified in the Contract Data**. If the Employer decides not to follow the Contractor's advice, it will give written reasons for its decision when it informs the Contractor.

The Contractor shall comply with the decisions of the Employer in management matters which are not the subject of Delegated Management Authority, to the extent that this is consistent with this Contract, and in particular with Schedule B, Schedule F, and Schedule H.

11.3 Further Delegation during the term of the Contract

The Employer may delegate further powers to the Contractor during the term of the Contract. Such further delegations are to be in writing. The delegations may be revocable or irrevocable, as specified in the delegation. Such delegations will be effective unless the Contractor refuses to accept the delegation. To be effective, such refusal must be given in writing within 30 days of receiving the notice of delegation.

11.4 Purpose of Exercise of Delegated Management Authority

The Contractor shall exercise any Delegated Management Authority to perform the Services and meet the Performance Targets, in accordance with good utility management practices.

11.5 Suspension of Delegated Management Authority

The delegation of powers shall be suspended during periods of Suspension of the Service, in accordance with Sub-Clause 18.2 [Employer's Entitlement to Suspend the Services and Delegated Management Authority].

11.6 Utility's Personnel

The Utility's Personnel will continue to be employed by the Utility. They will not become employees of the Contractor by virtue of this Contract.

The Contractor's Personnel will not be employees of the Utility by virtue of this Contract.

The Contractor's power to manage the Utility's Personnel will be as set out in the delegation of management authority to the Contractor under this Clause.

11.7 Utility Personnel Retrenchment

Provisions related to staff retrenchment set out in Schedule L will be binding on the Parties.

12. Contractor's Remuneration and Costs

12.1 Contractor's Remuneration

Amount and conditions of payment

The amount and conditions of payment of the Contractor's Remuneration shall be as specified in Schedule G.

Responsibility for Payment

Payment of the Remuneration shall be the responsibility of the Employer, unless otherwise specified in Schedule G.

Payment to be made without penalty or deduction

The Remuneration shall be paid in full without penalty or deduction unless otherwise provided in Schedule G, or this Contract.

Dates for payment

The dates for payment of the Contractor's Remuneration shall be as specified in Schedule G.

Currencies of Payment

The Contractor Remuneration shall be paid in the currency or currencies named in Schedule G.

Adjustment of Remuneration for Inflation

The Contractor Remuneration shall be adjusted as stated in Schedule G.

12.2 Advance Payment

The Advance Payment or payment to the Contractor in advance of work done, if any, shall be as specified in Schedule G.

Any advance payment shall be paid as an interest-free loan for mobilization, when the Contractor submits a guarantee in accordance with this Sub-Clause. The total Advance Payment, the number and timing of installments (if more than one), and the applicable currencies and proportions, shall be as stated in Schedule G.

The guarantee shall be in amounts and currencies equal to the Advance Payment. This guarantee shall be issued by an entity and from within a country (or other jurisdiction) approved by the Employer, and shall be in the form annexed to the Particular Conditions or in another form approved by the Employer.

The Contractor shall ensure that the guarantee is valid and enforceable until the advance payment has been repaid, but its amount may be progressively reduced by the amount repaid by the Contractor. If the terms of the guarantee specify its expiry date, and the advance payment has not been repaid by the date 28 days prior to the expiry date, the Contractor shall extend the validity of the guarantee until the advance payment has been repaid.

Unless stated otherwise in Schedule G, the advance payment shall be repaid through equal percentage deductions from the Contractor's Base Remuneration.

If the advance payment has not been repaid prior to the Termination of the Contract, the whole of the balance then outstanding shall immediately become due and payable by the Contractor to the Employer.

12.3 Delayed Payment

If the Contractor does not receive payment in accordance with Sub-Clause 12.1 [Contractor's Remuneration], the Contractor shall be entitled to receive financing charges compounded monthly on the amount unpaid during the period of delay. This period shall be deemed to commence on the date for payment.

Unless otherwise stated in Schedule G, these financing charges shall be calculated at the annual rate of three percentage points above the discount rate of the central bank in the country of the currency of payment, and shall be paid in such currency.

The Contractor shall be entitled to this payment without formal notice or certification, and without prejudice to any other right or remedy.

12.4 Sufficiency of the Contractor Remuneration

The Contractor shall be deemed to have satisfied himself as to the correctness and sufficiency of the Contractor Remuneration, taking into account all available data, and fully understanding the Services to be provided, and the conditions in which the Services are to be performed.

12.5 Contractors Costs and Account

12.5.1 Contractor's Account

An item which is expressed to be "for the Contractor's Account" shall be paid for by the Contractor from its own funds and not from the funds of the Employer or the Utility. The Contractor will be responsible for meeting the cost of items for the Contractor's Account whether or not the Contractor's Remuneration is sufficient to cover the cost, or whether or not the cost was anticipated, and whether or not the Contractor has the funds available.

12.6 Utility Financial Issues

12.6.1 Utility's Account

An item which is expressed to be "for the Utility's Account" shall be paid for by the Employer.

All costs which are not specified by this Contract to be for the Contractor's Account, or the responsibility of another person, shall be for the Employer's Account.

12.6.2 Procedure if the Utility’s incomings are not sufficient to cover its outgoings

The Utility shall cause the Parties responsible for its financial management to manage it prudently and in accordance with good commercial practice, and attempt to pay the obligations of the Utility as they fall due.

In the event that the Utility is unable to pay its obligations as they fall due, the Utility shall cause the Parties responsible for its financial management to follow the rules and processes set out in Schedule J.

13. Obligations and Rights of the Employer**13.1 Access to land**

The Employer hereby grants free of charge to the Contractor, as from the Commencement Date, access to all land within the Service Area in respect of which access is required for the performance of the Services by the Contractor.

13.2 Right to use facilities

The Employer hereby grants free of charge to the Contractor, as from the Commencement Date, the right to access and use the Facilities.

If the Contractor suffers delay and/or incurs Cost as a result of a failure by the Employer to give any such right, the Contractor shall be entitled on request to an adjustment in the Operator Remuneration sufficient to put it in the same position it would have been in had the Employer honoured its obligations under this Sub-Clause.

13.3 Payments by the Employer

The Employer shall make payments to the Contractor in accordance with the terms of this Contract.

13.4 Support by the Employer

The Employer shall use its best efforts to ensure that the Government shall provide the Contractor such assistance as may be required (e.g., issuance of permits, licenses, approvals, authorizations, etc.) during the term of this Contract.

The Employer shall use its best efforts to ensure adequate finance pursuant to the Project as defined herein to fund any capital investment program and shall keep the Contractor informed of the progress of such applications and negotiations.

13.5 Supervision by the Employer

- (a) The Employer shall supervise the Contractor in the performance of its obligations under this Contract.
- (b) The Employer shall review and approve or comment upon all reports submitted by the Contractor pursuant Clause 14 [Employer’s Reporting].
- (c) The Employer shall be given reasonable access during normal working hours to premises, works and sites of the Contractor for the purposes of inspection and certification. For the avoidance of doubt the term “Employer” as used herein shall include duly authorized officers, employees, representatives of the Employer and the Financial and Technical Auditors.

13.6 Permits, Licenses or Approvals

The Employer shall (where he is in a position to do so) provide reasonable assistance to the Contractor at the request of the Contractor:

- (a) by obtaining copies of the Laws of the Country which are relevant to the Contract but are not readily available, and
- (b) for the Contractor's applications for any permits, licenses or approvals required by the Laws of the Country:
 - (i) which the Contractor is required to obtain
 - (ii) for the delivery of Goods, including clearance through customs, and
 - (iii) for the export of Contractor's Equipment when it is removed from the Facilities.

13.7 Utility's Personnel Cooperation

The Employer and the Utility shall be responsible for ensuring that the Utility's Personnel and other contractors on the Facilities co-operate with the Contractor's efforts in performance of the Services.

13.8 Employer's Financial Arrangements

The Employer shall submit, within 28 days after receiving any request from the Contractor, reasonable evidence that financial arrangements have been made and are being maintained which will enable the Employer to pay the Contractor Remuneration (as estimated at that time) in accordance with Clause 12 [Contractor's Remuneration]. Before the Employer makes any material change to his financial arrangements, the Employer shall give notice to the Contractor with detailed particulars.

In addition, if the Bank has notified to the Borrower that the Bank has suspended disbursements under its loan, which finances in whole or in part the execution of the Services, the Employer shall give notice of such suspension to the Contractor with detailed particulars, including the date of such notification, with a copy to the Independent Expert, within 7 days of the Borrower having received the suspension notification from the Bank. If alternative funds will be available in appropriate currencies to the Employer to continue making payments to the Contractor beyond a date 60 days after the date of Bank notification of the suspension, the Employer shall provide reasonable evidence in such notice of the extent to which such funds will be available.

14. Employer's Reporting

14.1 Employer's reporting requirements

The Employer shall comply with the reporting requirements specified in Schedule K.

15. Intellectual and Industrial Property Rights

15.1 Intellectual Property and Copyright

As between the Parties, the Contractor shall retain the copyright and other intellectual property rights in any technical or Employer's Representative inventions or innovations made by or on behalf of the Contractor in providing the Services and in the Contractor's, Parent's and Shareholders' proprietary software, as applicable, that the Contractor modified for use in connection with the Services (the "Contractor's Innovations and Software").

The Contractor, by signing the Contract, gives the Employer a non-terminable, transferable, non-exclusive, royalty-free license to copy, use and communicate the Contractor's Innovations and Software and any other software used or purchased by the Contractor in the performance of the Services (the "Other Software"), including making and using modifications of them. This license shall,

- (a) apply throughout the actual or intended working life, whichever is longer, of the relevant parts of the Facilities;
- (b) entitle any person in proper possession of the relevant part of the Facilities to copy, use and communicate the Contractor's Innovations and Software and the Other Software for the purposes of managing, operating and maintaining the Facilities;
- (c) in the case of Contractor's Innovations and Software and the Other Software which are in the form of computer programs and other software, permit their use on any computer at the Facilities and other places as envisaged by the Contract, including replacements of any computers supplied by the Contractor; and
- (d) entitle the Employer to make the Contractor's Innovations and Software and the Other Software available for inspection by a prospective Bidder who may be involved in the process to select a Subsequent Contractor.

As between the Parties, the Employer owns and will continue to own all data with respect to the Facilities and Customers.

15.2 Intellectual Property Infringements

15.2.1 Meaning of Infringement and Claim

In this Sub-Clause, "infringement" means an infringement (or alleged infringement) of any patent, registered design, copyright, trade mark, trade name, trade secret or other intellectual or industrial property right relating to the Services; and "claim" means a claim (or proceedings pursuing a claim) alleging an infringement.

15.2.2 Notice of Claims

Whenever a Party does not give notice to the other Party of any claim within 28 days of receiving the claim, the first Party shall be deemed to have waived any right to indemnity under Sub-Clause 15.2 [Intellectual Property Infringement].

15.2.3 Contractor to Indemnify Employer

The Contractor shall indemnify and hold the Employer and the Utility harmless against and from any other claim which arises out of or in relation to the performance of the Services or the Contractor's management of the Utility.

15.2.4 Employer to indemnify Contractor

The Employer shall indemnify and hold the Contractor harmless against and from any claim alleging an infringement which is or was:

- (a) an unavoidable result of the Contractor's compliance with the Contract, or
- (b) a result of any Services being used by the Employer:

- (i) for a purpose other than that indicated by, or reasonably to be inferred from, the Contract, or
- (ii) in conjunction with anything not supplied by the Contractor, unless such use was disclosed to the Contractor prior to the Base Date or is stated in the Contract.

15.2.5 Right to manage settlement and litigation

If a Party is entitled to be indemnified under this Sub-Clause 15.2 [Intellectual Property Infringement], the indemnifying Party may (at its cost) conduct negotiations for the settlement of the claim, and any litigation or arbitration which may arise from it. The other Party shall, at the request and cost of the indemnifying Party, assist in contesting the claim. This other Party (and its Personnel) shall not make any admission which might be prejudicial to the indemnifying Party, unless the indemnifying Party failed to take over the conduct of any negotiations, litigation or arbitration upon being requested to do so by such other Party.

15.3 Confidentiality Obligations of the Contractor

15.3.1 Confidentiality

The Contractor shall keep confidential and shall not, without the written consent of the Employer, divulge to any Third Party any documents, data or other information arising directly or indirectly from the performance of Services under the Contract, whether such information has been furnished prior to, during or following termination of the Contract.

However, the Contractor may furnish to its Subcontractors such documents, data and other information to the extent required for the Subcontractors to perform their work under the Contract, in which event the Contractor shall obtain from such Subcontractors an undertaking of confidentiality similar to that imposed on the Contractor under this Sub-Clause 15.3 [Confidentiality Obligations of the Contractor].

15.3.2 Use of information

The Contractor shall not use such documents, data and other information received from the Employer for any purpose other than as are required for the performance of the Contract. The Contractor shall not publish, permit to be published, or disclose any particulars of the Contract, Assets or Facilities in any trade or technical paper or advertising materials without the prior written consent of the Employer.

15.3.3 Exceptions for publicly available information

The obligations of the Contractor under Sub-Clause 15.3 [Confidentiality Obligations of the Contractor] shall not apply to that information which,

- (a) now or hereafter enters the public domain through no fault of the Contractor;
- (b) can be proven to have been possessed by the Contractor at the time of disclosure and which was not previously obtained, directly or indirectly, from the Employer; or
- (c) otherwise lawfully becomes available to the Contractor from a Third Party that has no obligation of confidentiality.

15.4 Confidentiality and Publication Obligations of the Employer

Unless otherwise stated in the Contract Data, the Employer has the right and intention to:

- (a) Publish the Contract in its entirety in the World Bank Private Participation in Infrastructure Database, and such other media as it deems appropriate, and
- (b) Publish the Performance Targets and the progress against those Performance Targets in appropriate mass circulation media in the Country.

16. Liability, Risk Allocation, Securities, Bonds and Insurance

16.1 Limitation of Liability

Neither Party shall be liable to the other Party for loss of use of any Services, loss of profit, loss of any contract or for any indirect or consequential loss or damage which may be suffered by the other Party in connection with the Contract, whether in contract, tort or otherwise, other than as specifically provided in Sub-Clause 21.9 [Payment on Termination by the Employer for Cause]; Sub-Clause 16.2 [Indemnities]; Sub-Clause 16.7 [Consequences of Employer's Risks] and Sub-Clause 15.1 [Intellectual Property and Copyright].

The total liability of the Contractor to the Employer, under or in connection with the Contract, whether in contract, tort or otherwise, shall not exceed the sum **stated in the Contract Data**, or (if such multiplier or other sum is not so stated), the Contractor Base Remuneration.

This Sub-Clause shall not limit liability in any case of fraud, deliberate default, gross negligence, or reckless misconduct by the defaulting Party.

16.2 Indemnities

The Contractor shall indemnify and hold harmless the Employer, the Employer's Personnel, and their respective agents, against and from all claims, damages, losses and expenses (including legal fees and expenses) in respect of:

- (a) bodily injury, sickness, disease or death, of any person whatsoever arising out of or in the course of or by reason of the execution and completion of the Services, unless attributable to any negligence, willful act or breach of the Contract by the Employer, the Employer's Personnel, or any of their respective agents, and
- (b) damage to or loss of any property, real or personal, to the extent that such damage or loss arises out of or in the course of or by reason of the Contractor's performance or non-performance of the Services and the remedying of any defects, unless and to the extent that any such damage or loss is attributable to any negligence, willful act or breach of the Contract by the Employer, the Employer's Personnel, their respective agents, or anyone directly or indirectly employed by any of them.

The Employer shall indemnify and hold harmless the Contractor, the Contractor's Personnel, and their respective agents, against and from all claims, damages, losses and expenses (including legal fees and expenses) in respect of (1) bodily injury, sickness, disease or death, which is attributable to any negligence, willful act or breach of the Contract by the Employer, the Employer's Personnel, or any of their respective agents.

16.3 Performance Security

Unless an amount is **not stated in the Contract Data**, the Contractor shall obtain (at his cost) a Performance Security for proper performance, in the form, amount and currencies **stated in the Contract Data**.

The Contractor shall deliver the Performance Security to the Employer within 28 days after receiving the Letter of Acceptance, and shall send a copy to the Independent Expert. The Performance Security shall be issued by an entity and from within a country (or other jurisdiction) approved by the Employer, and shall be in the form annexed to the Particular Conditions or in another form approved by the Employer. If the institution issuing the Performance Security is located outside the country of the Employer, it shall have a corresponding financial institution located in the country of the Employer to make it enforceable.

The Contractor shall ensure that the Performance Security is valid and enforceable until the Contractor has executed and completed the Services and been released from liability under this Contract. If the terms of the Performance Security specify its expiry date, and the Contractor has not become entitled to receive the Performance Certificate by the date 28 days prior to the expiry date, the Contractor shall extend the validity of the Performance Security until the Services have been completed and any defects have been remedied.

The Employer shall not make a claim under the Performance Security, except for amounts to which the Employer is entitled under the Contract.

The Employer shall not make a claim under the Performance Security unless the Independent Expert first certifies that there are “prima facie” grounds for making a claim.

The Employer shall indemnify and hold the Contractor harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from a claim under the Performance Security to the extent to which the Employer was not entitled to make the claim.

The Employer shall return the Performance Security to the Contractor within 21 days after receiving a copy of the Performance Certificate.

16.4 General Requirements for Insurances

In this Clause, “insuring Party” means, for each type of insurance, the Party responsible for effecting and maintaining the insurance specified in the relevant Sub-Clause.

Wherever the Contractor is the insuring Party, each insurance shall be effected with insurers and in terms approved by the Employer. These terms shall be consistent with any terms agreed by both Parties before the date of the Letter of Acceptance. This agreement of terms shall take precedence over the provisions of this Clause.

Wherever the Employer is the insuring Party, each insurance shall be effected with insurers and in terms consistent with the details annexed in Schedule M.

If a policy is required to indemnify joint insured, the cover shall apply separately to each insured as though a separate policy had been issued for each of the joint insured. If a policy indemnifies additional joint insured, namely in addition to the insured specified in this Clause, (i) the Contractor shall act under the policy on behalf of these additional joint insured except that the Employer shall act for Employer’s Personnel, (ii) additional joint insured shall not be entitled to receive payments directly from the insurer or to have any other direct dealings with the insurer, and (iii) the insuring Party shall require all additional joint insured to comply with the conditions stipulated in the policy.

Each policy insuring against loss or damage shall provide for payments to be made in the currencies required to rectify the loss or damage. Payments received from insurers shall be used for the rectification of the loss or damage.

The relevant insuring Party shall, within the respective periods **stated in the Contract Data** (calculated from the Commencement Date), submit to the other Party:

- (a) evidence that the insurances described in this Clause have been effected, and
- (b) copies of the policies for the insurances as required by Schedule M.

When each premium is paid, the insuring Party shall submit evidence of payment to the other Party.

Each Party shall comply with the conditions stipulated in each of the insurance policies. The insuring Party shall keep the insurers informed of any relevant changes to the execution of the Services and ensure that insurance is maintained in accordance with this Clause.

Neither Party shall make any material alteration to the terms of any insurance without the prior approval of the other Party. If an insurer makes (or attempts to make) any alteration, the Party first notified by the insurer shall promptly give notice to the other Party.

If the insuring Party fails to effect and keep in force any of the insurances it is required to effect and maintain under the Contract, or fails to provide satisfactory evidence and copies of policies in accordance with this Sub-Clause, the other Party may (at its option and without prejudice to any other right or remedy) effect insurance for the relevant coverage and pay the premiums due. The insuring Party shall pay the amount of these premiums to the other Party, and the Contractor Remuneration shall be adjusted accordingly.

Nothing in this Clause limits the obligations, liabilities or responsibilities of the Contractor or the Employer, under the other terms of the Contract or otherwise. Any amounts not insured or not recovered from the insurers shall be borne by the Contractor and/or the Employer in accordance with these obligations, liabilities or responsibilities. However, if the insuring Party fails to effect and keep in force an insurance which is available and which it is required to effect and maintain under the Contract, and the other Party neither approves the omission nor effects insurance for the coverage relevant to this default, any moneys which should have been recoverable under this insurance shall be paid by the insuring Party.

16.5 Insurance Required

Each Party shall effect and maintain insurance as specified in Schedule M.

16.6 Employer's Risks

The risks referred to in Sub-Clause 16.7 [Consequences of Employer's Risks] below, insofar as they directly affect the execution of the Services in the Country, are:

- (a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
- (b) rebellion, terrorism, sabotage by persons other than the Contractor's Personnel and other employees of the Contractor and Subcontractors, revolution, insurrection, military or usurped power, or civil war, within the Country,
- (c) riot, commotion or disorder within the Country by persons other than the Contractor's Personnel and other employees of the Contractor and Subcontractors,
- (d) munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, within the Country, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity,

- (e) pressure waves caused by aircraft or other aerial devices traveling at sonic or supersonic speeds,
- (f) use or occupation by the Employer of any part of the Permanent Services, except as may be specified in the Contract,
- (g) any operation of the forces of nature which is Unforeseeable.

16.7 Consequences of Employer's Risks

Notwithstanding anything contained in the Contract, the Contractor shall have no liability whatsoever for or with respect to,

- (a) destruction of or damage to the Facilities or any part thereof;
- (b) destruction of or damage to property of the Employer or any Third Party; or
- (c) injury or loss of life,

if such destruction, damage, injury or loss of life is caused by any Employer's Risks, and the Employer shall indemnify and hold the Contractor harmless from and against any and all claims, liabilities, actions, lawsuits, damages, costs, charges or expenses arising on consequence of or in connection with the same.

If the Facilities or any property of the Contractor used or intended to be used for the purposes of the Services sustains destruction or damage by reason of any Employer's Risks, the Employer shall pay for,

- (a) replacing or making good any property or investments of the Contractor so destroyed or damaged; and
- (b) replacing or making good any such destruction or damage to the Facilities or any part thereof,

so far as may be required by the Employer, and as may be necessary for completion of the Services.

If the Employer does not require the Contractor to replace or make good any such destruction or damage to the Facilities, the Employer shall either request a change in accordance with Sub-Clause 19.1 [Employer Variations] excluding the performance of the Services in respect of that part of the Facilities thereby destroyed or damaged or, where the loss, destruction or damage affects a substantial part of the Facilities, shall terminate the Contract, pursuant to Sub-Clause 17.7 [Release from Performance].

Notwithstanding anything contained in the Contract, the Employer shall pay the Contractor for any increased Costs that are in any way attributable to, consequent on, resulting from, or in any way connected with any Employer's Risks, if the Contractor notifies the Employer in writing of any such increased cost as soon as practicable.

If, during the term of the Contract, any Employer's Risks occur that financially or otherwise materially affect the execution of the contract by the Contractor, the Contractor shall use its reasonable efforts to execute the Contract with due and proper consideration given to the safety of its and its Subcontractors' personnel engaged in the work on the Services. If the execution of the Services becomes impossible or is substantially prevented for a single period of more than 60 days or an aggregate period of more than 120 days on account of any Employer's Risks, the Parties will

attempt to develop a mutually satisfactory solution, failing which either Party may terminate the Contract by giving a notice to the other.

In the event of termination pursuant to this Sub-clause, the rights and obligations of the Employer and the Contractor shall be as specified in Sub-Clause 17.7 [Release from Performance].

17. Force Majeure

17.1 Definition of Force Majeure

In this Clause, “Force Majeure” means an exceptional event or circumstance:

- (a) which is beyond a Party’s control,
- (b) which such Party could not reasonably have provided against before entering into the Contract,
- (c) which, having arisen, such Party could not reasonably have avoided or overcome, and
- (d) which is not substantially attributable to the other Party.

Force Majeure may include, but is not limited to, exceptional events or circumstances of the kind listed below, so long as conditions (a) to (d) above are satisfied:

- (i) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
- (ii) rebellion, terrorism, sabotage by persons other than the Contractor’s Personnel and other employees of the Contractor and Subcontractors, revolution, insurrection, military or usurped power, or civil war,
- (iii) riot, commotion, disorder, strike or lockout by persons other than the Contractor’s Personnel and other employees of the Contractor and Subcontractors, or the Employer’s Personnel
- (iv) munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, except as may be attributable to the Contractor’s use of such munitions, explosives, radiation or radio-activity, and
- (v) natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity.

17.2 Notice of Force Majeure

If a Party is or will be prevented from performing its substantial obligations under the Contract by Force Majeure, then it shall give notice to the other Party of the event or circumstances constituting the Force Majeure and shall specify the obligations, the performance of which is or will be prevented. The notice shall be given within 14 days after the Party became aware, or should have become aware, of the relevant event or circumstance constituting Force Majeure.

The Party shall, having given notice, be excused performance of its obligations for so long as such Force Majeure prevents it from performing them.

Notwithstanding any other provision of this Clause, Force Majeure shall not apply to obligations of either Party to make payments to the other Party under the Contract

17.3 Duty to Minimize Delay

Each Party shall at all times use all reasonable endeavors to minimize any delay in the performance of the Contract as a result of Force Majeure.

A Party shall give notice to the other Party when it ceases to be affected by the Force Majeure.

17.4 Consequences of Force Majeure

If the Contractor is prevented from performing its substantial obligations under the Contract by Force Majeure of which notice has been given under Sub-Clause 17.2 [Notice of Force Majeure], and suffers delay and/or incurs Cost by reason of such Force Majeure, the Contractor shall be entitled to:

- (a) an extension of time for any such delay, if completion of the services is or will be delayed, and
- (b) if the event or circumstance is of the kind described in sub-paragraphs (i) to (iv) of Sub-Clause 17.1 [Definition of Force Majeure] and, in the case of sub-paragraphs (ii) to (iv), occurs in the Country, payment of any such Cost.

17.5 Force Majeure Affecting Subcontractor

If any Subcontractor is entitled under any contract or agreement relating to the Services to relief from force majeure on terms additional to or broader than those specified in this Clause, such additional or broader force majeure events or circumstances shall not excuse the Contractor's non-performance or entitle him to relief under this Clause.

17.6 Optional Termination, Payment and Release

If the execution of substantially all the Services in progress is prevented for a continuous period of 84 days by reason of Force Majeure of which notice has been given under Sub-Clause 17.2 [Notice of Force Majeure], or for multiple periods which total more than 140 days due to the same notified Force Majeure, then either Party may give to the other Party a notice of termination of the Contract. In this event, the termination shall take effect 7 days after the notice is given, and the Contractor shall proceed in accordance with Sub-Clause 21.12 [Actions on Termination].

17.7 Release from Performance

Notwithstanding any other provision of this Clause, if any event or circumstance outside the control of the Parties (including, but not limited to, Force Majeure) arises which makes it impossible or unlawful for either or both Parties to fulfill its or their contractual obligations or which, under the law governing the Contract, entitles the Parties to be released from further performance of the Contract, then upon notice by either Party to the other Party of such event or circumstance:

- (a) the Parties shall be discharged from further performance, without prejudice to the rights of either Party in respect of any previous breach of the Contract, and
- (b) the sum payable by the Employer to the Contractor shall be the same as would have been payable under Sub-Clause 21.11 [Payment on Termination for Prolonged Force Majeure] if the Contract had been terminated under Sub-Clause 17.6 [Optional Termination, Payment and Release].

18.Suspension of Services

18.1.1 Suspension for non-payment

If the Employer:

- (a) fails to pay the Contractors any sum due under the Contract within the period specified in the Contract;
- (b) fails to approve any invoice or supporting documents without just cause under the Contract;
- (c) commits a substantial breach of the Contract, including preventing the exercise of the Contractor's Delegated Management Authority
- (d) fails to provide possession of or access to the Facilities

the Contractor may, after giving not less than 14 days' notice to the Employer, suspend work (or reduce the rate of work) unless and until the failure or breach which gave rise to the suspension has been rectified.

18.1.2 Suspension in the event of loan suspension

Notwithstanding the above, if the Bank has suspended disbursements under the loan or credit from which payments to the Contractor are being made, in whole or in part, for the execution of the Services, and no alternative funds are available as provided for in Sub-Clause 13.8 [Employer's Financial Arrangements], the Contractor may by notice suspend work or reduce the rate of work at any time, but not less than 7 days after the Borrower having received the suspension notification from the Bank.

18.1.3 No prejudice to other remedies

The Contractor's action shall not prejudice his entitlements to financing charges under Sub-Clause 12.3 [Delayed Payment] and to termination under Sub-Clause 21.7 [Termination by the Contractor for Cause].

18.1.4 Compensation for costs from suspension

If the Contractor suffers delay and/or incurs Cost as a result of suspending work (or reducing the rate of work) in accordance with this Sub-Clause, the Contractor shall be entitled to:

- (a) an extension of time for any such delay, and
- (b) payment of a costs actually and reasonably incurred as a result of the suspension

18.2 Employer's Entitlement to Suspend the Services and Delegated Management Authority

The Employer may suspend the Services and Delegation of Management Authority, if this is necessary in the public interest, by notice to the Contractor. Such notice shall specify the effective date of the suspension, the reasons for the suspension, and the date on which the suspension will end.

If the Employer suspends the Services in accordance with this Sub-Clause 18.2, the Contractor shall then cease to perform its obligations under the Contract. However, the Contractor shall still be entitled to the Contractor Remuneration under the Contract.

If the suspension continues for more than 90 days, the Contractor may, by notice to the Employer, treat the suspension as Termination for Employer Convenience.

19.Contract Variation, Extension and Rebidding

19.1 Employer Variations

At any time during the Term of the Contract the Employer's Representative may request a Variation by giving to the Contractor a Variation Request. A Variation Request shall specify

- (a) A brief description of the Change to the Services
- (b) the effect on any other provisions of the Contract
- (c) a reasonable period within which the Contractor is required to respond.

19.1.1 Decision on Employer's Variation Request

On receiving a Variation Request the Contractor shall respond in writing as soon as practicable, and in any event within the period stipulated in accordance with Sub-Clause 19.1 [Employer Variations], either by giving reasons why he cannot comply (if this is the case) or by submitting a Variation Proposal containing:

- (a) a description of the proposed work to be performed and a program for its execution,
- (b) an estimate of the adjustment in Operator Remuneration which would be necessary to put the Contractor in the same financial position as if the Variation were not implemented

The Employer shall then:

- (a) Accept the Variation Proposal, which shall then modify the Contract so far as is specified in the Variation Proposal; or
- (b) Notify the Contractor that it has decided not to proceed with Variation or
- (c) Notify the Contractor that it does not agree with the proposed adjustment in Operator Remuneration or other terms of the Contract, and refer the issue for determination through the Dispute Resolution procedure under Sub-Clause 20.1 [Dispute Resolution].

19.2 Value Management

The Contractor may, at any time, submit to the Employer's Representative a written Value Management Proposal which (in the Contractor's opinion) will, if adopted: (i) reduce the cost of providing the services; or (ii) further the Objectives of the Contract; or (iii) otherwise be of benefit to the Employer or the Utility.

The Value Management Proposal shall be prepared at the cost of the Contractor and shall include:

- (a) description of the proposed Change to the Services
- (b) a description of the proposed work to be performed and a program for its execution,
- (c) any proposed adjustment in Operator Remuneration
- (d) the effect on any other provisions of the Contract.

If the Value Management Proposal would allow the same Services to be performed at lower cost, then the proposed adjustment in the Operator Remuneration shall be such as to share the benefits of the savings equally between the Contractor and the Employer.

If the effect of the Value Management Proposal would be to increase both the scope of the Services and the cost of the Services, then the proposed adjustment in the Operator Remuneration shall be such as to put the Contractor in the same financial position as it would be if the Value Management Proposal were not implemented

19.3 Decision on Value Management Proposal

On receiving a Value Management Proposal the Employer shall either:

- (a) Accept the Value Management Proposal, which shall then modify the Contract so far as is specified in the Value Management Proposal; or
- (b) Decline to accept the Value Management Proposal.

19.4 Adjustments for Changes in Law

“Change in Law” means a change in the Laws of the Country (including the introduction of new Laws and the repeal or modification of existing Laws) or in the judicial or official governmental interpretation of such Laws, made after the Base Date, which affect the Contractor in the performance of obligations under the Contract.

If the Contractor incurs additional Cost as a result of a Change in Law, the Operator Remuneration shall be adjusted so as put the Contractor in the same financial position as it would be if the Change in Law had not occurred.

If the Parties cannot agree on the required adjustment to the Operator Remuneration, either Party may refer the issue for determination through the procedure under Sub-Clause 20.1 [Dispute Resolution].

19.5 Extension and Subsequent Bidding

Extension of the Contract

Unless otherwise provided for in Schedule N, the Contract may be extended for an additional period of no more than the initial term of the Contract. Such an extension may be requested by the Employer, following the process set out in 19.1 [Employer Variation], or by the Contractor following the process set out in 19.2 [Value Management], must be agreed by the Parties, and may not be determined under the Dispute Resolution process.

However, the Parties may agree to refer the request for an extension to the Independent Expert. If the parties refer the request for an extension to the Independent Expert they shall agree, prior to the referral, whether the Independent Expert’s recommendation will be advisory only, or binding.

If requested to make a recommendation under this section, the Independent Expert shall be guided by:

- (a) The Objectives of the Contract
- (b) Such additional objectives as the Employer may inform him of which appear to him to be reasonable
- (c) The need for the Contractor to make a fair profit on its efforts, which he may assess by reference to the profits actually achieved or expected to be achieved under the Contract
- (d) The desirability of rewarding the Contractor for success in achieving the Employer’s objectives.

Subsequent Bidding for a Similar Contract

Unless otherwise provided in Schedule N, the contractor shall not be precluded from Bidding for any similar contract which is offered by the Employer or the Utility after the termination or expiration of this contract. In case of such a subsequent Bidding, the Contractor will be requested by the Employer to provide in due time a detailed report satisfactory to the Employer about the Services under this Contract, such Report to be made available by the Employer to all other potential Bidders.

20. Dispute Resolution

20.1 Dispute Resolution

20.1.1 Amicable Settlement

- (a) If any dispute arises out of or in connection with this Contract, either Party may give notice to the other Party of the same, whereupon the Parties shall meet promptly and in a good faith attempt to reach an amicable settlement.
- (b) In the event that the Parties do not resolve a dispute in accordance with this Sub-Clause within twenty (20) days of notice of the dispute being given, then either Party may refer the dispute to the Independent Expert for determination pursuant to the procedure set forth in Sub-Clause 20.1.2 [Independent Expert].

20.1.2 Independent Expert

- (a) By the date of Contract signing, the Contractor shall indicate to the Employer in writing its acceptance of one of the potential Independent Experts **proposed in the Contract Data** by the Employer or otherwise present to the Employer for its acceptance, a counter-proposal with the names of one or more individuals. The Employer shall respond in writing to the Contractor by the date **stated in the Contract Data**, and in case of a negative response, with a copy to the appointing entity or official **named in the Contract Data**, who shall then appoint the Independent Expert after due consultation with both Parties. If the Contractor fails to indicate its acceptance of one of the Employer-proposed individuals or present a counter-proposal, or if the Employer fails to respond to the Contractor's counterproposal by the due dates indicated above for each event, or if the Parties fail to agree upon the appointment of a replacement person within 42 days after the date on which the Independent Expert declines to act or is unable to act as a result of death, disability, resignation or termination of appointment, then the appointing entity or official **named in the Contract Data** shall, upon request of either or both of the Parties and after due consultation with both Parties, appoint the Independent Expert. The appointment(s) made by the appointing entity or official shall be final and conclusive. Each Party shall be responsible for paying one-half of the remuneration of the appointing entity or official.
- (b) The Independent Expert shall be a professional experienced in the type of services covered under the Contract and with the interpretation of contractual documents, and shall be fluent in the language for communications defined in the Contract. The Independent Expert shall be (and the terms of this appointment shall so provide that he or she is) independent of the Parties and shall act impartially. The Independent Expert's appointment may be terminated only by mutual agreement between the Parties. The Expert's terms of appointment shall expire as the Parties may mutually agree.

- (c) In making its determination, the Independent Expert shall:
 - (i) have regard to the Services required to be performed hereunder and the terms and conditions of this Contract; and
 - (ii) ensure that the position of the Parties is restored to the position they would have been in if the event triggering the dispute under this Section had not occurred and all the Parties had complied with the Contract.
- (d) The Party who initially issued the notice of intention to refer the dispute to the Independent Expert shall within ten (10) days of such notice submit to the Independent Expert and to the other Party the following documents:
 - (i) A description of the dispute;
 - (ii) A statement of that Party's position; and
 - (iii) Copies of relevant documentary evidence in support.
- (e) Within ten (10) days of receipt of the above documents, the other Party shall submit:
 - (i) A description of the dispute;
 - (ii) A statement of that Party's position; and
 - (iii) Copies of relevant documentary evidence in support.
- (f) The Independent Expert may call for such further documentary evidence and/or interview such persons as it deems necessary in order to reach their decision.
- (g) The expert shall give notice to the Parties of its decision within twenty (20) days of receipt of the documents provided under Section d) or e) as the case may be.
- (h) Unless this Contract has already been terminated or abandoned, the Parties shall in every case continue to proceed with the performance of their rights and obligations under this Contract with all due diligence whilst the Independent Expert is reviewing the dispute
- (i) The decision of the Independent Expert shall be binding unless and until one Party, within ten (10) days of the date of such decision, issues a notice of intention to refer the matter to arbitration in accordance with Sub-Clause 20.1.4 [Arbitration].
- (j) Each Party shall bear its own costs of preparing the materials for and making presentations to the Expert.

20.1.3 Payment of the Independent Expert

The costs of engaging the Independent Expert shall be borne equally by the Parties. The Independent Expert shall be paid as follows, in the currency **named in the Contract Data** or as otherwise indicated in the appointment notice issued in accordance with Sub-Clause 20.1.2 [Independent Expert]:

- (a) a retainer fee per calendar month, which shall be considered as payment in full for:
 - (i) being available on 28 days' notice for all site visits and hearings;
 - (ii) becoming and remaining conversant with all project developments and maintaining relevant files;

- (iii) all office and overhead expenses including secretarial services, photocopying and office supplies incurred in connection with his duties; and
- (iv) all services performed hereunder except those referred to in sub-paragraphs (b) and (c) of this Sub-Clause.

The retainer fee shall be paid with effect from the last day of the calendar month in which the appointment becomes effective; until the last day of the calendar month in which the Contract expires, unless the Independent Expert resigns or his appointment is otherwise terminated by the Parties.

- (b) a daily fee which shall be considered as payment in full for:
 - (i) each day or part of a day up to a maximum of two days' travel time in each direction for the journey between the Independent Expert's home and the site, or another location of a meeting that the Independent Expert is required to attend;
 - (ii) each working day on Site visits, hearings or preparing decisions; and
 - (iii) each day spent reading submissions in preparation for a hearing.
- (c) all reasonable expenses including necessary travel expenses (air fare in less than first class, hotel and subsistence and other direct travel expenses) incurred in connection with the Independent Expert's duties, as well as the cost of telephone calls, courier charges, faxes and telexes: a receipt shall be required for each item in excess of five percent of the daily fee referred to in sub-paragraph (b) of this Sub-Clause;
- (d) any taxes properly levied in the Country on payments made to the Independent Expert (unless a national or permanent resident of the Country) under this Sub-Clause.

20.1.4 Arbitration

All disputes arising out of or in connection with this Contract, not settled by amicable settlement or by the Independent Expert, in respect of which the Independent Expert's determination has not become final and binding, shall be finally settled by arbitration. Unless otherwise agreed by both Parties:

- (a) For contracts with foreign contractors:
 - (i) international arbitration with proceedings administered by the international arbitration institution **appointed in the Contract Data**, in accordance with the rules of arbitration of the appointed institution;
 - (ii) the place of arbitration shall be the city where the headquarters of the appointed arbitration institution is located or such other place selected in accordance with the applicable arbitration rules; and
 - (iii) the arbitration shall be conducted in the language for communications defined in Sub-Clause 1.4; and

- (b) For contracts with domestic contractors, arbitration with proceedings conducted in accordance with the laws of the Employer’s Country.

The arbitrators shall have full power to open up, review and revise any determination of the Independent Expert, relevant to the dispute. Nothing shall disqualify representatives of the Parties from being called as a witness and giving evidence before the arbitrators on any matter whatsoever relevant to the dispute.

Neither Party shall be limited in the proceedings before the arbitrators to the evidence or arguments previously put before the Independent Expert to obtain its determination, or to the reasons for dissatisfaction given in its notice of dissatisfaction. Any decision of the Independent Expert shall be admissible in evidence in the arbitration.

Arbitration may be commenced prior to or after completion of the Services. The obligations of the Parties and the Independent Expert shall not be altered by reason of any arbitration being conducted during the progress of the Services.

20.1.5 Survival

The dispute resolution provisions contained in Sub-Clause 20.1.4 [Arbitration] shall survive termination of this Contract.

21. Default and Termination

21.1 Notification and Cure Plans

If a Default occurs, the Party not in Default may, in addition to any other remedies it has, give the Defaulting Party a notice in writing (“**Default Notice**”) specifying:

- (a) that a Default has occurred;
- (b) the events or circumstances constituting the Default; and
- (c) if the Default is capable of being cured or remedied, a reasonable Cure Period in which to cure or remedy the Default.

The Party not in Default may specify in the Default Notice:

- (a) that it requires the Defaulting Party to provide to the Party not in Default a written plan (“**Cure Plan**”) which specifies the reason the Default occurred, how the Defaulting Party intends to remedy the Default, the time that the Defaulting Party will require to remedy the Default and includes additional information on such matters as the Party not in Default requires; and
- (b) a reasonable time by which the Defaulting Party must provide the Cure Plan to the Party not in Default .

The Party not in Default may, by notice to the Defaulting Party, vary the Cure Period having regard to information provided to it in relation to a Cure Plan.

21.2 Remediating the Default within the Applicable Cure Period

Upon receipt of a Default Notice, if the Default is capable of being cured or remedied, the Defaulting Party must cure or remedy the Default within the Cure Period.

In addition to its obligations under Sub-Clause 21.1 [Notification and Cure Plans], if the Party not in Default has required the Defaulting Party to provide a Cure Plan, the Defaulting Party must:

- (a) provide a Cure Plan within the time requested by the Defaulting Party;
- (b) comply with the Cure Plan; and
- (c) report to the Party not in Default on progress in relation to the Cure Plan at the times and in the manner specified by the Party not in Default.

The Defaulting Party may, by notice to the Defaulting Party, request an extension to a Cure Period. The Defaulting Party may only request such an extension once in relation to a particular Default. The notice must specify:

- (a) the reason why the Defaulting Party is not able to cure or remedy the Default within the existing Cure Period,
- (b) the additional time that the Defaulting Party requires to cure or remedy the Default and
- (c) any other information that is relevant to the Party not in Default's assessment of the request.

The Defaulting Party may not give such a notice unless it has diligently sought to cure or remedy the relevant Default. The Party not in Default must not unreasonably withhold its consent to a request for such an extension of a Cure Period unless the Party not in Default believes, on reasonable grounds, that the extension of the Cure Period would have a material adverse effect on the provision of the Services or the use by the Party not in Default of the Facilities.

21.3 Failure to cure

If the Party not in Default has given a Default Notice to the Defaulting Party and:

- (a) where the Default is capable of being cured or remedied, the Defaulting Party does not provide a Cure Plan acceptable to the Party not in Default within the time required in the Default Notice (if applicable);
- (b) where the Default is capable of being cured or remedied, the Defaulting Party does not diligently pursue the Cure Plan (if applicable) or otherwise comply with its obligations under Sub-Clause 21.2 [Remedying the Default within the Applicable Cure Period];
- (c) where the Default is capable of being cured or remedied, the Default is not cured or remedied within the Cure Period and, if applicable, in accordance with the Cure Plan; or
- (d) the Default is not capable of being cured or remedied.

The Party not in Default may (without prejudice to any of its other rights with respect to the Default), exercise all or any of the following remedies:

- (a) sue the Defaulting Party for compensation for the Default, and exercise all available legal and equitable remedies including without limitation suing for specific performance, injunctive relief or such other orders as the Party not in Default considers appropriate;
- (b) terminate this Agreement.

21.4 Ways the Contract may be terminated

The Contract may be terminated by:

- (a) The Employer for Convenience, in accordance with Sub-Clause 21.5 [Termination by the Employer for Convenience],
- (b) The Employer for Cause, in accordance with Sub-Clause 21.6 [Termination by the Employer for Cause], or
- (c) The Contractor for Cause, in accordance with Sub-Clause 21.7 [Termination by the Contractor for Cause].

21.5 Termination by the Employer for Convenience

The Employer shall be entitled to terminate the Contract, at any time for the Employer's convenience, by giving notice of such termination to the Contractor. The termination shall take effect 28 days after the later of the dates on which the Contractor receives this notice or the Employer returns the Performance Security.

The Employer shall not terminate the Contract under this Sub-Clause in order to arrange for the Services to be executed by another contractor or to avoid a termination of the Contract by the Contractor under Sub-Clause 21.7 [Termination by the Contractor for Cause].

After this termination, the Contractor shall proceed in accordance with Sub-Clause 21.12 [Actions on Termination] and shall be paid in accordance with Sub-Clause 21.8 [Payment on Termination by the Employer for Convenience].

21.6 Termination by the Employer for Cause

The Employer shall be entitled to terminate the Contract for cause, if the Contractor:

- (a) in accordance with Sub-Clause 21.3 [Failure to Cure], is the Defaulting Party referred to in that Sub-Clause,
- (b) fails to comply with Sub-Clause 16.3 [Performance Security],
- (c) abandons the Services or otherwise plainly demonstrates the intention not to continue performance of his obligations under the Contract,
- (d) without reasonable excuse fails to proceed with the Services,
- (e) subcontracts the whole of the Services or assigns the Contract without the required agreement,
- (f) becomes bankrupt or insolvent, goes into liquidation, has a receiving or administration order made against him, compounds with his creditors, or carries on business under a receiver, trustee or manager for the benefit of his creditors, or if any act is done or event occurs which (under applicable Laws) has a similar effect to any of these acts or events, or
- (g) gives or offers to give (directly or indirectly) to any person any bribe, gift, gratuity, commission or other thing of value, as an inducement or reward:
 - (i) for doing or forbearing to do any action in relation to the Contract, or
 - (ii) for showing or forbearing to show favour or disfavour to any person in relation to the Contract,
 - (iii) or if any of the Contractor's Personnel, agents or Subcontractors gives or offers to give (directly or indirectly) to any person any such inducement or reward as is described in

this sub-paragraph (f). However, lawful inducements and rewards to Contractor's Personnel shall not entitle termination, or.

- (h) in the judgment of the Employer, has engaged in Fraud and Corruption, as defined in paragraph 2.2 a of the Appendix to the GCC, in competing for or in executing the Contract.

In any of these events or circumstances, the Employer may, upon giving 14 days' notice to the Contractor, terminate the Contract and expel the Contractor from the Facilities. However, in the case of sub-paragraph (e), (f) or (h), the Employer may by notice terminate the Contract immediately.

The Employer's election to terminate the Contract shall not prejudice any other rights of the Employer, under the Contract or otherwise.

21.7 Termination by the Contractor for Cause

The Contractor shall be entitled to terminate the Contract if:

- (a) in accordance with Sub-Clause 21.3 [Failure to Cure], if the Contractor is the Defaulting Party referred to in that Sub-Clause,
- (b) the Employer fails to pay any part of the Contractor's Remuneration within 56 days of it falling due
- (c) the Employer substantially fails to perform his obligations under the Contract in such manner as to materially and adversely affect the ability of the Contractor to perform the Contract,
- (d) the Employer fails to comply with Sub-Clause 3.1 [Assignment], or
- (e) the Employer becomes bankrupt or insolvent, goes into liquidation, has a receiving or administration order made against him, compounds with his creditors, or carries on business under a receiver, trustee or manager for the benefit of his creditors, or if any act is done or event occurs which (under applicable Laws) has a similar effect to any of these acts or events.

In the event the Bank suspends the loan or credit from which part or whole of the payments to the Contractor are being made, if the Contractor has not received the sums due to him within 7 days of the due date, the Contractor may, without prejudice to the Contractor's entitlement to financing charges under Sub-Clause 12.3 [Delayed Payment] take one of the following actions, namely (i) suspend work or reduce the rate of work, or (ii) terminate his employment under the Contract by giving notice to the Employer, with a copy to the Independent Expert, such termination to take effect 14 days after the giving of the notice.

In any of these events or circumstances, the Contractor may, upon giving 14 days' notice to the Employer, terminate the Contract. However, in the case of sub-paragraph (g), the Contractor may by notice terminate the Contract immediately.

The Contractor's election to terminate the Contract shall not prejudice any other rights of the Contractor, under the Contract or otherwise.

21.8 Payment on Termination by the Employer for Convenience

Upon termination of this Contract pursuant to Sub-Clause 21.5 [Termination by the Employer for Convenience] the Employer shall make the following payments to the Contractor:

- (a) any portion of the Remuneration payable to the Contractor for Services satisfactorily performed or Performance Target achieved prior to the Termination of the Contract;
- (b) the Costs reasonably incurred by the Contractor in the removal of the Contractor's Equipment, Materials and Supplies from the Facilities and in the repatriation of the Contractor's Personnel and its Subcontractors' personnel;
- (c) any amounts required to be paid by the Contractor to its Subcontractors in connection with the termination of any Subcontracts, including any reasonable cancellation charges;
- (d) the reasonable Costs incurred by the Contractor in protecting and handing over the Facilities pursuant to Sub-Clause 21.12 [Actions on Termination]; and
- (e) the reasonable Costs of satisfying all other obligations, commitments and claims that the Contractor may in good faith have undertaken with Third Parties in connection with the Contract and that are not otherwise covered by this Sub-Clause 21.8 [Payment on Termination by the Employer for Convenience].

The only payments to be made to the Contractor on termination by the Employer pursuant to Sub-Clause 21.5 [Termination by the Employer for Convenience] are those set out in this Sub-Clause 21.8. The Contractor shall not make any other claim for lost or foregone profits, revenues, consequential damages or any other costs, damages, expenses or losses of any kind as a result of or in connection with the termination of this Contract.

21.9 Payment on Termination by the Employer for Cause

Upon termination of this Contract pursuant to Sub-Clause 21.6 [Termination by the Employer for Cause], the Employer shall make the following payments to the Contractor:

- (a) any portion of the Remuneration payable to the Contractor for Services satisfactorily performed or Performance Target achieved prior to the Termination of the Contract and
- (b) the reasonable Costs incurred by the Contractor in protecting and handing over the Facilities pursuant to Sub-Clause 21.12 [Actions on Termination].

The only payments to be made to the Contractor on termination by the Employer pursuant to Sub-Clause 21.6 [Termination by the Employer for Cause] are those set out in this Sub-Clause 21.9. The Contractor shall not make another claim for lost or foregone profits, revenues, consequential damages or any other costs, damages, expenses or losses of any kind as a result of or in connection with the termination of this Contract.

21.10 Payment on Termination by the Contractor for Cause

Upon termination of this Contract pursuant to Sub-Clause 21.7 [Termination by the Contractor for Cause] the Employer shall make the following payments to the Contractor:

- (a) any portion of the Remuneration payable to the Contractor for Services satisfactorily performed or Performance Target achieved prior to the Termination of the Contract;
- (b) the Costs reasonably incurred by the Contractor in the removal of the Contractor's Equipment, Materials and Supplies from the Facilities and in the repatriation of the Contractor's Personnel and its Subcontractors' personnel;
- (c) any amounts required to be paid by the Contractor to its Subcontractors in connection with the termination of any Subcontracts, including any reasonable cancellation charges;

- (d) the reasonable Costs incurred by the Contractor in protecting and handing over the Facilities pursuant to Sub-Clause 21.12 [Actions on Termination];
- (e) the reasonable Costs of satisfying all other obligations, commitments and claims that the Contractor may in good faith have undertaken with Third Parties in connection with the Contract and that are not otherwise covered by this Sub-Clause 21.8 [Payment on Termination by the Employer for Convenience]; and
- (f) a payment in compensation for lost profits under the contract, which shall be either:
 - (i) the amount for Liquidated Damages on Termination for Employer Convenience **specified in the Contract Data**, or if no such amount is specified,
 - (ii) the amount of profit the Contractor would be expected to lose as a result of early termination of the contract. The Contractor shall submit an estimate of this amount. The Employer shall either pay this amount, or submit it to dispute resolution under Sub-Clause 20.1 [Dispute Resolution].

The only payments to be made to the Contractor on termination by the Employer pursuant to Sub-Clause 21.7 [Termination by the Contractor for Cause] are those set out in this Sub-Clause 21.10. The Contractor shall not make another claim for lost or foregone profits, revenues, consequential damages or any other costs, damages, expenses or losses of any kind as a result of or in connection with the termination of this Contract.

21.11 Payment on Termination for Prolonged Force Majeure

Upon termination of this Contract pursuant to Sub-Clause 17.6 [Optional Termination, Payment and Release] the Employer shall make the following payments to the Contractor:

- (a) any portion of the Remuneration payable to the Contractor for Services satisfactorily performed or Performance Target achieved prior to the Termination of the Contract
- (b) the Costs reasonably incurred by the Contractor in the removal of the Contractor's Equipment, Materials and Supplies from the Facilities and in the repatriation of the Contractor's Personnel and its Subcontractors' personnel;
- (c) any amounts required to be paid by the Contractor to its Subcontractors in connection with the termination of any Subcontracts, including any reasonable cancellation charges;
- (d) the reasonable Costs incurred by the Contractor in protecting and handing over the Facilities pursuant to Sub-Clause 21.12 [Actions on Termination].
- (e) the reasonable Costs of satisfying all other obligations, commitments and claims that the Contractor may in good faith have undertaken with Third Parties in connection with the Contract and that are not otherwise covered by this Sub-Clause 21.11 [Payment on Termination for Prolonged Force Majeure].

21.12 Actions on Termination

In all cases of Termination, the Contractor shall promptly:

- (a) cease all further work, except for such work as the Employer may specify in the notice of termination for the sole purpose of protecting the Facilities, or handing the over for safe and uninterrupted operation by the Employer or another party, including co-operating with the Employer in such manner as the Employer reasonably requires to ensure that the Services

provided by the Contractor can be provided by another service provider or by the Employer itself.

- (b) leave the Facilities
- (c) deliver to the Employer all records related to the Contract and Services
- (d) deliver all documents, know-how, information technology software and other intellectual property required for the provision of the Services and management of the Utility which were required to be left with the Employer or Utility at the Termination of the Contract under Clauses 6 [Know-How Transfer and Training] and 15 [Intellectual and Industrial Property Rights].

APPENDIX TO GENERAL CONDITIONS OF CONTRACT

Fraud and Corruption

(Text in this Appendix shall not be modified)

1. Purpose

1.1 The Bank's Anti-Corruption Guidelines and this annex apply with respect to procurement under Bank Investment Project Financing operations.

2. Requirements

2.1 The Bank requires that Borrowers (including beneficiaries of Bank financing); bidders (applicants/proposers), consultants, contractors and suppliers; any sub-contractors, sub-consultants, service providers or suppliers; any agents (whether declared or not); and any of their personnel, observe the highest standard of ethics during the procurement process, selection and contract execution of Bank-financed contracts, and refrain from Fraud and Corruption.

2.2 To this end, the Bank:

a. Defines, for the purposes of this provision, the terms set forth below as follows:

- i. "corrupt practice" is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
- ii. "fraudulent practice" is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
- iii. "collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- iv. "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- v. "obstructive practice" is:
 - (a) deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
 - (b) acts intended to materially impede the exercise of the Bank's inspection and audit rights provided for under paragraph 2.2 e. below.

- b. Rejects a proposal for award if the Bank determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- c. In addition to the legal remedies set out in the relevant Legal Agreement, may take other appropriate actions, including declaring misprocurement, if the Bank determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the procurement process, selection and/or execution of the contract in question, without the Borrower having taken timely and appropriate action satisfactory to the Bank to address such practices when they occur, including by failing to inform the Bank in a timely manner at the time they knew of the practices;
- d. Pursuant to the Bank's Anti- Corruption Guidelines, and in accordance with the Bank's prevailing sanctions policies and procedures, may sanction a firm or individual, either indefinitely or for a stated period of time, including by publicly declaring such firm or individual ineligible (i) to be awarded or otherwise benefit from a Bank-financed contract, financially or in any other manner;¹ (ii) to be a nominated² sub-contractor, consultant, manufacturer or supplier, or service provider of an otherwise eligible firm being awarded a Bank-financed contract; and (iii) to receive the proceeds of any loan made by the Bank or otherwise to participate further in the preparation or implementation of any Bank-financed project;
- e. Requires that a clause be included in bidding/request for proposals documents and in contracts financed by a Bank loan, requiring (i) bidders (applicants/proposers), consultants, contractors, and suppliers, and their sub-contractors, sub-consultants, service providers, suppliers, agents personnel, permit the Bank to inspect³ all accounts, records and other documents relating to the procurement process, selection and/or contract execution,, and to have them audited by auditors appointed by the Bank.

¹ For the avoidance of doubt, a sanctioned party's ineligibility to be awarded a contract shall include, without limitation, (i) applying for pre-qualification, expressing interest in a consultancy, and bidding, either directly or as a nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider, in respect of such contract, and (ii) entering into an addendum or amendment introducing a material modification to any existing contract.

² A nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider (different names are used depending on the particular bidding document) is one which has been: (i) included by the bidder in its pre-qualification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification requirements for the particular bid; or (ii) appointed by the Borrower.

³ Inspections in this context usually are investigative (i.e., forensic) in nature. They involve fact-finding activities undertaken by the Bank or persons appointed by the Bank to address specific matters related to investigations/audits, such as evaluating the veracity of an allegation of possible Fraud and Corruption, through the appropriate mechanisms. Such activity includes but is not limited to: accessing and examining a firm's or individual's financial records and information, and making copies thereof as relevant; accessing and examining any other documents, data and information (whether in hard copy or electronic format) deemed relevant for the investigation/audit, and making copies thereof as relevant; interviewing staff and other relevant individuals; performing physical inspections and site visits; and obtaining third party verification of information.

Section IX - Particular Conditions of Contract

The following Particular Conditions shall supplement the GCC. Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

Part A - Contract Data

Conditions	Sub- Clause	Data
Financing Institution's name	1.1.2(a)	World Bank
Borrower's name	1.1.2(b)	
Employer's name and address	1.1.2(f) & 1.3 (b)	
Utility's Name	1.1.2(p)	
Electronic transmission systems	1.3(a)	
Governing Law	1.4	
Ruling language	1.4	
Language for communications	1.4	
Additional Conditions of Effectiveness	2.1(f)	
Period of Contract	2.3	[] months
Contractor's responsibility for the acts or defaults of its Subcontractors	3.5	<i>[insert any statements different from the requirements established under Sub-Clause 3.5 (a) – (d)]</i>
Compliance with Laws	3.8	<i>[insert any statements different from the requirements established under Sub-Clause 3.8]</i>
Categories of staff that must be hired locally if and to the extent that a sufficient number of appropriately qualified staff is locally available	8.6	
Period within which the Employer should make a decision on Contractor's management advice	11.2	[] days
Employers intention to publish the Contract and Performance Targets	15.4	The Employer _____ <i>[insert "has" or "does not have"]</i> the right and intention to: (a) publish the Contract in its entirety in the World Bank Private Participation in Infrastructure Database and such other media as it deems appropriate, and (b) publish the Performance Targets and the progress against those Performance Targets in

		appropriate mass circulation media in the Country.
Maximum total liability of the Contractor to the Employer	16.1	<i>[Select one of the two options below as appropriate]</i> The product of _____ <i>[insert a multiplier less or greater than one]</i> times the Contractor Remuneration, <i>or</i> _____ <i>[insert amount of the maximum total liability]</i>
Performance Security	16.3	The performance security will be in the form of a _____ <i>[insert either one of “demand guarantee” or “performance bond”]</i> in the amount(s) of <i>[insert related figure(s)]</i> percent of the Contractor Remuneration and in the same currency(ies) of the Contractor Remuneration.
Periods for required submissions by the relevant insuring Party to the other Party	16.4	Period (calculated from the Commencement Date) for submission of: (a) evidence that the insurances described in Clause 16 have been effected: _____ <i>[insert period of time]</i> , and (b) copies of the policies for the insurances as required by Schedule M: _____ <i>[insert period of time]</i>
List of Employer-proposed potential Independent Experts	20.1.2	
Date by which the Employer shall respond to Contractor’s counterproposal (if any)	20.1.2	
Appointing entity or official in case of disagreement between the Parties	20.1.2	
Currency for payment of the Independent Expert	20.1.3	
International Arbitration Institution	20.1.4 (a) (i)	
Amount of Liquidated Damages on Termination for Employer Convenience	21.10 (f)(i)	

Part B - Specific Provisions

[Insert any specific provisions]

Section X - Contract Forms

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Notification of Intention to Award

[This Notification of Intention to Award shall be sent to each Bidder whose Financial Proposal was opened. Send this Notification to the authorized representative of the Bidder].

For the attention of Bidder's authorized representative

Name: *[insert authorized representative's name]*

Address: *[insert authorized representative's address]*

Telephone/Fax numbers: *[insert authorized representative's telephone/fax numbers]*

Email Address: *[insert authorized representative's email address]*

[IMPORTANT: insert the date that this Notification is transmitted to all Bidders. The Notification must be sent to all Bidders simultaneously. This means on the same date and as close to the same time as possible.]

DATE OF TRANSMISSION: This Notification is sent by: *[email/fax]* on *[date]* (local time)

Notification of Intention to Award

Employer: *[insert the name of the Employer]*

Contract title: *[insert the name of the contract]*

Country: *[insert country where RFB is issued]*

Loan No. /Credit No. /Grant No.: *[insert reference number for loan/credit/grant]*

RFB No: *[insert RFB reference number from Procurement Plan]*

This Notification of Intention to Award (Notification) notifies you of our decision to award the above contract. The transmission of this Notification begins the Standstill Period. During the Standstill Period you may:

- a) request a debriefing in relation to the evaluation of your Bid, and/or
- b) submit a Procurement-related Complaint in relation to the decision to award the contract.

1. The successful Bidder

Name:	<i>[insert name of successful Bidder]</i>
Address:	<i>[insert address of the successful Bidder]</i>
Contract price:	<i>[insert contract price of the successful Bidder]</i>

2. Bidders *[INSTRUCTIONS: insert names of all Bidders. As applicable, insert prices, technical scores and combined scores. Where the selection method requires it, state the price offered by each Bidder as read out, and as evaluated. Include overall technical scores and scores assigned for each criterion and sub-criterion.]*

Name of Bidder	Technical scores (if applicable)	Financial Proposal price	Evaluated Financial Proposal Cost	Combined score and ranking (if applicable)
[insert name]	<p>Criterion (i): [insert score]</p> <p>Criterion (ii): [insert score]</p> <p>Criterion (iii): [insert score]</p> <p><u>Sub-criterion a:</u> 1: [insert score] 2: [insert score]</p> <p><u>Sub-criterion b:</u> 1: [insert score] 2: [insert score]</p> <p>Total score: [insert score]</p>	[Proposal price]	[evaluated price]	<p><u>Combined Score:</u> [combined score]</p> <p><u>Ranking:</u> [ranking]</p>
[insert name]	<p>Criterion (i): [insert score]</p> <p>Criterion (ii): [insert score]</p> <p>Criterion (iii): [insert score]</p> <p><u>Sub-criterion a:</u> 1: [insert score] 2: [insert score]</p> <p><u>Sub-criterion b:</u> 1: [insert score] 2: [insert score]</p> <p>Total score: [insert score]</p>	[Proposal price]	[evaluated price]	<p><u>Combined Score:</u> [combined score]</p>
[insert name]	...			

3. Reason/s why your Bid was unsuccessful [*Delete if the combined score already reveals the reason*]

[INSTRUCTIONS; State the reason/s why this Bidder's Bid was unsuccessful. Do NOT include: (a) a point by point comparison with another Bidder's Bid or (b) information that is marked confidential by the Bidder in its Bid.]

4. How to request a debriefing [*This applies only if your Bid was unsuccessful as stated under point (3) above*]

DEADLINE: The deadline to request a debriefing expires at midnight on [*insert date*] (local time).

You may request a debriefing in relation to the results of the evaluation of your Bid. If you decide to request a debriefing your written request must be made within three (3) Business Days of receipt of this Notification of Intention to Award.

Provide the contract name, reference number, name of the Bidder, contact details; and address the request for debriefing as follows:

Attention: [*insert full name of person, if applicable*]

Title/position: [*insert title/position*]

Agency: [*insert name of Employer*]

Email address: [*insert email address*]

Fax number: [*insert fax number*] *delete if not used*

If your request for a debriefing is received within the 3 Business Days deadline, we will provide the debriefing within five (5) Business Days of receipt of your request. If we are unable to provide the debriefing within this period, the Standstill Period shall be extended by five (5) Business Days after the date that the debriefing is provided. If this happens, we will notify you and confirm the date that the extended Standstill Period will end.

The debriefing may be in writing, by phone, video conference call or in person. We shall promptly advise you in writing how the debriefing will take place and confirm the date and time.

If the deadline to request a debriefing has expired, you may still request a debriefing. In this case, we will provide the debriefing as soon as practicable, and normally no later than fifteen (15) Business Days from the date of publication of the Contract Award Notice.

5. How to make a complaint

DEADLINE: The deadline for submitting a Procurement-related Complaint challenging the decision to award the contract expires on midnight, [*insert*]

date] (local time).

Provide the contract name, reference number, name of the Bidder, contact details; and address the Procurement-related Complaint as follows:

Attention: *[insert full name of person, if applicable]*

Title/position: *[insert title/position]*

Agency: *[insert name of Employer]*

Email address: *[insert email address]*

Fax number: *[insert fax number] delete if not used*

[At this point in the procurement process] [Upon receipt of this notification] you may submit a Procurement-related Complaint challenging the decision to award the contract. You do not need to have requested, or received, a debriefing before making this complaint. Your complaint must be submitted within the Standstill Period and received by us before the Standstill Period ends.

Further information:

For more information see the “[Procurement Regulations for IPF Borrowers \(Procurement Regulations\)](#) (Annex III).” You should read these provisions before preparing and submitting your complaint. In addition, the World Bank’s Guidance “[How to make a Procurement-related Complaint](#)” provides a useful explanation of the process, as well as a sample letter of complaint.

In summary, there are four essential requirements:

1. You must be an ‘interested party’. In this case, that means a Bidder who has submitted a Bid in this selection process, and is the recipient of a Notification of Intention to Award.
2. The complaint can only challenge the decision to award the contract.
3. You must submit the complaint within the deadline stated above.
4. You must include, in your complaint, all of the information required by the Procurement Regulations (as described in Annex III).

6. Standstill Period

DEADLINE: The Standstill Period is due to end at midnight on *[insert date]* (local time).

The Standstill Period lasts ten (10) Business Days after the date of transmission of this Notification of Intention to Award.

The Standstill Period may be extended. This may happen where we are unable to provide a debriefing within the five (5) Business Day deadline. If this happens we will notify you of the extension.

If you have any questions regarding this Notification please do not hesitate to contact us.

On behalf of [*insert the name of the Employer*]:

Signature: _____

Name: _____

Title/position: _____

Telephone: _____

Email: _____

Beneficial Ownership Disclosure Form

INSTRUCTIONS TO BIDDERS: DELETE THIS BOX ONCE YOU HAVE COMPLETED THE FORM

This Beneficial Ownership Disclosure Form (“Form”) is to be completed by the successful Bidder¹. In case of joint venture, the Bidder must submit a separate Form for each member. The beneficial ownership information to be submitted in this Form shall be current as of the date of its submission.

For the purposes of this Form, a Beneficial Owner of a Bidder is any natural person who ultimately owns or controls the Bidder by meeting one or more of the following conditions:

- *directly or indirectly holding 25% or more of the shares*
- *directly or indirectly holding 25% or more of the voting rights*
- *directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Bidder*

RFB No.: *[insert number of RFB process]*

Request for Bid No.: *[insert identification]*

To: *[insert complete name of Employer]*

In response to your request in the Letter of Acceptance dated *[insert date of letter of Acceptance]* to furnish additional information on beneficial ownership: *[select one option as applicable and delete the options that are not applicable]*

(i) we hereby provide the following beneficial ownership information.

Details of beneficial ownership

Identity of Beneficial Owner	Directly or indirectly holding 25% or more of the shares (Yes / No)	Directly or indirectly holding 25 % or more of the Voting Rights (Yes / No)	Directly or indirectly having the right to appoint a majority of the board of the directors or an equivalent governing body of the Bidder (Yes / No)
<i>[include full name (last, middle, first), nationality, country of</i>			

<i>residence]</i>			
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OR

(ii) We declare that there is no Beneficial Owner meeting one or more of the following conditions:

- directly or indirectly holding 25% or more of the shares
- directly or indirectly holding 25% or more of the voting rights
- directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Bidder

OR

(iii) We declare that we are unable to identify any Beneficial Owner meeting one or more of the following conditions. [If this option is selected, the Bidder shall provide explanation on why it is unable to identify any Beneficial Owner]

- directly or indirectly holding 25% or more of the shares
- directly or indirectly holding 25% or more of the voting rights
- directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Bidder]”

Name of the Bidder: *[insert complete name of the Bidder]

Name of the person duly authorized to sign the Bid on behalf of the Bidder: **[insert complete name of person duly authorized to sign the Bid]

Title of the person signing the Bid: [insert complete title of the person signing the Bid]

Signature of the person named above: [insert signature of person whose name and capacity are shown above]

Date signed [insert date of signing] **day of** [insert month], [insert year]

* In the case of the Bid submitted by a Joint Venture specify the name of the Joint Venture as Bidder. In the event that the Bidder is a joint venture, each reference to “Bidder” in the Beneficial Ownership Disclosure Form (including this Introduction thereto) shall be read to refer to the joint venture member.

** Person signing the Bid shall have the power of attorney given by the Bidder. The power of attorney shall be attached with the Bid Schedules.

Letter of Acceptance

[letterhead paper of the Employer]

[date]

To: *[name and address of the Contractor]*

This is to notify you that your Bid dated *[date]* for execution of the *[name of the Contract and identification number, as given in the Contract Data]* for the Contractor Remuneration of the equivalent of *[amount in numbers and words] [name of currency]*, as corrected and modified in accordance with the Instructions to Bidders, is hereby accepted by our Agency.

You are requested to furnish (i) the Performance Security within 28 days in accordance with the Conditions of Contract, using for that purpose one of the Performance Security Forms and (ii) the additional information on beneficial ownership in accordance with BDS ITB 46.1, within eight (8) Business days using the Beneficial Ownership Disclosure Form, included in Section X, - Contract Forms, of the Bidding Document.

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Agency: _____

Attachment: Contract Agreement

Contract Agreement

THIS AGREEMENT made the _____ day of _____, _____, between _____ of _____ (hereinafter “the Employer”), of the one part, and _____ of _____ (hereinafter “the Contractor”), of the other part:

WHEREAS the Employer desires that the Services known as _____ should be executed by the Contractor, and has accepted a Bid by the Contractor for the execution and completion of these Management Services and the remedying of any defects therein,

The Employer and the Contractor agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.

- (a) the addenda Nos. _____(if any)
- (b) the Letter of Acceptance
- (c) the Particular Conditions
- (d) the General Conditions;
- (e) the Schedules of Services Requirements,
- (f) the Letter of Bid

3. In consideration of the payments to be made by the Employer to the Contractor as indicated in this Agreement, the Contractor hereby covenants with the Employer to execute the Services therein in conformity in all respects with the provisions of the Contract.

4. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Services, the Contractor Remuneration or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of _____ on the day, month and year indicated above.

Signed by _____ (for the Employer)

Signed by _____ (for the Contractor)

Signed by _____(Contractor’s Parent Company) *[This last signature line to be added when the Successful Bidder is required to incorporate in the Employer’s Country, pursuant to ITB 45.3, and a Parent Company Guarantee is not required in the corresponding BDS]*

Performance Security

Option 1: (Bank Guarantee)

[The bank, as requested by the successful Bidder, shall fill in this form in accordance with the instructions indicated]

[Guarantor letterhead or SWIFT identifier code]

Beneficiary: *[insert name and Address of Employer]*

Date: *_ [Insert date of issue]*

PERFORMANCE GUARANTEE No.: *[Insert guarantee reference number]*

Guarantor: *[Insert name and address of place of issue, unless indicated in the letterhead]*

We have been informed that *_ [insert name of Supplier, which in the case of a joint venture shall be the name of the joint venture]* (hereinafter called "the Applicant") has entered into Contract No. *[insert reference number of the contract]* dated *[insert date]* with the Beneficiary, for the supply of *_ [insert name of contract and brief description of Management Services]* (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of *[insert amount in figures]* (_____) *[insert amount in words]*,¹ such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire, no later than the Day of, 2...², and any demand for payment under it must be received by us at this office indicated above on or before that date.

¹ *The Guarantor shall insert an amount representing the percentage of the Accepted Contract Amount specified in the Letter of Acceptance, and denominated either in the currency (ies) of the Contract or a freely convertible currency acceptable to the Beneficiary.*

² *Insert the date twenty-eight days after the expected completion date. The Employer should note that in the event of an extension of this date for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."*

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

[signature(s)]

Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.

Performance Security

Option 2: Performance Bond

By this Bond _____ as Principal (hereinafter called “the Contractor”) and _____] as Surety (hereinafter called “the Surety”), are held and firmly bound unto _____] as Obligee (hereinafter called “the Employer”) in the amount of _____, for the payment of which sum well and truly to be made in the types and proportions of currencies in which the Contractor Remuneration is payable, the Contractor and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Contractor has entered into a written Agreement with the Employer dated the ___ day of _____, 20 _____, for [*name of contract and brief description of Management Services*] _____ in accordance with the documents, plans, specifications, and amendments thereto, which to the extent herein provided for, are by reference made part hereof and are hereinafter referred to as the Contract.

NOW, THEREFORE, the Condition of this Obligation is such that, if the Contractor shall promptly and faithfully perform the said Contract (including any amendments thereto), then this obligation shall be null and void; otherwise, it shall remain in full force and effect. Whenever the Contractor shall be, and declared by the Employer to be, in default under the Contract, the Employer having performed the Employer’s obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

- (1) complete the Contract in accordance with its terms and conditions; or
- (2) obtain a Bid or bids from qualified Bidders for submission to the Employer for completing the Contract in accordance with its terms and conditions, and upon determination by the Employer and the Surety of the lowest responsive Bidder, arrange for a Contract between such Bidder and Employer and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the Balance of the Contractor Remuneration; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term “Balance of the Contractor Remuneration,” as used in this paragraph, shall mean the total amount payable by Employer to Contractor under the Contract, less the amount properly paid by Employer to Contractor; or
- (3) pay the Employer the amount required by Employer to complete the Contract in accordance with its terms and conditions up to a total not exceeding the amount of this Bond.

The Surety shall not be liable for a greater sum than the specified penalty of this Bond.

Any suit under this Bond must be instituted before the expiration of one year from the date of the issuing of the Handback Certificate.

No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Employer named herein or the heirs, executors, administrators, successors, and assigns of the Employer.

In testimony whereof, the Contractor has hereunto set his hand and affixed his seal, and the Surety has caused these presents to be sealed with his corporate seal duly attested by the signature of his legal representative, this _____ day of _____ 20 ____.

SIGNED ON _____ on behalf of _____

By _____ in the capacity of _____

In the presence of _____

SIGNED ON _____ on behalf of _____

By _____ in the capacity of _____

In the presence of _____

Advance Payment Security

[Guarantor letterhead or SWIFT identifier code]

Beneficiary: *[Insert name and Address of Employer]*

Date: *[Insert date of issue]*

ADVANCE PAYMENT GUARANTEE No.: *[Insert guarantee reference number]*

Guarantor: *[Insert name and address of place of issue, unless indicated in the letterhead]*

We have been informed that *[insert name of Contractor, which in the case of a joint venture shall be the name of the joint venture]* (hereinafter called “the Applicant”) has entered into Contract No. *[insert reference number of the contract]* dated *[insert date]* with the Beneficiary, for the execution of *[insert name of contract and brief description of Management Services]* (hereinafter called “the Contract”).

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum *[insert amount in figures]* () *[insert amount in words]* is to be made against an advance payment guarantee.

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of *[insert amount in figures]* (____) *[insert amount in words]*¹ upon receipt by us of the Beneficiary’s complying demand supported by the Beneficiary’s statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating either that the Applicant:

- (a) has used the advance payment for purposes other than toward delivery of Management Services; or
- (b) has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount which the Applicant has failed to repay.

A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary’s bank stating that the advance payment referred to above has been credited to the Applicant on its account number *[insert number]* at *[insert name and address of Applicant’s bank]*.

¹ The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency(ies) of the advance payment as specified in the Contract, or in a freely convertible currency acceptable to the Employer.

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Applicant as specified in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that ninety (90) percent of the Accepted Contract Amount, has been certified for payment, or on the *[insert day]* day of *[insert month]*, 2 *[insert year]*, whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No.758, except that the supporting statement under Article 15(a) is hereby excluded.

[signature(s)]

Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.