

STANDARD PROCUREMENT DOCUMENT

Trial Version

Request for Proposals Works and Operation Service

**Design, build and operation of
*[water treatment plant (WTP)/ wastewater
treatment plant (WWTP)]***

(Single-stage Request for Proposals, after Initial Selection)

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Preface

September 2018

The trial SPD is applicable to the procurement of Works and Operation Service (Design, Build and Operate) of Water Treatment Plant (WTP) and Wastewater Treatment Plant (WWTP) funded by IBRD or IDA financed projects whose Legal Agreement makes reference to the *Procurement Regulations for IPF Borrowers July 2016* as amended from time to time.

This Trial SPD shall be used for international competitive procurement, after Initial Selection, using a single stage Request for Proposals (RFP) selection method. If as result of the Project Procurement Strategy for Development (PPSD), a two-stage process would be more appropriate, then the corresponding SPD for a two-stage process should be applied. Both SPDs assume that an initial selection has been carried out, which should normally be the case for an RFP selection method. If the PPSD for justified reasons (in specific circumstances) has not identified the need for initial selection, then the relevant provisions of these SPDs should be modified accordingly.

This SPD, with some adaption, could be used on projects with water and wastewater networks and related facilities. The non-price factor in the evaluation criteria shall normally not exceed 30% and a maximum of 50% and shall be justified in all cases to the satisfaction of the Bank. A separate Standard Initial Selection Document for Design and Build has been issued together with this SPD.

The trial SPD includes provisions on environmental, social, health and safety performance.

It is important that, as part of procurement planning, the Employer considers the potential benefits, limitations, risks and attributes of a Design, Build and Operate approach and makes an informed decision as to whether the use of design, build and operate will benefit the subject contract. Due attention should be given to the efficiency and capacity of the Employer's procurement and contract administration arrangements, the potential response of the market, estimated total time required for the Employer to carry out the procurement process, as well as the Employer's existing technical capability and any professional assistance required.

Some of the benefits of Design, Build and Operate approach include: (i) single point of responsibility; the design, the construction and the operations are performed by the same contractor, (ii) access to operations and maintenance expertise, (iii) stronger incentives to deliver a reliable and durable plant because the Contractor would carry the financial consequences of poor design and workmanship and of selecting and installing poor quality equipment, (iv) better value for money in the long term because the contract is awarded to the Proposer offering the lowest combined capital and operating cost (unlike a design-build which is awarded on the basis of lowest initial capital cost), and (v) superior incentives for innovation: for example the contractor may be able to develop a better design as a result of value engineering and having regard for the operational as well as construction costs of the Works.

Some of the limitations of the Design Build Operate approach relative to having separate contracts for design and build (or of having a single design-build contract) include: (i) the Employer not having the capacity to evaluate objectively and properly the differences in solutions proposed by Proposers (the risk of which can be reduced by ensuring that the evaluation committee has relevant expertise), (ii) the Employer may lose some control of the design process: typically (but not always) the DBO contractor is given flexibility in the selection of suitable process technologies, (iii) the Employer loses direct control over operations and maintenance activities, and (iv) there may be a loss of future flexibility as the Employer is bound into a long term relationship with the Contractor.

Notwithstanding that the Contractor is responsible for the design of the Works, the Employer should carry out appropriate front-end tasks to enable the Employer to: (i) develop a realistic understanding of the contract's scope and costs; (ii) furnish Proposers with information that they can reasonably rely upon in establishing their price and other commercial decisions; and (iii) evaluate and compare the Proposals on a common basis as specified in the RFP. Such tasks may include, as appropriate, specifying performance/functional/basic structural requirements, terms of contractual conditions, as well as necessary geotechnical/environmental investigations, permits acquisition, etc.

Guidelines to this SPD can be found at <http://www.worldbank.org/en/projects-operations/products-and-services/brief/procurement-new-framework#SPD> and have been developed to assist Employers and IBRD and IDA staff in preparing DBO projects for WTPs and WWTPs, recognizing that they may be unfamiliar with this approach and related issues. The Guidelines have annexed them templates for Employer's Requirements for each of Water and for Wastewater Treatment Plants.

This trial SPD applies to projects funded by International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA) where the Legal Agreement makes reference to the Procurement Regulations.

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.
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Standard Procurement Document

Summary

Specific Procurement Notice

Specific Procurement Notice - Request for Proposal (RFP) to Initially Selected Proposers

This SPD covers a single stage, two envelope process following the Initial Selection of Proposers. The template attached is the Specific Notice of Procurement for Request for Proposals to Initially Selected Proposers for simultaneous submission of Technical and Financial Proposals in two separate envelopes.

PART 1 – REQUEST FOR PROPOSAL PROCEDURES

Section I – Instructions to Proposers (ITP)

This Section provides relevant information to help Proposers prepare their Proposals. It is based on a single- stage procurement process. Information is also provided on the submission, opening, and evaluation of Proposals and on the award of Contracts. **Section I contains provisions that are to be used without modification.**

Section II – Proposal Data Sheet (PDS)

This Section consists of provisions that are specific to each procurement and that supplement the information or requirements included in Section I, Instructions to Proposers.

Section III – Evaluation and Qualification Criteria

This Section specifies the methodology that will be used to determine the Most Advantageous Proposal. The Most Advantageous Proposal is the Proposal of the Proposer that meets the Qualification Criteria, and whose Proposal has been determined to be:

- (a) substantially responsive to the RFP document; and
- (b) the best evaluated Proposal i.e. the highest scoring Proposal, in the combined technical and financial evaluation.

Section IV – Proposal Forms

This Section contains the forms which are to be completed by the Proposer and submitted as part of the Proposal.

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 Request for Proposal process.

PART 2 – EMPLOYER’S REQUIREMENTS**Section VII – Employer’s Requirements**

This section shall set out a description of the functional and/or performance specification of the works to be designed and constructed. It shall present, as appropriate, a statement of the required standards for materials, plant, supplies, and workmanship to be provided. The Employer Requirements shall also present the environmental, social (including sexual exploitation and abuse (SEA) and gender based violence (GBV)), health and safety requirements to be satisfied by the contractor in designing and executing the works.

PART 3 – CONDITIONS OF CONTRACT AND CONTRACT FORMS**Section VIII – General Conditions (GC)**

General Conditions (GC) refer to the “General Conditions” which form part of the Conditions of Contract for Design, Build and Operate Projects first edition 2008 published by the Federation Internationale Des Ingenieurs – Conseils (FIDIC).

Section IX – Particular Conditions of Contract (PC)

This Section consists of Part A, Contract Data, and Part B, Special Provisions. The contents of this Section modify or 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 Proposals

Request for Proposals

Works and Operation Service

(Design, Build and Operation)

of [WTP/ WWTP]

(After Initial Selection)

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 RFP is issued]*

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

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

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

To: *[Proposer's name and address]*

Dear Ladies and/or Gentlemen,

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 contract ¹for *[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 Proposals from the following initially selected eligible Applicants for *[insert brief description of Works and Operation Service]*³.

¹ Substitute "contracts" where Proposals are called concurrently for multiple contracts. Add a new para. 3 and renumber paras 3 - 8 as follows: "Proposers may submit Proposal for one or several contracts, as further defined in the RFP Document."

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

³ A brief description of the type(s) of Works and Operation Service that should be provided, including location, Design and Build period and Operation Service Period, Functional/performance requirements and other information necessary to enable potential Proposers to decide whether or not to respond to the Request for Proposals.

[Insert names of initially selected Applicants]

3. The procurement will be conducted through international competitive procurement using Request for Proposals (RFP) as specified in the World Bank's "Procurement Regulations for IPF Borrowers" *[insert date of applicable Procurement Regulations edition as per legal agreement]* ("Procurement Regulations"), and is open to all initially selected eligible Proposers.
4. Initially selected eligible Proposers may obtain further information from *[insert name of implementing agency, insert name and e-mail of officer in charge]* and inspect the RFP 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 RFP]*⁴.
5. The RFP Document in *[insert name of language]* may be purchased by initially selected eligible Proposers 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. A single-stage, two envelope RFP process will be used, and the Proposal will consist of (i) the Technical Part, without any reference to prices; and (ii) the Financial Part, as detailed in the RFP Document. The Technical and Financial Parts of the proposals shall be submitted simultaneously in two separate sealed envelopes.
7. The Proposal, both the Technical Part and the Financial Part, must be delivered to the address below *[state address at the end of this RFP]*⁸ on or before *[insert time and date]*. Electronic Procurement will *[will not]* be permitted. Late Proposals will be rejected. The Technical Part of the Proposals will be publicly opened in the presence of the Proposers' designated representatives and anyone who chooses to attend at the address below *[state address at the end of this RFP]* on *[insert time and date]*. The Financial Part shall remain unopened and will be held in safe custody of the Employer until the second public opening of the Financial Part, following the evaluation of the Technical Part of the Proposals.
8. All Proposals must be accompanied by a *[insert "Proposal Security" or "Proposal-Securing Declaration," as appropriate]* of *[insert amount and currency in case of a Proposal Security]*⁹.

⁴ The office for inquiry and issuance of RFP Document and that for Proposal 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 Proposal submission if it is different from address for inquiry and issuance of RFP Document.

⁹ If the RFP Documents allow for lots or slices that may be procured separately, the amounts of Proposal security have to be defined per lot or slice. The amount of security should not be set so high as to discourage Proposers. If no Proposal security is required, this paragraph should say so.

9. Please confirm receipt of this letter immediately in writing by electronic mail or fax. If you do not intend to submit proposal, we would appreciate being so notified in writing at your earliest opportunity.
10. *[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 Proposer’s beneficial ownership, as part of the Contract Award Notice, using the Beneficial Ownership Disclosure Form as included in the RFP document.”]*
11. The address (es) referred to above is (are): *[insert detailed address (es)]*

[Insert name of office]

[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]

Request for Proposals Works and Operation Service

**(Design, build and operation)
of [WTP/ WWTP]
(Single--stage RFP after Initial Selection)**

Procurement of:

*[Insert identification of the Works and Operation
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 RFP is issued]*

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

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

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

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PART 1 – REQUEST FOR PROPOSAL PROCEDURES

SECTION I – INSTRUCTIONS TO PROPOSERS (ITP)

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SECTION I – INSTRUCTIONS TO PROPOSERS

A. GENERAL

1. **Scope of Proposal**
 - 1.1 The Employer, as specified **in the PDS**, issues this Request for Proposals (RFP) Document for the design, build and operation of the Works as specified in Section VII, Employer’s Requirements. The name, identification and number of lots (contracts) of this RFP are specified **in the PDS**.
 - 1.2 Unless otherwise stated, throughout this RFP Document definitions and interpretations shall be as prescribed in the Section VIII, General Conditions of Contract.
 - 1.3 Throughout this RFP Document:
 - (a) the term “in writing” means communicated in written form (e.g. by mail, e-mail, fax, including if specified **in the PDS**, 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;
 - (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;
 - (d) “Operation Service” means the operation and maintenance of the Works as provided under the Contract;
 - (e) “Works” refers to Works, subject of this request for proposals document, to be designed and built under the Contract and
 - (f) “ESHS” means environmental, social (including sexual exploitation and abuse (SEA) and gender based violence (GBV)), health and safety.
2. **Source of Funds**
 - 2.1 The Borrower or Recipient (hereinafter called “Borrower”) indicated **in the PDS** 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”) in an amount specified **in the PDS** toward the project named **in the PDS**. The Borrower intends to apply a portion of the funds to

eligible payments under the contract(s) for which this RFP 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 between the Borrower and the Bank (hereinafter called the Loan Agreement), and will be subject in all respects to the terms and conditions of that 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, materials or any other goods, 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 proceeds of the Loan (or other financing).

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, Proposers shall permit and shall cause their agents (where declared or not), subcontractors, sub-consultants, 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 Proposers**

- 4.1 A Proposer may be a firm that is a private entity, a state-owned enterprise or institution subject to **ITP 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 Contract in accordance with the Contract terms. The JV shall nominate a Representative (Lead Member) who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the RFP process and, in the event the JV is awarded the Contract, during contract execution. Unless specified **in the PDS**, there is no limit on the number of members in a JV. If specified **in the PDS**, the JV may form an SPV to enter into the Contract and the minimum level of total paid up share capital, lock-in periods for members

maintaining their shares and extent to which members can dilute their shareholding shall be as specified **in the PDS**.

- 4.2 A Proposer shall not have a conflict of interest. Any Proposer found to have a conflict of interest shall be disqualified. A Proposer may be considered to have a conflict of interest for the purpose of this RFP process, if the Proposer:
- (a) directly or indirectly controls, is controlled by or is under common control with another Proposer; or
 - (b) receives or has received any direct or indirect subsidy from another Proposer; or
 - (c) has the same legal representative as another Proposer; or
 - (d) has a relationship with another Proposer, directly or through common third parties, that puts it in a position to influence the Proposal of another Proposer, or influence the decisions of the Employer regarding this RFP process; or
 - (e) any of its affiliates participates as a consultant in the preparation of the Employer's Requirements for the Works that are the subject of the Proposal; or
 - (f) or any of its affiliates has been hired (or is proposed to be hired) by the Employer or Borrower as the Employer's Representative for the Contract implementation; 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 PDS ITP 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 RFP Document or specifications of the Contract, and/or the Proposal 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 RFP process and execution of the Contract.

- 4.3 A firm that is a Proposer (either individually or as a JV member) shall not participate in more than one Proposal, except for permitted alternative Proposals. This includes participation as a subcontractor in other Proposals. Such participation shall result in the disqualification of all Proposals in which the firm is involved. A firm that is not a Proposer or a JV member may participate as a subcontractor in more than one Proposal.
- 4.4 A Proposer may have the nationality of any country, subject to the restrictions pursuant to **ITP 4.8**. A Proposer shall be deemed to have the nationality of a country if the Proposer 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 sub-contractors or sub-consultants for any part of the Contract including related Services.
- 4.5 A Proposer 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, submit proposal 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 PDS**.
- 4.6 Proposers 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 Proposer shall not be under suspension from submitting proposals by the Employer as the result of the operation of a Bid 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. When the procurement is implemented across jurisdictional boundaries (and more than one country is a Borrower, and is involved in the procurement), then exclusion of a firm or individual on the basis of **ITP 4.8 (a)** above by any country may be applied to that procurement across other countries involved, if the Bank and the Borrowers involved in the procurement agree.

4.9 A Proposer shall provide such documentary evidence of eligibility satisfactory to the Employer, as the Employer shall reasonably request.

4.10 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 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, Proposers may be required to provide evidence of the origin of materials, equipment and services.

B. CONTENTS OF RFP DOCUMENT

6. Sections of RFP Document

6.1 The RFP 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 **ITP 8**:

PART 1 Request for Proposal Procedures

Section I - Instructions to Proposers (ITP)

Section II - Proposal Data Sheet (**PDS**)

Section III - Evaluation and Qualification Criteria

Section IV - Proposal Forms

Section V - Eligible Countries

Section VI - Fraud and Corruption

PART 2 Employer’s Requirements

Section VII - Employer’s Requirements

PART 3 Conditions of Contract and Contract Forms

Section VIII - General Conditions

Section IX - Particular Conditions

Section X - Contract Forms

- 6.2 The Specific Procurement Notice, Notice of Request for Proposals (RFP) issued by the Employer, is not part of this RFP 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-Proposal meeting (if any), or Addenda to the RFP Document in accordance with **ITP 8**. In case of any contradiction, documents obtained directly from the Employer shall prevail.
- 6.4 The Proposer is expected to examine all instructions, forms, terms, and specifications in the RFP Document and to furnish with its Proposal all information or documentation as is required by the RFP Document.
- 7. Clarification of RFP Document, Site Visit, Pre-Proposal Meeting**
- 7.1 A Proposer requiring any clarification of the RFP Document shall contact the Employer in writing at the Employer’s address specified **in the PDS** or raise its enquiries during the pre-Proposal meeting if provided for in accordance with **ITP 7.4**. The Employer will respond to any request for clarification, provided that such request is received prior to the deadline for submission of Proposals within a period specified **in the PDS**. The Employer shall forward copies of its response to all Proposers who have acquired the RFP Document in accordance with **ITP 6.3**, including a description of the inquiry but without identifying its source. If so specified **in the PDS**, the Employer shall also promptly publish its response at the web page identified **in the PDS**. Should the Employer deem it necessary to amend the RFP Document as a result of a request for clarification, it shall do so following the procedure under **ITP 8**.
- 7.2 The Proposer is advised to visit and examine the Site of the Works and its surroundings and obtain for itself on its own responsibility all information that may be necessary for preparing the Proposal and entering into a contract. The costs of visiting the site shall be at the Proposer’s own expense.

- 7.3 The Proposer 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 such visit, but only upon the express condition that the Proposer, its personnel, and agents will release and indemnify the Employer and its personnel and agents from and against all liability in respect thereof, and will be 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 Proposer’s designated representative is invited to attend a pre-Proposal meeting and/or a site visit, if provided for **in the PDS**. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage. Nonattendance at the pre-Proposal meeting will not be a cause for disqualification of a Proposer.
- 7.5 The Proposer is requested to submit any questions in writing, to reach the Employer not later than one week before the meeting.
- 7.6 Minutes of the pre-Proposal 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 Proposers who have acquired the RFP Document in accordance with **ITP 6.3**. Any modification to the RFP Document that may become necessary as a result of the pre-Proposal meeting shall be made by the Employer exclusively through the issue of an Addendum pursuant to **ITP 8** and not through the minutes of the pre-Proposal meeting.
- 8. Amendment of RFP Document**
- 8.1 At any time prior to the deadline for submission of Proposals, the Employer may amend the RFP Document by issuing addenda.
- 8.2 Any addendum issued shall be part of the RFP Document and shall be communicated in writing to all who have obtained the RFP Document from the Employer in accordance with **ITP 6.3**. The Employer shall also promptly publish the addendum on the Employer’s web page in accordance with **ITP 7.1**.
- 8.3 To give prospective Proposers reasonable time in which to take an addendum into account in preparing their Proposals, the Employer may, at its discretion, extend the deadline for the submission of Proposals, pursuant to **ITP 23.2**.
- 9. Cost of Proposals**
- 9.1 The Proposer shall bear all costs associated with the preparation and submission of its Proposal, and the Employer will in no case be responsible or liable for those costs.

- 10. Contacting the Employer**
- 10.1 From the time of Proposal opening to the time of Contract award, if any Proposer wishes to contact the Employer on any matter related to the Proposal, it should do so in writing.
- 10.2 If a Proposer tries to directly influence the Employer or otherwise interfere in the Proposal evaluation process and the Contract award decision, its Proposal may be rejected.
- 11. Language of Proposals**
- 11.1 Unless otherwise specified **in the PDS**, the Proposal prepared by the Proposer and all correspondence and documents related to the Proposal exchanged by the Proposer and the Employer shall be written in the English Language, or, **if the PDS** so provides, in either one of two languages specified there. Any printed literature furnished by the Proposer as part of its Proposal may be in a language not specified **in the PDS**, as long as such literature is accompanied by a translation of its pertinent passages into the language of the Proposal, in which case, for purposes of interpretation of the Proposal, the translation shall govern.

C. PREPARATION OF PROPOSALS

- 12. Documents Comprising the Proposal**
- 12.1 The Proposal shall comprise two Parts, namely the Technical Part and the Financial Part. These two Parts shall be submitted simultaneously in two separate sealed envelopes (single-stage, two-envelope RFP process). One envelope shall contain only information relating to the Technical Part and the other, only information relating to the Financial Part. These two envelopes shall be enclosed in a separate sealed outer envelope marked “Original Proposal”.
- 12.2 The Technical Part of the Proposal submitted by the Proposer shall comprise the following:
- (a) **Letter of Proposal** - Technical Part, prepared in accordance with **ITP 13**;
 - (b) **Security**: Proposal Security or Proposal-Securing declaration, in accordance with **ITP 19**;
 - (c) **Alternative Proposal** - Technical Part, if permissible in accordance with **ITP 14**;
 - (d) written confirmation authorizing the signatory of the Proposal to commit the Proposer, in accordance with **ITP 21.1**;

- (e) documentary evidence that the Proposer continues to be eligible and qualified to perform the contract if its Proposal is accepted;
- (f) documentary evidence in accordance with **ITP 18** that the Works offered by the Proposer conform to the RFP Document;
- (g) Details of any departures in their Technical Part from the RFP documents;
- (h) in the case of a Technical Part submitted by a JV, JV agreement, or letter of intent to enter into a JV including a draft agreement, indicating at least the parts of the Works to be executed by the respective partners;
- (i) list of subcontractors, in accordance with **ITP 18.3**; and
- (j) any other document required **in the PDS**.

12.3 The Financial Part of the Proposal submitted by the Proposer shall comprise the following:

- (a) **Letter of Proposal - Financial Part** prepared in accordance with **ITP 13**;
- (b) **Schedule of Rates and Prices (if any)**: completed in accordance with **ITP 15** and **ITP 16**;
- (c) **Alternative Proposal – Financial Part**: if permissible in accordance with **ITP 14**;
- (d) **Financial Disclosure**: The Proposer shall furnish in the Letter of Proposal information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Proposal; and
- (e) **Other**: any other document required **in the PDS**.

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

13. Letter of Proposal, and Schedules

13.1 The Proposer shall complete the Letter of Proposal – Technical Part and Letter of Proposal - Financial Part using the relevant forms furnished in Section IV, Proposal Forms. The forms must be completed without any alterations to the text, and no substitutes

shall be accepted except as provided under **ITP 21.3**. All blank spaces shall be filled in with the information requested.

14. Alternative Technical Proposals

- 14.1 Alternative Proposal - Technical Part: the Proposer wishing to offer alternative technical Proposal shall (i) document that the proposed technical alternatives are to the benefit of the Employer, that they fulfill the principal objectives of the contract, and that they meet the basic performance and technical criteria specified in the RFP Documents; and (ii) further provide all information necessary for a complete technical evaluation of the alternative by the Employer, including as relevant drawings, design calculations, technical specifications, and proposed construction methodology and other relevant details.
- 14.2 Alternative Proposal - Financial Part: The Proposer submitting alternative technical Proposal shall provide all information necessary for a complete financial evaluation of the alternative by the Employer, including breakdown of prices relevant to the offered technical alternative and in the manner and detail called for in the Schedule of Rates and Prices (if any) included in Section IV – Proposal Forms.
- 14.3 Only the technical alternatives, if any, of the Proposer with the Most Advantageous Proposal conforming to the basic performance and technical criteria specified in the RFP Documents shall be considered by the Employer.

15. Proposal Prices

- 15.1 Unless otherwise **specified in the PDS**, Proposers shall quote for the entire Works and Operation Service on a “single responsibility” basis such that the total lump sum Proposal price, subject to any adjustments in accordance with the Contract, covers all the Contractor’s obligations mentioned in or to be reasonably inferred from the RFP Document in respect of the design, manufacture, including procurement and subcontracting (if any), delivery, construction and completion of the Works and operation and maintenance of the Works as set out in the Conditions. This includes all requirements under the Contractor’s responsibilities for testing, pre-commissioning and commissioning (as applicable) of the Works and, where so required by the RFP Document, the acquisition of all permits, approvals and licenses, etc.; the operation, maintenance and training services and such other items and services as may be specified in the RFP Document, all in accordance with the requirements of the General Conditions.
- 15.2 Proposers shall give a breakdown of the prices in the manner and detail called for in the Priced Activity Schedules included in Section IV, Proposal Forms with further breakdown prices for sub

activities, as appropriate. The total of the prices of the items in the Priced Activity Schedule is the Proposer's offer to complete the works on a "single responsibility" basis. The cost of any items that the Proposer may have omitted is deemed to be included in the price of other items in the Activity and Sub-activity Schedules and will not be paid for separately by the Employer.

15.3 The prices shall be either fixed or adjustable as specified **in the PDS**.

15.4 In the case of **Fixed Price**, prices quoted by the Proposer shall be fixed during the Proposer's performance of the contract and not subject to variation on any account. A Proposal submitted with an adjustable price quotation will be treated as non-responsive and rejected.

15.5 In the case of **Adjustable Price**, prices quoted by the Proposer shall be subject to adjustment during performance of the contract to reflect changes in the cost elements in accordance with the procedures specified in the corresponding Appendix to the Contract Agreement. A Proposal submitted with a fixed price quotation will not be rejected, but the price adjustment will be treated as zero. Proposers are required to indicate the source of labor and material indices in the corresponding Form in Section IV, Proposal Forms.

15.6 If so indicated in **ITP 1.1**, Proposals are being invited for individual lots (contracts) or for any combination of lots (packages). Proposers wishing to offer any price reduction (discount) for the award of more than one Contract shall specify in their Letter of Proposal the price reductions applicable to each package, or alternatively, to individual Contracts within the package, and the manner in which the price reductions will apply. **However, discounts for the award of more than one contract will not be considered for Proposal evaluation purpose.**

15.7 Proposers wishing to offer any unconditional discount shall specify in their Letter of Proposal the offered discounts and the manner in which price discounts will apply.

15.8 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 Proposals, shall be included in the Proposal price submitted by the Proposer.

16. Proposal Currencies

16.1 The currency (ies) of the Proposal and the currency (ies) of payments shall be the same and shall be as specified **in the PDS**.

16.2 Proposers may be required by the Employer to justify, to the Employer's satisfaction, their local and foreign currency

requirements, and to substantiate that the amounts shown in the Schedule of Adjustment Data in the Appendix to the Proposal are reasonable, in which case a detailed breakdown of the foreign currency requirements shall be provided by Proposers.

17. Documents Establishing the Qualification of the Proposer

17.1 In accordance with Section III, Evaluation and Qualification Criteria, to establish that the Proposer continues to meet the qualification criteria used at the time of Initial Selection, the Proposer shall provide updated information on any assessed aspect that changed from that time.

17.2 If a margin of preference applies as specified in accordance with **ITP 39.1**, domestic Proposers, individually or in joint ventures, applying for eligibility for domestic preference shall supply all information required to satisfy the criteria for eligibility specified in accordance with **ITP 39.1**.

17.3 Any change in the structure or formation of a Proposer after being initially selected and invited to submit Proposals (including, in the case of a JV, any change in the structure or formation of any member and also including any change in any Specialized Subcontractor) shall be subject to the written approval of the Employer prior to the deadline for submission of Proposals. Such approval shall be denied if (i) a Proposer proposes to associate with a disqualified Proposer or in case of a disqualified joint venture, any of its members; (ii) as a consequence of the change, the Proposer no longer substantially meets the qualification criteria set forth in the Initial Selection Documents Section or (iii) no longer continues to be in the list of Initially Selected Proposers as a result of the Employer's re-evaluation of the Application in accordance with criteria specified in the Initial Selection Documents; or (iv) in the opinion of the Employer, the change may result in a substantial reduction in competition. Any such change should be submitted to the Employer not later than fourteen (14) days after the Notice of Request for Proposals.

18. Documents Establishing Conformity of the Works

18.1 Pursuant to **ITP 12.2 (f)**, the Proposer shall furnish, as part of its Proposal documents establishing the conformity to the RFP Documents of the Works that the Proposer proposes to design and build under the Contract.

18.2 The documentary evidence of the conformity of the Works and Operation Service with the RFP documents may be in the form of literature, drawings and data, and shall include:

(a) the documents specified in Section IV (Proposal Forms)-Technical Proposal;

- (b) detailed description of the essential technical and functional / performance characteristics of the proposed Works, in response to the Employer's Requirements; and
- (c) adequate evidence demonstrating the substantial responsiveness of the Works and the Operation Service to the Employer's Requirements. Proposers shall note that standards for workmanship, materials and equipment designated by the Employer in the RFP Document are intended to be descriptive (establishing standards of quality and performance) only and not restrictive. The Proposer may substitute alternative standards, in its technical Proposal, provided that it demonstrates to the Employer's satisfaction that the substitutions are substantially equivalent or superior to the standards designated in the Performance / Functional requirements specified by the Employer.

18.3 The Proposer shall be responsible for ensuring that any proposed subcontractor complies with the requirements of **ITP 4**, and that any Works to be provided by the subcontractor comply with the requirements of **ITP 5** and **ITP 18.1**. The Proposer shall submit its Code of Conduct that meets the requirements set out in Section VII - Employer's Requirements. The Proposer shall also submit an undertaking from each proposed subcontractor to confirm that they have read, understand and will comply with the ESHS obligations and code of conduct.

19. Securing the Proposal

19.1 The Proposer shall furnish as part of its Proposal, either a Proposal-Securing Declaration or a Proposal Security as specified **in the PDS**, in original form and, in the case of a Proposal Security, in the amount and currency specified **in the PDS**.

19.2 A Proposal-Securing Declaration shall use the form included in Section IV, Proposal Forms.

19.3 If a Proposal Security is specified pursuant to **ITP 19.1**, the Proposal security shall be a demand guarantee in any of the following forms at the Proposer's option:

- (a) an unconditional guarantee issued by a bank or a 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 PDS**,

from a reputable source from an eligible country. If an 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 Proposal submission, that a correspondent financial institution is not required.

- 19.4 In the case of a bank guarantee, the Proposal Security shall be submitted either using the Proposal Security Form included in Section IV, Proposal Forms or in another substantially similar format approved by the Employer prior to Proposal submission. In either case, the form must include the complete name of the Proposer. The Proposal Security shall be valid for twenty-eight days (28) beyond the original validity period of the Proposal, or beyond any period of extension if requested under **ITP 20.2**.
- 19.5 If a Proposal Security or a Proposal-Securing Declaration is specified pursuant to **ITP 19.1**, any Proposal not accompanied by a substantially responsive Proposal Security or Proposal-Securing Declaration shall be rejected by the Employer as non-responsive.
- 19.6 If a Proposal Security is specified in accordance with **ITP 19.1**, the Proposal Security of the Proposers shall be returned as promptly as possible once the successful Proposer has signed the Contract, furnished the required Performance Security, and if required **in the PDS**, the Environmental, Social, Health and Safety (ESHS) Performance Security.
- 19.7 The Proposal Security may be forfeited or the Proposal-Securing Declaration executed:
 - (a) if a Proposer withdraws its Proposal during the period of Proposal validity specified by the Proposer on the Letter of Proposal or any extension thereto provided by the Proposer; or
 - (b) if the successful Proposer fails to:
 - (i) sign the Contract in accordance with **ITP 53**; or
 - (ii) furnish a Performance Security and if required **in the PDS**, the Environmental, Social, Health and Safety

(ESHS) Performance Security, in accordance with **ITP 54**.

19.8 The Proposal Security or the Proposal-Securing Declaration of a JV shall be in the name of the JV that submits the Proposal. If the JV has not been legally constituted into a legally enforceable JV at the time of submission of Proposals, the Proposal Security or the Proposal-Securing Declaration shall be in the names of all future members as named in the letter of intent referred to in **ITP 4.1**.

19.9 If a Proposal Security is not required **in the PDS**, and:

- (a) if a Proposer withdraws its Proposal during the period of Proposal validity specified by the Proposer on the Letter of Proposal; or
- (b) if the successful Proposer fails to:
 - (i) sign the Contract in accordance with **ITP 53**; or
 - (ii) furnish a performance security and if required **in the PDS**, the Environmental, Social, Health and Safety (ESHS) Performance Security, in accordance with **ITP 54**,

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

20. Period of Validity of Proposals

20.1 Proposals shall remain valid, at a minimum, for the period specified **in the PDS** after the deadline date for Proposal submission prescribed by the Employer, pursuant to **ITP 23**. A Proposal valid for a shorter period shall be rejected by the Employer as non-responsive.

20.2 In exceptional circumstances, prior to expiry of the Proposal validity period, the Employer may request that the Proposers extend the period of validity for a specified additional period. The request and the responses to the request shall be made in writing. A Proposer may refuse the request without risking execution of the Proposal-Securing Declaration or forfeiting the Proposal Security. Except as provided in **ITP 20.3**, a Proposer agreeing to the request will not be required or permitted to modify its Proposal, but will be required to ensure that the Proposal Security is extended for a correspondingly longer period, pursuant to **ITP 19.4**.

20.3 In the case of fixed price contracts, if the award is delayed by a period exceeding fifty-six (56) days beyond the expiry of the initial Proposal validity, the contract price will be adjusted as specified **in**

the PDS. Proposal evaluation will be based on the Proposal prices without taking into consideration the above correction.

21. Format and Signing of Proposal

- 21.1 The original and all copies of the Proposal, each consisting of the documents listed in **ITP 12**, shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the Proposer. The authorization must be in writing as specified **in the PDS**, and included in the Proposal pursuant to **ITP 12.2(d)**. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Proposal where entries or amendments have been made shall be signed or initialed by the person signing the Proposal.
- 21.2 In case the Proposer is a JV, the Proposal 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.
- 21.3 The Proposal shall contain no interlineations, erasures, or overwriting, except to correct errors made by the Proposer, in which case such corrections shall be initialed by the person or persons signing the Proposal.
- 21.4 The Proposer shall furnish in the Proposal Submission Form (Section IV) information regarding commissions or gratuities, if any, paid or to be paid to agents relating to this procurement and to the execution of the Contract should the Proposer be successful.

D. SUBMISSION OF PROPOSALS

22. Submission, Sealing and Marking of Proposals

- 22.1 Unless the **PDS** states that Proposals are to be submitted electronically the following procedures shall apply.
- (a) The Proposer shall deliver the Proposal in two separate, sealed envelopes. One envelope containing the Technical Part and the other the Financial Part. These two envelopes shall be enclosed in a sealed outer envelope and clearly marked “Proposal - Original”.
- (b) In addition, the Proposer shall prepare copies of the Proposal, in the number specified **in the PDS**. Copies of the Technical Part shall be placed in a separate sealed envelope marked “Copies: Technical Part”. Copies of the Financial Part shall be placed in a separate sealed envelope marked “Copies: Financial Part”. The Proposer shall place both of these envelopes in a separate, sealed outer envelope marked “Proposal - Copies”. In the event of any discrepancy

between the original and the copies, the original shall prevail.

- (c) If alternative Proposals are permitted in accordance with **ITP 14**, the alternative Proposals shall be submitted as follows: the original of the alternative Proposal Technical Part shall be placed in a sealed envelope marked “Alternative Proposal – Technical Part” and the Financial Part shall be placed in a sealed envelope marked “Alternative Proposal – Financial Part” and these two separate sealed envelopes then enclosed within a sealed outer envelope marked “Alternative Proposal – Original”, the copies of the alternative Proposal will be placed in separate sealed envelopes marked “Alternative Proposal – Copies Of Technical Part”, and “Alternative Proposal – Copies Of Financial Part” and enclosed in a separate sealed outer envelope marked “Alternative Proposal - Copies”

22.2 The inner and outer envelopes shall:

- (a) bear the name and address of the Proposer;
- (b) be addressed to the Employer, at the address given **in the PDS for ITP 23.1**; and
- (c) bear the Contract(s) name, the Invitation for Proposals (RFP) title and number, as specified **in the PDS for ITP 1.1**, and the statement “Do Not Open Before [time and date],” to be completed with the time and date specified **in the PDS for ITP 23.1**.

22.3 If the outer envelope is not sealed and marked as required by **ITP 22.1** and **ITP 22.2**, the Employer will assume no responsibility for the Proposal’s misplacement or premature opening.

23. Deadline for Submission of Proposals

23.1 Proposals must be received by the Employer at the address specified, and no later than the time and date specified, **in the PDS**. Proposers have the option of submitting their Proposals electronically if specified **in the PDS**.

23.2 The Employer may, at its discretion, extend the deadline for submission of Proposals by amending the RFP Documents in accordance with **ITP 8.3**, in which case all rights and obligations of the Employer and Proposers will thereafter be subject to the deadline as extended.

24. Late Proposals

24.1 The Employer shall not consider any Proposal that arrives after the deadline for submission of Proposals, in accordance with **ITP 23**. Any Proposal received by the Employer after the deadline for

submission of Proposals shall be declared late, rejected, and returned unopened to the Proposer.

**25. Withdrawal,
Substitution,
and
Modification
of Proposals**

25.1 A Proposer may withdraw, substitute, or modify its Proposal after it has been submitted, and before the deadline for submission of Proposals, by sending a written notice, duly signed by an authorized representative, including a copy of the authorization in accordance with **ITP 21.1**, (except that withdrawal notices do not require copies). The corresponding substitution or modification of the Proposal must accompany the respective written notice. All notices must be:

- (a) prepared and submitted in accordance with **ITP 21** and **ITP 22** (except that withdrawals notices do not require copies), and in addition, the respective envelopes shall be clearly marked “Withdrawal,” “Substitution, (“Technical Part” and/or “Financial Part”)” “Modification (“Technical Part” and/or “Financial Part”),” and
- (b) received by the Employer prior to the deadline prescribed for submission of Proposals, in accordance with **ITP 23**.

E. OPENING OF TECHNICAL PARTS OF PROPOSALS

- 26. Opening of Technical Part by Employer**
- 26.1 Except as in the cases specified in **ITP 24 and ITP 25**, the Employer shall conduct the Technical Part opening in public, in the presence of Proposers` designated representatives and anyone who chooses to attend, and at the address, date and time specified **in the PDS**. Any specific electronic Proposal opening procedures, if permitted, shall be as specified **in the PDS**.
- 26.2 First, the written notice of withdrawal in the envelopes marked “Withdrawal” shall be opened and read out and the envelope with the corresponding Proposal shall not be opened, but returned to the Proposer. No Proposal withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at Proposal opening.
- 26.3 Next, envelopes marked “Substitution” shall be opened and read out and exchanged with the corresponding Technical Part being substituted, and the substituted Proposal shall not be opened, but returned to the Proposer. No Proposal substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at Proposal opening.
- 26.4 Next, envelopes marked “Modification” shall be opened and read out with the corresponding Proposal. No Proposal modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Proposal opening.
- 26.5 Next, all other envelopes marked “Technical Part” shall be opened one at a time. All envelopes marked “Financial Part” 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 Part of the Proposals. On opening the Technical Part envelopes, the Employer shall read out: the name of the Proposer and whether there is a modification; the presence or absence of a Proposal security or a Proposal-Securing Declaration; and other details as the Employer, at its discretion, may consider appropriate.
- 26.6 Only Technical Parts of Proposals and Alternative Proposal - Technical Parts that are opened and read out at Proposal opening shall be considered further. At the Proposal opening the Employer shall neither discuss the merits of any Proposal nor reject any Proposal (except for late Proposals, in accordance with **ITP 24.1**).

26.7 The Employer shall prepare a record of the Technical Parts of public opening that shall include, as a minimum: the name of the Proposer and whether there is a withdrawal, substitution, or modification. The Proposers' representatives who are present shall be requested to sign the record. The omission of a Proposer'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 Proposers who submitted Proposals in time, and posted online when electronic procurement is permitted.

F. EVALUATION OF PROPOSALS – GENERAL PROVISIONS

- 27. Confidentiality**
- 27.1 Information relating to the evaluation of the Technical Part shall not be disclosed to Proposers or any other persons not officially concerned with the RFP process until the notification of evaluation of the Technical Part in accordance with **ITP 33**.
- 27.2 Information relating to the evaluation of the Financial Part and recommendation of contract award, shall not be disclosed to Proposers or any other persons not officially concerned with the RFP process until the Notification of Intention to Award the Contract is transmitted to all Proposers in accordance with **ITP 49**.
- 27.3 Any effort by a Proposer to influence the Employer in the evaluation of the Proposals may result in the rejection of its Proposal.
- 27.4 Notwithstanding **ITP 27.1 and ITP 27.2**, from the time of Proposal opening to the time of Contract award, if any Proposer wishes to contact the Employer on any matter related to the RFP process, it should do so in writing.
- 28. Clarification of Proposals**
- 28.1 To assist in the examination, evaluation, and comparison of the Proposals, and qualification of the Proposers, the Employer may, at its discretion, ask any Proposer for a clarification of its Proposal. Any clarification submitted by a Proposer that is not in response to a request by the Employer shall not be considered. The Employer's request for clarification and the response shall be in writing.
- 28.2 If a Proposer does not provide clarifications of its Proposal by the date and time set in the Employer's request for clarification, its Proposal may be rejected.

**29. Deviations,
Reservations,
and Omissions**

29.1 During the evaluation of Proposals, the following definitions apply:

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

G. EVALUATION OF TECHNICAL PARTS OF PROPOSALS

**30. Determination
of
Responsiveness
of Technical
Parts**

30.1 The Employer will examine the Technical Parts, including any alternatives submitted by Proposers, to determine whether they are complete, have been properly signed, and are generally in order.

30.2 The Employer’s determination of a Technical Part’s substantial responsiveness is to be based on the contents of the Proposal itself. For purposes of this determination, a substantially responsive Proposal is one that materially conforms to the requirements of the RFP 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 Works specified in the Contract; or
 - (ii) limit in any substantial way, inconsistent with the RFP Document, the Employer’s rights or the Proposer’s obligations under the proposed Contract; or
- (b) if rectified, would unfairly affect the competitive position of other Proposers presenting substantially responsive Proposals.

30.3 Provided that a Technical Part is substantially responsive, the Employer may waive any nonmaterial nonconformity in the Proposal.

- 30.4 Provided that a Proposal is substantially responsive, the Employer may request that the Proposer submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities in the Proposal related to documentation requirements.
- 31. Evaluation of Technical Parts**
- 31.1 The Employer’s evaluation of technical proposals will be carried out as specified in Section III, Evaluation and Qualification Criteria.
- 31.2 The scores to be given to technical factors and sub factors are specified **in the PDS**.
- 32. Evaluation of Proposer’s Qualification**
- 32.1 The Employer shall determine to its satisfaction that, on the basis of updated documentary evidence submitted in accordance with **ITP 12.2 (e)**, and Section III- Evaluation and Qualification Criteria, the Proposer continues to be qualified to satisfactorily perform the Contract.
- 32.2 Only Proposals that are both substantially responsive to the RFP document and are qualified shall have their envelopes marked “FINANCIAL PART” opened at the second public opening.
- 33. Notification of evaluation of Technical Parts**
- 33.1 Following the completion of the evaluation of the Technical Parts of Proposals, the Employer shall make the following notifications:
- (a) Notify in writing those Proposers whose Proposals were considered substantially non-responsive to the requirements in the RFP, advising them of the following information:
 - (i) the grounds on which their Technical Part has been considered to be non-responsive;
 - (ii) their envelope marked “Financial Part” will be returned to them unopened after the completion of the Proposal evaluation process and the signing of the Contract;
 - (b) simultaneously, notify in writing those Proposers whose Proposals were considered substantially responsive to the requirements in the RFP, advising them that their Proposal has been evaluated as substantially responsive to the RFP; and
 - (c) notify all Proposers in accordance with the one of following two options:

- (i) Option 1: when **BAFO or Negotiations is not to be applied**, the date, time and location of the public opening of the envelopes marked ‘Financial Part’, or;
- (ii) Option 2: when BAFO or Negotiations apply as specified **in the PDS ITP 44 and ITP 46** respectively, that: (i) the envelopes marked ‘Financial Part’ will not be opened in public, but in the presence of a Probity Assurance Provider (Probity Auditor) appointed by the Employer, and that (ii) the announcement of the names of the Proposers whose Financial Parts will be opened and the total Proposal prices will be deferred to the time that the Notification of Intention to Award the contract is issued.

H. OPENING OF FINANCIAL PARTS

- 34. Public Opening of Financial Parts when BAFO or negotiations do not apply**
- 34.1 When BAFO or negotiations do not apply as specified **in the PDS**, the Financial Parts will be opened in public by the Employer in the presence of Proposers, or their designated representatives, and anyone else who chooses to attend. Each envelope marked “Financial Part” shall be inspected to confirm that it has remained sealed and unopened. These envelopes shall then be opened by the Employer. The Employer shall read out the names of each Proposer, the technical score, the total Proposal prices, per lot (contract) if applicable, including any discounts, the presence or absence of a Proposal Security or Proposal-Securing Declaration, if required and any other details as the Employer may consider appropriate. Only discounts read out at the public opening shall be considered for evaluation. The Letter of Proposal - Financial Part and the Schedule of Rates and Prices (if any) are to be initialed by representatives of the Employer attending the public opening in the manner specified **in the PDS**.
- 34.2 The Employer shall prepare a record of the Financial Part of the Proposal opening that shall include, as a minimum:
- (a) the name of the Proposers whose Financial Part was opened;
 - (b) the Proposal prices, per lot (contract) if applicable, including any discounts.
- 34.3 The Proposers whose envelopes marked “Financial Part” have been opened, or their representatives who are present, shall be requested to sign the record. The omission of a Proposer’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 Proposers.

35. Opening of Financial Parts when BAFO or negotiations apply

- 35.1 When, as specified **in the PDS**, BAFO or negotiations apply the Financial Parts will not be opened in public, and will be opened in the presence of a Probity Assurance Provider appointed by the Employer.
- 35.2 At the opening each of the envelopes marked “Financial Part” shall be inspected to confirm that they have remained sealed and unopened. These envelopes shall then be opened by the Employer. The Employer shall record the names of each Proposer, and the total Proposal prices and any other details as the Employer may consider appropriate. The Letter of Proposal - Financial Part and the Schedule of Rates and Prices (if any) are to be initialed by representatives of the Employer attending the public opening and by the Probity Assurance Provider.
- 35.3 The Employer shall prepare a record of the opening of the Financial Part envelopes that shall include, as a minimum:
- (a) the name of the Proposers whose Financial Part was opened;
 - (b) the Proposal prices including any discounts. And
 - (c) the Probity Assurance Provider’s report of the opening of the Financial Part.
- 35.4 The Probity Assurance Provider shall sign the record. The contents of the envelopes marked ‘Financial Part’ and the record of the opening shall be kept in safe custody by the Employer and not disclosed to anyone until the time of the transmission of the Notification of Intention to Award the contract.

I. EVALUATION OF FINANCIAL PART

36. Nonmaterial Nonconformities

- 36.1 Provided that a Proposal is substantially responsive, the Employer shall rectify quantifiable nonmaterial nonconformities related to the Proposal Price. To this effect, the Proposal 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 the PDS**.

37. Arithmetic Correction

- 37.1 The Employer shall correct arithmetical errors on the following basis:
- (a) **Priced Sub-activity Schedule:** where there are errors between the total of the amounts given under the column for

Sub-activity Price and the amount given under the total for the Sub-activity, the former shall prevail and the latter will be corrected accordingly;

- (b) **Priced Activity Schedule:** where there are errors between the total of the amounts given under the column for the Activity Price and the amount given under the total price of Activities, the former shall prevail and the latter will be corrected accordingly;
- (c) where there are errors between the total of the amounts in the Priced Sub-activity Schedule and the corresponding amount in the Priced Activity Schedule, the former shall prevail and the latter will be corrected accordingly;
- (d) **Grand Summary:** where there are errors between the total price of Activities in the Priced Activity Schedule and the amount given in Grand Summary, the former shall prevail and the latter will be corrected accordingly; and
- (e) 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) to (d) above.

37.2 A Proposer shall be requested to accept the correction of arithmetical errors. Failure to accept the correction in accordance with **ITP 37.1** shall result in the rejection of the Proposal.

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|---|--|
| 38. Conversion to Single Currency | 38.1 For evaluation and comparison purposes, the currency (ies) of the Proposal shall be converted into a single currency as specified in the PDS. |
| 39. Margin of Preference | 39.1 Unless otherwise specified in the PDS , a margin of preference for domestic Proposers ¹ shall not apply. |
| 40. Evaluation Process Financial Parts | 40.1 To evaluate each Proposal's Financial Part, the Employer shall consider the following: <ul style="list-style-type: none"> (a) the Proposal price, excluding provisional sums and the provision, if any, for contingencies in the Schedule of Rates |

¹ An individual firm is considered a domestic Proposer for purposes of the margin of preference if it is registered in the country of the Employer, has more than 50 percent ownership by nationals of the country of the Employer, and if it does not subcontract more than 10 percent of the contract price, excluding provisional sums, to foreign contractors. JVs are considered as domestic Proposer and eligible for domestic preference only if the individual member firms are registered in the country of the Employer or have more than 50 percent ownership by nationals of the country of the Employer, and the JV shall be registered in the country of the Borrower. The JV shall not subcontract more than 10 percent of the contract price, excluding provisional sums, to foreign firms. JVs between foreign and national firms will not be eligible for domestic preference.

and Prices (if any), but including Daywork items, where priced competitively;

- (b) price adjustment for correction of arithmetic errors in accordance with **ITP 37.1**;
 - (c) price adjustment due to discounts offered in accordance with **ITP 15.7**;
 - (d) price adjustment due to quantifiable nonmaterial nonconformities in accordance with **ITP 36.1**;
 - (e) converting the amount resulting from applying (a) to (c) above, if relevant, to a single currency in accordance with **ITP 38.1**; and
 - (f) any additional evaluation factors indicated **in the PDS** and detailed in Section III, Evaluation and Qualification Criteria.
- 40.2 If price adjustment is allowed in accordance with **ITP 15.5**, the estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be taken into account in Proposal evaluation.
- 40.3 If this RFP allows Proposers to quote separate prices for different lots (contracts), each lot will be evaluated separately to determine the Most Advantageous Proposal using the methodology specified in Section III, Evaluation and Qualification Criteria. **Discounts that are conditional on the award of more than one lot, or slice shall not be considered for Proposal evaluation.**

41. Abnormally Low Proposals

- 41.1 An Abnormally Low Proposal is one where the Proposal price, in combination with other elements of the Proposal, appears so low that it raises material concerns as to the capability of the Proposer to perform the Contract for the offered Proposal Price.
- 41.2 In the event of identification of a potentially Abnormally Low Proposal, the Employer shall seek written clarifications from the Proposer, including detailed price analyses of its Proposal price in relation to the subject matter of the contract, scope, proposed methodology, schedule, allocation of risks and responsibilities and any other requirements of the RFP Document.
- 41.3 After evaluation of the price analyses, in the event that the Employer determines that the Proposer has failed to demonstrate its capability to perform the Contract for the offered Proposal Price, the Employer shall reject the Proposal.

- 42. Unbalanced or Front Loaded Proposals**
- 42.1 If the Proposal that is evaluated as the lowest evaluated cost is, in the Employer’s opinion, seriously unbalanced or front loaded the Employer may require the Proposer to provide written clarifications. Clarifications may include detailed price analyses to demonstrate the consistency of the Proposal prices with the scope of the Works, proposed methodology, schedule and any other requirements of the RFP Document.
- 42.2 After the evaluation of the information and detailed price analyses presented by the Proposer, the Employer may:
- (a) accept the Proposal, or
 - (b) if appropriate, require that the total amount of the Performance Security be increased, at the expense of the Proposer, to a level not exceeding twenty percent (20%) of the Contract Price; or
 - (c) reject the Proposal.

J. EVALUATION OF COMBINED TECHNICAL AND FINANCIAL PART

- 43. Evaluation of Combined Technical and Financial Parts**
- 43.1 The Employer’s evaluation of responsive Proposals will take into account technical factors, in addition to cost factors in accordance with Section III Evaluation and Qualification Criteria. The weight to be assigned for the Technical factors and cost is specified **in the PDS**. The Employer will rank the proposals based on the evaluated Proposal score (B).
- 44. Best and Final Offer (BAFO)**
- 44.1 After completion of the combined technical and financial evaluation of proposals, if specified **in the PDS**, the Employer may invite those Proposers to submit their BAFOs. The procedure for submitting BAFOs will be specified **in the PDS**. BAFO is a final opportunity for Proposers to improve their Proposals without changing the specified business function and performance requirements in accordance with the RFP Documents. Proposers are not obliged to submit a BAFO. Where BAFO is used there will be no negotiation after BAFO.
- 44.2 BAFO will apply a two envelope procurement process. The submission of BAFOs, opening of the Technical Parts and Financial Parts and the evaluation of Proposals will follow the procedures described for the Technical, Financial and Combined evaluation above, as appropriate.

- 45. Most Advantageous Proposal (MAP)**
- 45.1 The Most Advantageous Proposal is the Proposal of the Proposer that meets the Qualification Criteria, and whose Proposal has been determined to be:
- (a) substantially responsive to the RFP; and
 - (b) the best evaluated Proposal i.e. the highest scoring Proposal, in the combined technical and financial evaluation.
- 46. Negotiations**
- 46.1 If specified **in the PDS**, the Employer may conduct negotiations following the evaluation of Proposals and before the final contract award. The procedure of the negotiations will be specified **in the PDS**.
- 46.2 Negotiations shall be held in the presence of Probity Assurance Provider appointed by the Employer.
- 46.3 Negotiations may address any aspect of the contract so long as they do not change the specified business function and performance requirements.
- 46.4 The Employer may negotiate first with the Proposer that has the Most Advantageous Proposal. If the negotiations are unsuccessful the Employer may negotiate with the Proposer that has the next best Most Advantageous Proposal, and so on down the list until a successful negotiated outcome is achieved.
- 47. Employer’s Right to Accept Any Proposal, and to Reject Any or All Proposals**
- 47.1 The Employer reserves the right to accept or reject any Proposal, and to annul the RFP process and reject all Proposals at any time prior to contract award, without thereby incurring any liability to Proposers. In case of annulment, all Proposals submitted and specifically, Proposal securities shall be promptly returned to the Proposers.
- 48. Standstill Period**
- 48.1 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 **ITP 52**. The Standstill Period commences the day after the date the Employer has transmitted to each Proposer (that has not already been notified that it has been unsuccessful) the Notification of Intention to Award the Contract. Where only one Proposal is submitted, or if this contract is in response to an emergency situation recognized by the Bank, the Standstill Period shall not apply.
- 49. Notification of Intention to Award**
- 49.1 The Employer shall send to each Proposer (that has not already been notified that it has been unsuccessful) the Notification of Intention to Award the Contract to the successful Proposer. The

Notification of Intention to Award shall contain, at a minimum, the following information:

- (a) the name and address of the Proposer submitting the successful Proposal;
- (b) the Contract price of the successful Proposal;
- (c) the total combined score of the successful Proposal;
- (d) the names of all Proposers who submitted Proposals, and their Proposal prices as readout and as evaluated prices and technical score;
- (e) a statement of the reason(s) the Proposal (of the unsuccessful Proposer 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;

K. AWARD OF CONTRACT

- 50. Award Criteria** 50.1 Subject to **ITP 47.1**, the Employer shall award the Contract to the Proposer with the Most Advantageous Proposal, provided that the Proposer is determined to be eligible and qualified to perform the Contract satisfactorily.
- 51. Notification of Award** 51.1 Prior to the expiration of the Proposal Validity Period and upon expiry of the Standstill Period, specified in **ITP 48.1** or any extension thereof, and upon satisfactorily addressing any complaint that has been filed within the Standstill Period, the Employer shall notify the successful Proposer, in writing, that its Proposal has been accepted. The notification of award (hereinafter and 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”).
- 51.2 Within ten (10) Business days from the 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 Proposers that submitted Proposals, and their Proposal prices as read out at Proposal opening, and as evaluated;
- (d) name of Proposers whose Proposals were rejected and the reasons for their rejection;
- (e) the name of the successful Proposer, the final total contract price, the contract duration and a summary of its scope; and
- (f) successful Proposer's Beneficial Ownership Disclosure Form, if specified in **PDS ITP 53.1**.

51.3 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.

51.4 Until a formal contract is prepared and executed, the Letter of Acceptance shall constitute a binding Contract.

52. Debriefing by the Employer

52.1 On receipt of the Borrower's Notification of Intention to Award referred to in **ITP 49**, an unsuccessful Proposer 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 Proposers whose request is received within this deadline.

52.2 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 Proposers of the extended standstill period.

52.3 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.

52.4 Debriefings of unsuccessful Proposers may be done in writing or verbally. The Proposers shall bear their own costs of attending such a debriefing meeting.

53. Signing of Contract

53.1 The Employer shall send to the successful Proposer the Letter of Acceptance including the Contract Agreement, and, if specified **in the PDS**, 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.

53.2 The successful Proposer shall sign, date and return to the Employer, the Contract Agreement within twenty-eight (28) days of its receipt.

54. Performance Security

54.1 Within twenty-eight (28) days of the receipt of the Letter of Acceptance from the Employer, the successful Proposer shall furnish the Performance Security and if required **in the PDS**, the Environmental, Social, Health and Safety (ESHS) Performance Security, in accordance with the General Conditions, subject to **ITP 42.2 (b)**, using the Performance Security and ESHS Performance Security Forms included in Section X, Contract Forms, or another form acceptable to the Employer. If the performance security furnished by the successful Proposer is in the form of a bond, it shall be issued by a bonding or insurance company that has been determined by the successful Proposer 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.

54.2 Failure of the successful Proposer to submit the above-mentioned Performance Security and if required **in the PDS**, the Environmental, Social, Health and Safety (ESHS) Performance Security, or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Proposal security. In that event the Employer may award the Contract to the next lowest evaluated Proposer whose offer is substantially responsive and is determined by the Employer to be qualified to perform the Contract satisfactorily.

**55. Procurement
Related
Complaint**

55.1 The procedures for making a Procurement-related Complaint are as specified **in the PDS**.

SECTION II – PROPOSAL DATA SHEET (PDS)

The following specific data for the proposed Works shall complement, supplement, or amend the provisions in the Instructions to Proposers (ITP). Whenever there is a conflict, the provisions herein shall prevail over those in ITP.

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

[Instructions for completing the Proposal Data Sheet are provided, as needed, in the notes in italics mentioned for the relevant ITP]

ITP Reference	A. General
ITP 1.1	<p>The reference number of the Request for Proposals is: <i>[insert reference number of the Request for Proposals]</i> _____</p> <p>The Employer is: <i>[insert name of the Employer]</i> _____</p> <p>The name of the RFP is: <i>[insert name of the RFP]</i> _____</p> <p>The number and identification of lots (contracts) comprising this RFP is: <i>[insert number and identification of lots (contracts)]</i> _____</p>
ITP 2.1	<p>The Borrower is: <i>[insert name of the Borrower and statement of relationship with the Employer, if different from the Borrower. This insertion should correspond to the information provided in the Invitation for Proposals]</i>__</p>
ITP 2.1	<p>Loan or Financing Agreement amount: <i>[insert US\$ equivalent]</i> _____</p> <p>The name of the Project is: <i>[insert name of the project]</i>_____</p>
ITP 1.3 (a)	<p><i>[delete if not applicable]</i></p> <p>“Electronic – Procurement System</p> <p>The Employer shall use the following electronic-procurement system to manage this procurement process:</p> <p><i>[insert name of the e-system and url address or link]</i></p> <p>The electronic-procurement system shall be used to manage the following aspects of the Procurement process:</p> <p><i>[insert aspects e.g. issuing RFP, submissions of Proposals, opening of Proposals]”</i></p>

ITP 4.1	Maximum number of members in the JV shall be: <i>[insert a number]</i> _____
ITP 4.1	The Proposer is permitted to form an SPV <i>[yes/ no]</i> Maximum number of members in the SPV shall be the same as the maximum number of members in the JV If the Contractor is an SPV, it shall be bound to maintain its share capital at a minimum level of <i>[insert percentage]</i> of the total paid up share capital of the SPV. The share capital may be increased without the Employer’s prior approval but a written notice of information shall be sent to the Employer. Any reduction of the SPV’s share capital shall be subject to the prior written consent of the Employer.
ITP 4.5	A list of debarred firms and individuals is available on the Bank’s external website: http://www.worldbank.org/debarr.
B. RFP Document	
ITP 7.1	For <u>Clarification of Proposal purposes</u> only, the Employer’s address is: <i>[Insert the corresponding information as required below. This address may be the same as or different from that specified under provision ITP 23.1 for Proposal submission]</i> Attention: <i>[insert full name of person, if applicable]</i> Address: <i>[insert street address and number]</i> Floor/ Room number: <i>[insert floor and room number, if applicable]</i> City:] <i>[insert name of city or town]</i> ZIP Code: <i>[insert postal (ZIP) code, if applicable]</i> Country: <i>[insert name of country]</i> Telephone: <i>[insert telephone number, including country and city codes]</i> Facsimile number: <i>[insert fax number, including country and city codes]</i> Electronic mail address: <i>[insert email address, if applicable]</i> Requests for clarification should be received by the Employer no later than: <i>[insert no. of days]</i> .
ITP 7.1	Web page: <i>[in case used, identify the widely used website or electronic portal of free access where RFP process information is published]</i> _____
ITP 7.4	A Pre-Proposal meeting _____ take place at the following date, time and place:

	<p>Date: _____</p> <p>Time: _____</p> <p>Place: _____</p> <p>A site visit conducted by the Employer _____ <i>[insert “shall be” or “shall not be”]</i> organized.</p> <p><i>[A pre-proposal meeting/site visit is highly recommended for such single-stage RFP process. In a single stage process, unlike a two stage, Proposers and the Employer do not have the opportunity to carry out a dialogue at the end of the first stage. A comprehensive pre-proposal meeting/site visit could help the Proposers to better understand the requirements and site conditions. This would also be an opportunity for the Borrower to get feedback on its requirements and amendments if required.]</i></p>
<h3>C. Preparation of Proposals</h3>	
<p>ITP 11.1</p>	<p>The language of the Proposal is: <i>[insert “English” or “Spanish” or “French”]</i>.</p> <p>_____</p> <p><i>[Note: In addition to the above language, and if agreed with the Bank, the Employer has the option to issue translated versions of the RFP Document in another language which should either be: (a) the national language of the Employer; or (b) the language used nation-wide in the Employer’s Country for commercial transactions. In such case, the following text shall be added:]</i></p> <p><i>“In addition, the RFP Document is translated into the [insert national or nation-wide used] language [if there are more than one national or nation-wide used language, add “and in the _____” [insert the second national or nation-wide language].</i></p> <p><i>Proposals shall have the option to submit their Proposal in any one of the languages stated above. Proposers shall not submit Proposals in more than one language.]”</i></p> <p>All correspondence exchange shall be in _____ language.</p> <p>Language for translation of supporting documents and printed literature is _____ <i>[specify one language]</i>.</p>
<p>ITP 12.2 (j)</p>	<p>The Proposer shall submit with its Proposal the following additional documents:</p> <p><i>[list any additional document not already listed in ITP 12.2 that must be submitted with the Proposal]</i> _____</p> <p>_____</p>
<p>ITP 12.3 (e)</p>	<p>The Proposer shall submit with its Proposal the following additional documents:</p>

	<i>[list any additional document not already listed in ITP 12.3 that must be submitted with the Financial Proposal]’ otherwise state ‘none’.</i>
ITP 14.1	Alternative Proposals <i>[insert “shall be” or “shall not be”]</i> _____ considered. <i>[If alternatives shall be considered, the methodology shall be defined in Section III – Evaluation and Qualification Criteria.</i>
ITP 15.1	<p>(a) <i>[if there are specific circumstances, where only certain components of the Works are to be on single responsibility basis and/ or if there are components of the Works to be provided under the responsibility of the Employer, the following text may be used, and parts of the RFP document (such as the Employer’s requirements, Proposal submission forms) modified to accommodate this requirement; otherwise delete:</i></p> <p>“Proposers shall propose for the following component of the Works on a single responsibility basis:_____</p> <p>and/or</p> <p>The following components of the Works will be provided under the responsibility of the Employer”]</p> <p><i>[Design and Build- Works are normally contracted on the basis of single responsibility basis and this RFP- SPD is designed for that purpose. It is not recommended to dilute the single responsibility approach unless there are justifiable reasons.]</i></p> <p>(b) <i>[the Contract Price shall be a lump sum amount, subject to any adjustments, in accordance with the Contract. However, if <u>any part of the Works</u> is to be paid according to quantity supplied or work done, the provisions for measurement and evaluation shall be as stated in the Particular Conditions of Contract- Part B- Sub-Clause 14.1.</i></p> <p><i>If not applicable, delete this 15.1(b). If applicable state: “The parts of the Works for which payment will be made on the basis of measurement are specified in _____. The method for determining the payment for these parts of the Works is also specified in Sub-Clause 14.1 of the Particular Conditions of Contract-Part B”]</i></p>
ITP 15.3	The prices quoted by the Proposer <i>[insert “shall “or “shall not”]</i> _____ be subject to adjustment during the performance of the Contract.
ITP 16.1	The currency(ies) of the Proposal and the payment currency(ies) shall be in accordance with Alternative _____ as described below: Alternative A (Proposers to quote entirely in local currency):

	<p>(a) The prices shall be quoted by the Proposer in the Priced Activity and Sub-activity Schedules entirely in _____ <i>[Insert the name of the currency of the Employer’s Country,]</i> and further referred to as “the local currency”. A Proposer expecting to incur expenditures in other currencies for inputs to the Works supplied from outside the Employer’s country (referred to as “the foreign currency requirements”) shall indicate in the Appendix to Proposal - Table C, the percentage(s) of the Proposal Price (excluding Provisional Sums), needed by the Proposer for the payment of such foreign currency requirements, limited to no more than three foreign currencies.</p> <p>(b) The rates of exchange to be used by the Proposer in arriving at the local currency equivalent and the percentage(s) mentioned in (a) above shall be specified by the Proposer in the Appendix to Proposal - Table C, and shall apply for all payments under the Contract so that no exchange risk will be borne by the successful Proposer.</p> <p>Alternative B (Proposers allowed to quote in local and foreign currencies):</p> <p>(a) The prices shall be quoted by the Proposer in the Priced Activity and Sub-activity Schedules separately in the following currencies:</p> <ul style="list-style-type: none"> (i) for those inputs to the Works that the Proposer expects to supply from within the Employer’s country, in _____ <i>[Insert the name of the currency of the Employer’s Country,]</i> and further referred to as “the local currency”; and (ii) for those inputs to the Works that the Proposer expects to supply from outside the Employer’s country (referred to as “the foreign currency requirements”), in up to any three foreign currencies.
<p>ITP 19</p>	<p><i>[If a Proposal Security shall be required, a Proposal-Securing Declaration shall not be required, and vice versa.]</i></p> <p>A Proposal Security <i>[insert “shall be” or “shall not be”]</i> required.</p> <p>A Proposal-Securing Declaration <i>[insert “shall be” or “shall not be”]</i> required.</p> <p>If a Proposal Security shall be required, the amount and currency of the Proposal Security shall be _____</p> <p><i>[If a Proposal Security is required, insert amount and currency of the Proposal Security. Otherwise insert “Not Applicable”.] [In case of lots, please insert amount and currency of the Proposal Security for each lot]</i></p> <p><i>[Note: Proposal Security is required for each lot as per amounts indicated against each lot. Proposers have the option of submitting one Proposal Security for all lots (for the combined total amount of all lots) for which Proposals have been submitted, however if the amount of Proposal Security is</i></p>

	<p><i>less than the total required amount, the Employer will determine for which lot or lots the Proposal Security amount shall be applied.]</i></p> <p><i>[The following provision should be included and the required corresponding information inserted <u>only</u> if a Proposal security is not required under provision ITP 19.1 and the Employer wishes to declare the Proposer ineligible for a period of time should the Proposer perform the actions mentioned in provision ITP 19.9. Otherwise omit.]</i></p> <p>If the Proposer performs any of the actions prescribed in subparagraphs (a) or (b) of this provision, the Borrower will declare the Proposer ineligible to be awarded contracts by the Employer for a period of _____ years. <i>[insert period of time]</i></p>
ITP 19.3 (d)	<p>Other types of acceptable securities:</p> <p><i>[Insert names of other acceptable securities. Insert “None” if no Proposal Security is required under provision ITP 19.1 or if Proposal Security is required but no other forms of Proposal securities besides those listed in ITP 19.3 (a) through (c) are acceptable.]</i> _____</p>
ITP 20.1	<p>The Proposal validity period shall be _____ <i>[insert the number of days]</i> days.</p>
ITP 20.3	<p>The Proposal price shall be adjusted by the following factor(s): _____</p> <p><i>[The local currency portion of the Contract price shall be adjusted by a factor reflecting local inflation during the period of extension, and the foreign currency portion of the Contract price shall be adjusted by a factor reflecting the international inflation (in the country of the foreign currency) during the period of extension.]</i></p>
ITP 21.1	<p>The written confirmation of authorization to sign on behalf of the Proposer shall consist of: <i>[insert the name and description of the documentation required to demonstrate the authority of the signatory to sign the Proposal].</i> _____</p>

D. Submission of Proposals	
ITP 22.1(b)	In addition to the original of the Proposal, the number of copies is: <i>[insert number of copies]</i> _____
ITP 23.1	<p>For <u>Proposal submission purposes</u> only, the Employer’s address is: <i>[This address may be the same as or different from that specified under provision ITP 7.1 for clarifications]</i></p> <p>Attention: <i>[insert full name of person, if applicable]</i> _____</p> <p>Street Address: <i>[insert street address and number]</i> _____</p> <p>Floor/Room number: <i>[insert floor and room number, if applicable]</i> _____</p> <p>City: <i>[insert name of city or town]</i></p> <p>_____</p> <p>ZIP Code: <i>[insert postal (ZIP) code, if applicable]</i></p> <p>_____</p> <p>Country: <i>[insert name of country]</i></p> <p>_____</p> <p>The deadline for Proposal submission is:</p> <p>Date: <i>[insert day, month, and year, e.g. 15 June, 2019]</i></p> <p>_____</p> <p>Time: <i>[insert time, and identify if a.m. or p.m., e.g. 10:30 a.m.]</i></p> <p><i>[The date and time should be the same as those provided in the Notice of Request for Proposals, unless subsequently amended pursuant to ITP 23.2]</i></p>
ITP 23.1	<p>Proposers _____ <i>[insert “shall” or “shall not”]</i> have the option of submitting their Proposals electronically.</p> <p><i>[The following provision should be included and the required corresponding information inserted <u>only</u> if Proposers have the option of submitting their Proposals electronically. Otherwise omit.]</i></p> <p>The electronic Proposal submission procedures shall be: <i>[insert a description of the electronic Proposal submission procedures.]</i></p>
E. Opening of TECHNICAL PARTS of PROPOSALS	
ITP 26.1	<p>The Proposal opening shall take place at:</p> <p>Street Address: <i>[insert street address and number]</i> _____</p> <p>Floor/Room number: <i>[insert floor and room number, if applicable]</i> _____</p> <p>City: <i>[insert name of city or town]</i></p>

	<hr/> Country: <i>[insert name of country]</i> <hr/> Date: <i>[insert day, month, and year, e.g. 15 June, 2019]</i> <hr/> Time: _____ <i>[Insert time, and identify if a.m. or p.m. e.g. 10:30 a.m.] [Date and time should be the same as those given for the deadline for submission of Proposals in ITP 23.1]</i>
--	--

ITP 26.1	<p><i>[The following provision should be included and the required corresponding information inserted only if Proposers have the option of submitting their Proposals electronically. Otherwise omit.]</i></p> <p>The electronic Proposal opening procedures shall be: <i>[insert a description of the electronic Proposal opening procedures.]</i></p>
-----------------	---

G. Evaluation of Technical Parts of Proposals

ITP 31.2	<p>The technical factors and sub-factors, and the corresponding weights are:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="text-align: center;">The technical factors (sub-factors) and the corresponding weight out of 100% are:</th> </tr> <tr> <th style="text-align: center; width: 70%;">Technical Factor</th> <th style="text-align: center; width: 30%;"><i>weight in percentage (insert weight in %)</i></th> </tr> </thead> <tbody> <tr> <td style="padding: 2px;">• Proposed Works</td> <td></td> </tr> <tr> <td style="padding: 2px;"> 1. to what extent the Proposed Works meet the Employer’s Requirement:</td> <td></td> </tr> <tr> <td style="padding: 2px;">• Value Addition</td> <td></td> </tr> <tr> <td style="padding: 2px;"> 2. to what extent the Proposal adds value in terms of performance, functionality and/or O&M costs.</td> <td></td> </tr> <tr> <td style="padding: 2px;">• Approach and Methodology</td> <td></td> </tr> <tr> <td style="padding: 2px;"> 3. Design Methodology;</td> <td></td> </tr> <tr> <td style="padding: 2px;"> 4. Construction Management strategy;</td> <td></td> </tr> <tr> <td style="padding: 2px;"> 5. Method Statement for key construction activities;</td> <td></td> </tr> <tr> <td style="padding: 2px;"> 6. Code of Conduct</td> <td></td> </tr> <tr> <td style="padding: 2px;"> 7. Design Build Work Program;</td> <td></td> </tr> <tr> <td style="padding: 2px;"> 8. Operation Service Proposal</td> <td></td> </tr> </tbody> </table>	The technical factors (sub-factors) and the corresponding weight out of 100% are:		Technical Factor	<i>weight in percentage (insert weight in %)</i>	• Proposed Works		1. to what extent the Proposed Works meet the Employer’s Requirement:		• Value Addition		2. to what extent the Proposal adds value in terms of performance, functionality and/or O&M costs.		• Approach and Methodology		3. Design Methodology;		4. Construction Management strategy;		5. Method Statement for key construction activities;		6. Code of Conduct		7. Design Build Work Program;		8. Operation Service Proposal	
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<p><i>[The above technical factors may be modified if appropriate ensuring that the documents requested from Proposers as part of their technical proposals (Section IV) enable evaluation of the technical factors.]</i></p> <p><i>[The weights for technical factors in this table should be allocated in terms of the relative significance of the factors.]</i></p> <p><i>[Insert technical sub-factors, as appropriate].</i></p>											
<p>H. Opening of Financial Parts</p>											
<p>ITP 34.1</p>	<p>The Letter of Proposal and Price Schedules shall be initialed by <i>[insert number]</i> representatives of the Employer conducting Proposal opening. <i>[Insert procedure: Example: Each Proposal shall be numbered, any modification to the unit or total price shall be initialed by the Representative of the Employer, etc.]</i></p>										
<p>I. Evaluation of Financial Part</p>											
<p>ITP 36.1</p>	<p>‘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 Proposals. If the price of the item or component cannot be derived from the price of other substantially responsive proposals, the Employer shall use its best estimate.’</p>										
<p>ITP 38.1</p>	<p>The currency that shall be used for Proposal evaluation and comparison purposes to convert at the selling exchange rate all Proposal prices expressed in various currencies into a single currency is: <i>[Insert name of currency]</i></p> <p>The source of exchange rate shall be: _____ <i>[Insert name of the source of exchange rates (e.g., the Central Bank in the Employer’s Country).]</i></p> <p>The date for the exchange rate shall be the deadline for submission of Proposals as specified in ITP 23, unless otherwise specified by the Employer.</p> <p>The currency(ies) of the Proposal shall be converted into a single currency in accordance with the procedure under Alternative _____ that follows:</p> <p>Alternative A: Proposers quote entirely in local currency</p> <p>For comparison of Proposals, the Proposal Price, corrected pursuant to ITP 37.1,</p>										

	<p>shall first be broken down into the respective amounts payable in various currencies by using the selling exchange rates specified by the Proposer in accordance with ITP 16.1.</p> <p>In the second step, the Employer will convert the amounts in various currencies in which the Proposal Price is payable (excluding Provisional Sums but including Daywork where priced competitively) to the single currency identified above at the selling rates established for similar transactions by the authority specified and on the date stipulated above.</p> <p>OR</p> <p>Alternative B: Proposers quote in local and foreign currencies</p> <p>The Employer will convert the amounts in various currencies in which the Proposal Price, corrected pursuant to ITP 37.1, is payable (excluding Provisional Sums but including Daywork where priced competitively) to the single currency identified above at the selling rates established for similar transactions by the authority specified and on the date stipulated above.</p>
ITP 39.1	<p><i>[The following provision should be included and the required corresponding information inserted <u>only</u> if the Employer intends to apply margin of preference and it is allowed in the Procurement Plan for the subject contract. Otherwise delete]</i></p> <p>A margin of domestic preference <i>[insert either “shall” or “shall not”]</i> _____ apply.</p> <p><i>[If a margin of preference applies, the application methodology shall be defined in Section III – Evaluation and Qualification Criteria.]</i></p>
ITP 40.1 (f)	<p>The adjustments shall be determined using the following criteria as detailed in Section III:</p> <ul style="list-style-type: none"> (a) Deviation in Time Schedule: <i>[insert Yes or No. If yes insert the adjustment factor in Section III, Evaluation and Qualification Criteria];</i> (b) The Operation Service Proposal prices will be adjusted for Net Present Value in accordance with ITP 43.1 and as specified in Section III; and (c) <i>[insert any other specific criteria here and provide details in Section III, Evaluation and Qualification Criteria]</i>
J. Evaluation of Combined Technical and Financial Part	
ITP 43.1	<p>The weight to be given for cost is: _____ <i>[indicate weight for cost such that weight for cost plus weight for total technical score is 1(one).]</i></p>

	The Employer <i>[will / will not]</i> adjust the Operation Service Proposal prices for Net Present Value (NPV). The requirements for the NPV calculation are specified in Section III, Evaluation and Qualification Criteria.
ITP 44.1	BAFO <i>["applies" / "does not apply"]</i> If BAFO applies, the procedure will be: _____
ITP 46.1	Negotiation <i>["applies" / "does not apply"]</i> If negotiation applies, the procedure will be: _____
K. Award of Contract	
ITP 53.1	The successful Proposer <i>[shall] or [shall not]</i> submit the Beneficial Ownership Disclosure Form.
ITP 54.1 and 54.2	<i>[Delete the following if not applicable]</i> The successful Proposer shall be required to submit an Environmental, Social, Health and Safety (ESHS) Performance Security. <i>[The ESHS Performance Security shall normally be required where ESHS risks are high.]</i>
ITP 55.1	<p>The procedures for making a Procurement-related Complaint are detailed in the "Procurement Regulations for IPF Borrowers (Annex III)." If a Proposer wishes to make a Procurement-related Complaint, the Proposer shall submit its complaint following these procedures, In Writing (by the quickest means available, such as by email or fax), to:</p> <p style="padding-left: 40px;">For the attention: <i>[insert full name of person receiving complaints]</i></p> <p style="padding-left: 40px;">Title/position: <i>[insert title/position]</i></p> <p style="padding-left: 40px;">Employer: <i>[insert name of Employer]</i></p> <p style="padding-left: 40px;">Email address: <i>[insert email address]</i></p> <p style="padding-left: 40px;">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 this request for proposal document; 2. the Employer's decision to exclude a Proposer 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

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A. Technical Part

1. Qualification

1.1 Update of Information

The Proposer and any subcontractors shall meet or continue to meet the criteria used at the time of initial selection.

1.2 Financial Resources

Using the relevant Form No FIN 3.3 in Section IV, Proposal Forms, the Proposer 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:

- (i) the following cash-flow requirement:

.....

and

- (ii) the overall cash flow requirements for this contract and its current works commitment.

1.3 Contractor's Representative and Key Personnel

[Note: Insert in Section VII – Employer's Requirements, the minimum key specialists, including ESHS specialists, required to execute the contract, taking into account the nature, scope, complexity and risks of the contract. The Social specialist's relevant experience should include e.g. [years] of monitoring and managing risks related to GBV/ SEA]

The Proposer must demonstrate that it will have a suitably qualified Contractor's Representative and sufficient suitably qualified Key Personnel as are required to perform the Contract.

The Proposer shall provide details of the Contractor's Representative and such other Key Personnel that the Proposer considers appropriate, together with their academic qualifications and work experience. The Proposer shall complete the relevant Forms in Section IV, Proposal Forms.

The Contractor shall not, without the prior consent of the Employer's Representative substitute or replace the Contractor's Representative (reference General Conditions of Contract 4.3) or any of the Key Personnel (reference the Particular Conditions of Contract 6.9).

The minimum qualifications and experience of the Contractor's Representative and Key Personnel are set out in the Employer's Requirements.

1.4 Equipment

The Proposer shall provide its strategy for acquiring and maintaining the key equipment that may be needed to perform the Contract.

The Proposer shall provide further details of proposed items of equipment using the relevant Form in Section IV.

1.5 Subcontractors

Any Specialized Sub-contractor identified at the time of Initial Selection shall continue to meet the applicable requirements.

Any other additional subcontractors for the following major activities/ sub-activities must meet the following minimum criteria:

<i>[Activity/Sub-activity No.]</i>	<i>Description of [List Activity/Sub-activity]</i>	Minimum Criteria to be met
1		
2		
3		
...		

As stated in **ITP 18.3**, Proposers shall submit an undertaking from each proposed subcontractor to confirm that they have read, understand and will comply with the ESHS obligations and code of conduct.

2. Evaluation of Technical Part (ITP 31)

The total technical points assigned to each Proposal in the Evaluated Proposal Formula will be determined by weighting and adding the scores assigned by an evaluation committee to technical factors of the Proposal in accordance with the criteria set forth below.

The technical factors to be evaluated are generally defined below and specifically identified **in the PDS**:

- (a) to what extent that the performance or functionality features meet or exceed the levels specified in the performance / functional requirements and/or influence the life-cycle cost and effectiveness of the Works.
- (b) As a minimum, quality of the Technical Part shall be evaluated in terms of adequacy of the approach and Methodology in terms of the following:
 - i. Design Methodology;
 - ii. Construction Management Strategy;
 - iii. Method Statement for key construction activities;

- iv. Code of Conduct
- v. Design Build Work Program;
- vi. Operation Service proposal;
- vii. key personnel qualifications and resource schedule;
- viii. risk assessment;
- ix. key equipment strategy.

(c) [add any other factors as appropriate].

Each technical factor may include sub factors. The weight to be given to each technical factor and sub factor is specified **in the PDS**.

TECHNICAL PART SCORING METHODOLOGY

[NOTE TO THE EMPLOYER: The Employer shall develop a scoring methodology to be included here]

If as per ITP 31.2, the technical factors (and sub- factors, if applicable) are weighted in terms of relevance, the total technical score would be the weighted average in percent.

- (a) The score for each sub- factor (i) within a factor (j) will be combined with the scores of sub- factors in the same factor as a weighted sum to form the Factor Technical Score using the following formula:

$$S_j \equiv \sum_{i=1}^k t_{ji} * w_{ji}$$

where:

t_{ji} = the technical score for sub- factor “i” in factor “j”

w_{ji} = the weight of sub- factor “i” in factor “j”,

k = the number of scored sub-factors in factor “j”

and $\sum_{i=1}^k w_{ji} = 1$

- (b) The Factor Technical Scores will be combined in a weighted sum to form the total Technical Proposal Score using the following formula:

$$T \equiv \sum_{j=1}^n S_j * W_j$$

where:

S_j = the Factor Technical Score of factor “j”

W_j = the weight of factor “j” as specified in the **PDS**

n = the number of Factors

$$\text{and } \sum_{j=1}^n W_j = 1$$

B. Financial Part

1. Margin of Preference

If the PDS so specifies, the Employer will grant a margin of preference of 7.5% (seven and one-half percent) to domestic contractors, in accordance with, and subject to, the following provisions:

- (a) Contractors applying for such preference shall be asked to provide, as part of the data for qualification, such information, including details of ownership, as shall be required to determine whether, according to the classification established by the Borrower and accepted by the Bank, a particular contractor or group of contractors qualifies for a domestic preference. The request for proposals document shall clearly indicate the preference and the method that will be followed in the evaluation and comparison of Proposals to give effect to such preference.
- (b) After Proposals have been received and reviewed by the Employer, responsive Proposals shall be classified into the following groups:
 - (i) Group A: Proposals offered by domestic contractors eligible for the preference.
 - (ii) Group B: Proposals offered by other contractors.

All evaluated Proposals in each group shall, as a first evaluation step, be compared to determine the Most Advantageous Proposal, and the Most Advantageous Proposal in each group shall be further compared with each other. If a result of this comparison, a Proposal from Group A is the Most Advantageous Proposal, it shall be selected for the award, if the Proposer is qualified. If a Proposal from Group B is the Most Advantageous Proposal, as a second evaluation step, all Proposals from Group B shall then be further compared with the Most Advantageous Proposal from Group A. For the purpose of this further comparison only, an amount equal to 7.5% (seven and one-half percent) of the respective Proposal price corrected for arithmetical errors, including unconditional discounts but excluding provisional sums and the cost of day works, if any, shall be added to the evaluated cost offered in each Proposal from Group B. If the Proposal from Group A is the Most Advantageous Proposal, it shall be selected for award. If not, the lowest evaluated cost from Group B based on the first evaluation step shall be selected.

2. Evaluation of Financial Part (ITP 40.1(f))

The following factors and methods will apply: *[use one or more of the following adjustment factors consistent with ITP 40.1 (f) of the PDS]*

(a) Time Schedule

The Time for Completion of Design-Build is as specified in GCC Sub-clause 1.1.78. No credit will be given for earlier completion. Proposals offering a Time for Completion of Design-Build beyond the designated period shall be rejected.

Or

The Time for Completion of Design-Build, as defined in GCC Sub-clause 1.1.78, shall be between _____ minimum and _____ maximum. The adjustment rate in the event of completion beyond the minimum period shall be _____ (%) for each week of delay from that minimum period. No credit will be given for completion earlier than the minimum designated period. Proposals offering a completion date beyond the maximum designated period shall be rejected.

(b) Net Present Valuation of Proposer’s Financial Part

The Design-Build Proposal Price shall not be discounted.

If the **PDS** provides for Net Present Valuation of the Operation Service Proposal Price, the annual amounts in the Operation Service price schedules, as adjusted in accordance with **ITP 40.1** (a) to (e), shall be discounted using a discount factor of [.....] %. The discount base year shall be the year preceding the first year of the Operation Service Period.

For greater certainty, net present values shall be determined by applying the following discount factors to the annual amounts in the Proposal forms during the Operation Service Period.

Operation Period	Discount factor to be applied
Year 1	
Year 2	
Year 3	
<i>etc.</i>	

(c) Multiple Contracts (ITP 40.3)

If not applicable state ‘Not Applicable’

If in accordance with **ITP 1.1**, Proposals are invited for more than one lot, the contract will be awarded to the Proposer or Proposers with the Most Advantageous Proposal for the individual lots.

However, if a Proposer, with Proposals that are substantially responsive and with highest evaluated score for individual lots, is not qualified for the combination of the lots, then the award will be made based on the highest total score for combination of lots for which Proposers are qualified.

[Note - Example of the above scenario: A Proposer who was initially selected for either Lot A or Lot B but not both submits Proposals for Lots A and B. These two Proposals are substantially responsive and get the highest total score for Lot A and Lot B respectively. In such a case, a decision has to be made on whether this Proposer should be awarded Lot A or Lot B by considering the combined scores of Proposers for Lot A and Lot B.]

Cross discounts for award of multiple lots will not be considered.

(d) Specific additional criteria

The relevant evaluation method, if any, shall be as follows:

C. Evaluation of Combined Technical and Financial Parts

1. Combined Evaluation

The Employer will evaluate and compare the Proposals that have been determined to be substantially responsive.

An Evaluated Proposal Score (B) will be calculated for each responsive Proposal using the following formula, which permits a comprehensive assessment of the Proposal price and the technical merits of each Proposal:

$$B \equiv \frac{C_{low}}{C} X + \frac{T}{T_{high}} (1 - X)$$

where

C = Evaluated Proposal Cost

C_{low} = the lowest of all Evaluated Proposal Cost among responsive Proposals

T = the total Technical Score awarded to the Proposal

T_{high} = the Technical Score achieved by the Proposal that was scored best among all responsive Proposals

X = weight for Cost

The Proposal with the best evaluated Proposal Score (B) among responsive Proposals shall be the Most Advantageous Proposal provided the Proposer is qualified to perform the Contract.

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Letter of Proposal - Technical Part

INSTRUCTIONS TO PROPOSERS

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

Place this Letter of Proposal in the first envelope “TECHNICAL PART”.

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

Note: All italicized text in black font is to help Proposers in preparing this form and Proposers shall delete it from the final document.

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

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

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

Alternative No.: *[insert identification No if this is a Proposal for an alternative]*

To: *[Employer insert: name and address of Employer]*

Dear Sir or Madam:

We, the undersigned Proposer, hereby submit our Proposal, in two parts, namely:

- (a) the Technical Part, and
- (b) The Financial Part.

Having examined the RFP Documents including any Addenda issued in accordance with **ITP 8**, we, the undersigned, offer to provide the Works and Operation Service to _____, in full conformity with the said RFP Documents and any Addenda.

We undertake, if our Proposal is accepted, to commence the Works and achieve Completion within the respective times stated in the RFP Documents.

We hereby certify that we, including any subcontractors or manufacturers for any part of the contract, meet the eligibility requirements and have no conflict of interest in accordance with **ITP 4**.

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;

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.

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 ITP 4.6];*

We agree to abide by this Proposal, which, in accordance with **ITP 12** and **ITP 13**, consists of this letter (Letter of Proposal - Technical Part) and enclosures, for a period of *[insert: number from Request for Proposals]* days from the date fixed for submission of Proposals as stipulated in the Request for Proposals or subsequent Addenda to the RFP Documents, and it shall remain binding upon us and may be accepted by you at any time before the expiration of that period.

Until the formal final Contract is prepared and executed between us, this Proposal, together with your written acceptance thereof included in your Letter of Acceptance, shall constitute a binding contract between us.

Name of the Proposer: **[insert complete name of person signing the Proposal]*

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

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

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 Proposal submitted by a Joint Venture specify the name of the Joint Venture as Proposer.

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

ENCLOSURE(S):

Letter of Proposal - Financial Part

INSTRUCTIONS TO PROPOSERS

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

Place this Letter of Proposal in the second envelope “FINANCIAL PART”.

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

Note: All italicized text in black font is to help Proposers in preparing this form and Proposers shall delete it from the final document.

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

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

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

Alternative No.: *[insert identification No if this is a Proposal for an alternative]*

To: *[Employer insert: **name and address of Employer**]*

Dear Sir or Madam:

We, the undersigned Proposer, hereby submit the second part of our Proposal, the Financial Part

Having examined the RFP Documents including any Addenda issued in accordance with **ITP 8**, we, the undersigned, offer to provide the Works and Operation Service to _____, in full conformity with the said RFP Documents and any Addenda for the total Proposal Price, excluding any discounts offered below is

(a) *[Insert one of the options below as appropriate]*

Option 1, in case of one lot: Total price is: *[insert the total price of the Proposal in words and figures, indicating the various amounts and the respective currencies];*

Or

Option 2, in case of multiple lots: (a) Total price of each lot *[insert the total price of each lot in words and figures, indicating the various amounts and the respective currencies];* and (b) Total price of all lots (sum of all lots) *[insert the total price of all lots in words and figures, indicating the various amounts and the respective currencies];*

The discounts offered and the methodology for their application is:

- (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];*

If our Proposal is accepted, we undertake to provide an advance payment security and a Performance Security *[and an Environmental, Social, Health and Safety (ESHS) Performance Security. **Delete if not applicable**]* in the form, in the amounts, and within the times specified in the RFP Documents.

We agree to abide by this Proposal, which, in accordance with **ITP 12** and **ITP 13**, consists of this letter (Letter of Proposal – Financial Part) and the enclosures listed below, for a period of *[insert: **number from Request for Proposals**]* days from the date fixed for submission of Proposals as stipulated in the Request for Proposals or subsequent Addenda to the RFP Documents, and it shall remain binding upon us and may be accepted by you at any time before the expiration of that period.

Commissions, gratuities and fees: We have paid, or will pay the following commissions, gratuities, or fees with respect to the RFP 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.”)

Until the formal final Contract is prepared and executed between us, this Proposal, together with your written acceptance thereof included in your Letter of Acceptance, shall constitute a binding contract between us.

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

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

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

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 Proposal submitted by a Joint Venture specify the name of the Joint Venture as Proposer.

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

ENCLOSURE(S):

Appendix to Proposal

Schedule of Adjustment Data

[Design Build of the Works]

[In Tables A, B, and C, below, the Proposer shall (a) indicate its amount of local currency payment, (b) indicate its proposed source and base values of indices for the different foreign currency elements of cost, (c) derive its proposed weightings for local and foreign currency payment, and (d) list the exchange rates used in the currency conversion. In the case of very large and/or complex works contracts, it may be necessary to specify several families of price adjustment formulae corresponding to the different works involved.]

Table A. Design-Build Local Currency

Index code*	Index description*	Source of index*	Base value and date*	Proposer's related currency amount	Proposer's Proposed weighting
	Nonadjustable	—	—	—	A: _____* B: _____* C: _____* D: _____* E: _____*
Total					1.00

[To be entered by the Employer. Whereas "A" should a fixed percentage, B, C, D and E should specify a range of values and the Proposer will be required to specify a value within the range such that the total weighting = 1.00]*

Table B. Design-Build Foreign Currency (FC)

State type: [If the Proposer is allowed to receive payment in foreign currencies this table shall be used. If Proposer wishes to quote in more than one foreign currency (up to three currencies permitted) then this table should be repeated for each foreign currency.]

Index code	Index description	Source of index	Base value and date	Proposer’s related source currency in type/amount	Equivalent in FC1	Proposer’s proposed weighting
	Nonadjustable	—	—	—		A: _____* B: _____* C: _____* D: _____* E: _____*
Total						1.00

[* To be entered by the Employer. Whereas “A” should a fixed percentage, B, C, D and E should specify a range of values and the Proposer will be required to specify a value within the range such that the total weighting = 1.00]

Table C. Summary of Payment Currencies (Design Build)

Table: Alternative A

For _____ *[insert name of Section of the Works]*

Name of payment currency	A Amount of currency	B Rate of exchange (local currency per unit of foreign)	C Local currency equivalent $C = A \times B$	D Percentage of Total Proposal Price (TPP) $\frac{100 \times C}{TPP}$
Local currency _____		1.00		
Foreign currency #1 _____				
Foreign currency #2 _____				
Foreign currency # _____				
Total Design-Build Proposal Price				100.00
Provisional sums expressed in local currency	<i>[To be entered by the Employer]</i>		<i>[To be entered by the Employer]</i>	
TOTAL Design Build PROPOSAL PRICE (including provisional sum)				

[Table: Alternative B

To be used only with Alternative B Prices directly quoted in the currencies of payment. (ITP 16.1)

Summary of currencies of the Proposal for _____ [insert name of Section of the Works]]

Name of currency	Amounts payable
Local currency: _____	
Foreign currency #1: _____	
Foreign currency #2: _____	
Foreign currency #3: _____	
Provisional sums expressed in local currency _____	<i>[To be entered by the Employer]</i>

Table D Schedule of Adjustment Data for the Operation Service

(excluding Asset Replacement)

[In Tables D1, D2 etc., below, the Proposer shall (a) indicate its proposed source and base values of indices for the different local and foreign currency elements of cost, (b) specify its proposed weightings for local and foreign currency payment.]

Table D1. Operation Service- Fee Component 1

Name of currency component	Rate of exchange at base date (Local currency per unit of foreign)	Name and source of index	Base value of index at Base Date	Proposer's Proposed index weighting (%) <i>[at base date]</i>
<i>[insert name of local currency]</i>		<i>[Insert name of index(es)]</i>		b=
				c=
				d=
<i>[Insert name of Foreign Currency #1]</i>				w=
<i>[Insert name of Foreign Currency #2]</i>				y=
<i>[Insert name of Foreign Currency #3]</i>				z=
			Total	100%

[Notes for the Employer:

- 1) For simplicity the table allows only one index per foreign currency. Additional rows can be added if the Employer intends to permit Proposers to use multiple indexes per currency in which case the formula in the Schedule of Indexation will also require adjustment.*
- 2) Additional tables (D2, D3 etc.) should be added for each component of the Operation Service Fee. For example, if the contractor is paid a fixed fee and a variable fee, two tables may be required; one table covering the fixed fee and the other covering the variable fee.*
- 3) It is normally not necessary to have a non-adjustable component during the Operation Service Period.]*

Table E

Schedule of Adjustment Data for the Asset Replacement Fund

[In Tables E1 etc., below, the Proposer shall indicate source and base values of indices for the different foreign currency elements of cost included in its Asset Replacement Schedule.]

Table E1. Asset Replacement

Name of currency	Rate of exchange at Base Date (Local currency per unit of foreign)	Name and source of index	Base value of index at Base Date
<i>[insert name of local currency]</i>		<i>[Insert name of index(es)]</i>	
<i>[Insert name of Foreign Currency #1]</i>			
<i>[Insert name of Foreign Currency #2]</i>			
<i>[Insert name of Foreign Currency #2]</i>			

[Notes for the Employer:

- 1) To be adapted by the Employer to suit its proposed Asset Replacement Proposal forms, Proposal currency requirements, and adjustment provisions.*
- 2) For simplicity the table shows only one index per currency. Additional rows can be added if the Employer intends to permit Proposers to use multiple indexes per currency. In such cases, the Proposer should be required to provide index weightings for each currency.*
- 3) The Employer shall note that the currency and index weighting may be different for each asset to be replaced. Therefore, there is no provision for the Proposer to specify its proposed weighting in this table*
- 4) It is normally not necessary to have a non-adjustable component for the Asset Replacement Fund.]*

Proposal Price Forms.

Priced Activity and Sub-activity Schedules

The total of the prices of the activities in the Activity Schedule is the Proposer's offer to complete the works on a "single responsibility" basis.

The cost of any activity or sub-activity that the Proposer may have omitted is deemed to be included in the price of other activities or sub-activities in the Priced Activity and Sub-activity Schedules and will not be paid for separately by the Employer.

The priced activity and sub activity schedules provided by the Proposer will be used for Proposal evaluation. These schedules together with the work program serve as a basis for estimating the instalments in the Schedule of Payments.

Part [1] Proposal Price Forms - Design-Build.

Sample Priced Activity Schedule Table

[To be completed by the Proposer (more tables to be used by the Proposer as appropriate)]

Activity No.	Description of Activity	Activity Price
1.	Design Services	
2.	Mobilization	
3.	Construction	
4.		
5.	etc	
	Total price of Activities carried forward to Grand Summary, Page ____	

Part [1] Proposal Price Forms - Design-Build

Sample Priced Sub-activity Schedule Table

[to be completed by the Proposer (more tables to be used by the Proposer as appropriate)]

Activity: _____

Sub-activity No.	Description of Sub-activity	Sub-activity Price
1.	
2.	
3.	
4.	
5.	Etc.	
	Total price of Sub-activities carried forward to the Priced Activity Schedule, Page ____	

Part [1] Proposal Price Forms - Design-Build

Schedule of Daywork Rates: 1. Labor

Item no.	Description	Unit	Nominal quantity	Rate	Extended amount
Subtotal					
D122	Allow ___ percent ^a of Subtotal for Contractor's overhead, profit, etc.				
Total for Daywork: Labor _____					
(carried forward to Daywork Summary, p. ___)					

a. To be entered by the Proposer.

Part [1] Proposal Price Forms - Design-Build
Schedule of Daywork Rates: 2. Materials

Item no.	Description	Unit	Nominal quantity	Rate	Extended amount
Subtotal					
Allow ___ percent of Subtotal for Contractor’s overhead, profit, etc.					
Total for Daywork: Materials _____					
(carried forward to Daywork Summary, p. ___)					

a. To be entered by the Proposer.

Part [1] Proposal Price Forms - Design-Build

Schedule of Daywork Rates: 3. Contractor’s Equipment

Item no.	Description	Nominal quantity (hours)	Basic hourly rental rate	Extended amount
			Subtotal	
	Allow _ percent ^a of Subtotal for Contractor’s overhead, profit, etc.			
Total for Daywork: Contractor’s Equipment _____ (carried forward to Daywork Summary, p. ___)				

a. To be entered by the Proposer.

Part [1] Proposal Price Forms - Design-Build

Daywork Summary

	Amount^a ()	% Foreign
1. Total for Daywork: Labor		
2. Total for Daywork: Materials		
3. Total for Daywork: Contractor's Equipment		
Total for Daywork (Provisional Sum) (carried forward to Proposal Summary, p. __)	_____	_____

a. The Employer should insert local currency unit.

Part [1] Proposal Price Forms - Design-Build

Specified Provisional Sums

Item no.	Description	Amount
1		
2		
3		
4		
	<i>[To be entered by the Employer; Delete if not applicable:]</i> Provisional sums for any specific ESHS outcomes.	
	<i>[To be entered by the Employer; Delete if not applicable:]</i> Provisional sum for sexual exploitation and abuse (SEA) / gender based violence (GBV) awareness and sensitization training.	
	etc.	
	Total for Specified Provisional Sums (carried forward to Grand Summary (B), p. ____)	

Part [1] Proposal Price Forms - Design-Build

Summary (Design-Build)

General Summary	Page	Amount
<i>Subtotal of Activities</i>	(A)	
<i>Total for Daywork (Provisional Sum)*</i>	(B)	
<i>Specified Provisional Sumsⁱⁱ</i>	(C)	[sum]
<i>Total of Activities and Provisional Sums (A + B + C)ⁱ</i>	(D)	
<i>Add Provisional Sum for Contingency Allowance (if any)ⁱⁱ</i>	(E)	[sum]
<i>Proposal Design Build Price (D + E) (Carried forward to Letter of Proposal)</i>	(F)	

- i) All Provisional Sums are to be expended in whole or in part at the direction and discretion of the Employer's Representative in accordance with Clause 13.5 of the Conditions of Contract.
- ii) To be entered by the Employer.

* For evaluation purposes, Provisional Sum, other than Daywork will be excluded

Part [2] Proposal Price Forms – Operation Service
Operation Service Fees (excl. Asset Replacement Fund)

Ref.	Breakdown by Operation Service fees by revenue component	Totals	Yr. 1	Yr. 2	Yr. 3	etc.		
A	<i>e.g. Operation Service fixed fee</i>							
B	<i>e.g. Operation Service variable fee</i>							
C	Provisional Sum for Auditing Body							
D	Totals							

- i) All Provisional Sums are to be expended in whole or in part at the direction and discretion of the Employer's Representative in accordance with Clause 13.5 of the Conditions of Contract.
- ii) For evaluation purposes, Provisional Sums, other than Daywork will be excluded

[The Employer shall adapt the form, and add additional forms, to suit the proposed Operation Service payment basis and permitted payment currencies. Add one additional Proposal form for each component of the Operation Service Fee]

Part [2] Proposal Price Forms – Operation Service

Asset Replacement Schedule

Ref.	Asset description	Scheduled Replacement Date	Amount in currency of Proposal	% Local (q)* [state currency]	% FC1 (r)* [state currency]	% FC2 (s)* [state currency]	% FC# [state currency]
1	Year 6 Asset Replacements						
	(a) Asset						
	(b) Asset						
	<u>Total Year 6 Asset Replacements</u>	 (Carried to Form 2a)				
2	Year 7 Asset Replacements						
	(a) Asset						
	(b) Asset						
	<u>Total Year 7 Asset Replacements</u>	 (Carried to Form 2a)				
	<u>Continue table for each year of the operation service</u>						

* “q”, “r” and “s” etc. are the proportions in each currency to be used for cost indexation purposes as further detailed in Section IX, Contract Agreement, Appendix 2 – Schedule of Cost Indexation.

[The Employer shall adapt the form if Proposers are allowed to be paid in multiple currencies.]

Part [2] Proposal Price Forms – Operation Service

Summary for Operation Service

Ref.	Activity	Total Operation Service Period <i>[sum all years]</i>	Yr. 1	Yr. 2	Yr. 3	etc.		
A	Operation Service (excluding asset replacement fund)							
B	Asset Replacement Fund (year 5 onwards)							
C	Totals		Total carried forward					

Part 3: Grand Summary

General Summary	Page	Amount
1. Proposal Design-Build Price		Sum
2. Proposal Operation Service Price		Sum
3. <i>Proposal total price (Design-Build + Operation Service Price (Carried forward to Letter of Proposal)</i>		<i>Sum</i>

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Design Methodology

The Proposer shall submit a design methodology which addresses as a minimum the following:

- (a) organizational arrangements for the design including: team structure, roles and responsibilities, interface arrangements, design review and approval procedures and quality assurance arrangements;
- (b) Proposed design deliverables [*Employer to specify mandatory requirements appropriate to good international industry practice*];
- (c) design statement setting out how the Employers Requirements will be achieved;
- (d) Any added value the Proposer will bring including examples of innovative aspects of the design;
- (e) comments on the Employer's Requirements, including:
 - i. status of the information available and relevant design issues for the Works;
 - ii. comments on any errors, defects or ambiguities noted in the Employer's Requirements; and
 - iii. [*details of any exceptions in the conceptual design taken to the Employer's Requirements*];
- (f) Sustainable Procurement: sustainability aspects (e.g. energy efficiency, reduction of wastages, material reduction, sources of materials etc.) demonstrating the Proposer's approach and commitment to sustainable design and construction practices;
- (g) strategy for gathering baseline ESHS information in time to inform design development;
- (h) details of how the ESHS requirements and any proposal to enhance ESHS outcomes will be incorporated into all design stages and how the implications for the construction phase has been considered;
- (i) details of the approach to managing risks, stakeholder engagement, consultation and environmental permits/consents;
- (j) value engineering (value management) arrangements, including consideration of ESHS issues; and
- (k) [*insert any other relevant information, as appropriate.*]

[The Employer may consider limiting the design methodology submission e.g. "The design methodology submission shall comprise no more than 20 sides of A4 text"]

Construction Management Strategy

The Proposer shall submit a construction management strategy which addresses as a minimum:

- (a) organizational arrangements for the construction management including: team structure, roles and responsibilities, interface arrangements, approval procedures and quality assurance arrangements;
- (b) subcontractor selection and management;
- (c) proposals for training all personnel attending site;
- (d) stakeholder engagement;
- (e) obtaining and managing consents, permits and approvals;
- (f) site setup proposals including access, accommodation, welfare facilities, arrangement for plant and material storage;
- (g) construction phasing proposals including sequence of work and management of conflicting activities;
- (h) ensuring that geotechnical investigations or other advance works meet the ESHS requirements;
- (i) risk management approach for geotechnical and subsurface aspects of the Works;
- (j) quality management system including a draft of the quality management plan;
- (k) sustainability aspects demonstrating the Proposer's approach and commitment to sustainable construction practices (e.g. energy efficiency, reduction of wastages, material reduction and sources of materials etc.);
- (l) preparation, approval and implementation for the Contractor's environmental and social management plan;
- (m) preparation, approval and implementation for the Contractor's occupational and community health and safety management plan;
- (n) grievance redress mechanisms;
- (o) reporting arrangements, including topics (that include ESHS) and timescales in accordance with the Particular Conditions of Contract Sub-Clause 4.21 and Appendix C to the General Conditions of Contract;
- (p) arrangements for testing upon completion of the works;
- (q) arrangements for site handover, including completion of as-built drawings, preparation of operation and maintenance manuals, and any other relevant aspects; and
- (r) *[insert any other relevant information, as may be appropriate.]*

Design Build.

Method Statements for key construction activities

The Proposer shall provide typical method statements for the following key construction activities. Each method statement shall describe the proposed approach to the construction activity, the level of staffing and experience, the safe system of work, and the construction equipment to be used.

[The Employer shall identify the key construction activities relevant to the contract.]

- 1.
- 2.
- 3.
- 4....

[The Employer may consider limiting the length of the method statement for each activity e.g. 4 sides A4]

Code of Conduct.

Environmental, Social, Health and Safety (ESHS)

The Proposer shall submit its Code of Conduct that will apply to Contractor's Personnel (as defined in Sub-clause 1.1.21 of the GC), to ensure compliance with its Environmental, Social, Health and Safety (ESHS) obligations under the contract, including those as may be more fully described in the Employer's Requirement in Section VII.

In addition, the Proposer shall detail how this Code of Conduct will be implemented. This will include: how it will be introduced into conditions of employment/engagement, what training will be provided, how it will be monitored and how the Contractor proposes to deal with any breaches.

Design Build Work Program

The Proposer shall set out a work program for design and construction of the Works to be undertaken, including identification of major milestones and critical path. The proposed work program shall be developed based on the Employer's Requirements and shall describe the:

- (a) design of the Works, including the submission of the design deliverables, review and approval of the design by the Employer's Representative
- (b) processes and deliverables needed to commence the Works;
- (c) execution of the Works within the Time for Completion, highlighting activities imposing constraints on the construction sequence;
- (d) testing, commissioning and handing over of the completed Works; and
- (e) *[insert any other relevant information, as may be appropriate.]*

Design Build Personnel Organization Chart

The Proposer shall provide an organization chart illustrating the proposed management structure and reporting lines for delivery of the Design Build. The organization chart shall include the names of all Key Personnel.

Operation Service Proposals

The Proposer shall set out a detailed plan for the Operation Service which shall address the following:

- (a) Organisation and key personnel
- (b) Operations proposals
- (c) Preventative and reactive maintenance
- (d) Monitoring water/wastewater quality and flows
- (e) The operational systems to be developed, including details of any standards to be adopted or followed for example with respect to managing environmental, social and health and safety risks during operation
- (f) Training of Contractor's Personnel
- (g) Asset replacement
- (h) Preparation of required documents and manuals
- (i) Quality assurance
- (j) Hand-back arrangements
- (k) Emergency Preparedness and Response Plan
- (l) Reporting arrangements, including the appropriate topics (that include ESHS) and timescales in accordance with the Particular Conditions of Contract Sub-Clause 4.21 and Appendix C to the General Conditions of Contract
- (m) *[insert any other relevant information, as may be appropriate.]*

Form EQU. Contractor's Equipment

The Proposer shall set out its strategy for obtaining or accessing the key equipment necessary to execute the Works in accordance with the Design Build Works Program. In the strategy, the Proposer shall specify the manufacturer, capacity, model, power rating, age and maintenance condition, and how it will ensure that the equipment is maintained in accordance with manufacturer's specifications for the duration of the Contract. The Proposer shall specify whether it will own, lease, rent or specially manufacture the key equipment.

A separate Form shall be prepared for each item of equipment listed, or for alternative equipment proposed by the Proposer.

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 Proposer.

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.

Contractor’s Representative and Key Proposed Personnel

Proposers should provide the names and details of suitably qualified Contractor’s Representative and Key Personnel to perform the Contract. The data on their experience should be supplied using the Form PER-2 below for each candidate. Proposers should submit a fully detailed Key Personnel resource schedule for the whole contract implementation period. The resource schedule must include:

- the name and role for each Key Personnel position
- The duration of each Key Personnel appointment
- The level of effort (time) allocated to each Key Personnel position and its distribution throughout the contract implementation period.

	Title of position	Name of candidate	
1	<i>[Contractor’s Representative]</i>		
Key Personnel for Design			
2.	<i>[Design Manager]</i>		
3.	<i>[Environmental Impact Assessment Specialist]</i>		
4.	<i>[Social Impact Assessment Specialist]</i>		
5.	<i>[Health and Safety Specialist]</i>		
6.	<i>[Biodiversity, Air quality, Noise etc. Specialists]</i>		
7.	<i>[Modify/add others as appropriate]</i>		
Key Personnel for Construction			
8.	<i>[Construction Manager]</i>		
9.	<i>[Environmental Specialist]</i>		
10.	<i>[Health and Safety Specialist]</i>		
11.	<i>[Social Specialist]</i>		
12.	<i>Survey Manager</i>		
13.	<i>[Modify/add others as appropriate]</i>		
Key Personnel for operation service			
14.	<i>Plant Manager</i>		
15.	<i>EHS Manager</i>		
16.	<i>Community Relations Manager</i>		
17.	<i>[Modify/add others as appropriate]</i>		

Form PER-2. Resume and Declaration of Contractor’s Representative and Key Personnel

Name of Proposer

<i>Position (title of position from Forms PER-1)</i>											
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 style="padding: 5px;">Address</td> <td style="padding: 5px;">Email</td> </tr> <tr> <td colspan="2" style="padding: 5px;">Professional qualifications</td> </tr> <tr> <td colspan="2" style="padding: 5px;">Academic qualifications</td> </tr> <tr> <td colspan="2" style="padding: 5px;">Language proficiency [<i>language and levels of speaking, reading and writing skills</i>]</td> </tr> </table>	Name	Date of birth	Address	Email	Professional qualifications		Academic qualifications		Language proficiency [<i>language and levels of speaking, reading and writing skills</i>]	
Name	Date of birth										
Address	Email										
Professional qualifications											
Academic qualifications											
Language proficiency [<i>language and levels of speaking, reading and writing skills</i>]											
Present employment	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="padding: 5px;">Name of employer</td> </tr> <tr> <td colspan="2" style="padding: 5px;">Address of employer</td> </tr> <tr> <td style="width: 50%; padding: 5px;">Telephone</td> <td style="width: 50%; padding: 5px;">Contact (manager / personnel officer)</td> </tr> <tr> <td style="padding: 5px;">Fax</td> <td style="padding: 5px;">E-mail</td> </tr> <tr> <td style="padding: 5px;">Job title</td> <td style="padding: 5px;">Years with present employer</td> </tr> </table>	Name of employer		Address of employer		Telephone	Contact (manager / personnel officer)	Fax	E-mail	Job title	Years with present employer
Name of employer											
Address of employer											
Telephone	Contact (manager / personnel officer)										
Fax	E-mail										
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

Declaration

I, the undersigned Key Personnel, certify that to the best of my knowledge and belief, the information contained in this Form PER-2 correctly describes myself, my qualifications and my experience.

I confirm that I am available as certified in the following table and throughout the expected time schedule for this position as provided in the Proposal:

Commitment	Details
Commitment to duration of contract:	<i>[insert period (start and end dates) for which this Key Personnel is available to work on this contract]</i>
Time commitment:	<i>[insert the number of days/week/months/ that this Key Personnel will be engaged]</i>

I understand that any misrepresentation or omission in this Form may:

- (a) be taken into consideration during Proposal evaluation;
- (b) my disqualification from participating in the Proposal;
- (c) my dismissal from the contract.

Name of Key Personnel: *[insert name]* _____

Signature: _____

Date: (day month year): _____

Countersignature of authorized representative of the Proposer:

Signature: _____

Date: (day month year): _____

Risk assessment

The Proposer should submit a risk register identifying the hazards anticipated during the implementation of the contract.

For the key hazards ranked by impact, the risk register shall include a description of the hazard, an assessment of the potential impact on health and safety, environment, cost, program or other, and the proposed mitigation strategy for each hazard.

Proposed Subcontractors for Major Activities/Sub-Activities

The following Subcontractors and/or manufacturers are proposed for carrying out the activity/sub-activity indicated. For any additional subcontractor (that is not the Specialized Subcontractor accepted in the initial selection process or subsequently approved by the Employer in accordance with **ITP 17.3**), Proposers are free to propose more than one for each activity/sub-activity.

Activity/Sub-Activity	Proposed Subcontractors	Nationality

Proposers shall submit an undertaking from each proposed subcontractor to confirm that they have read, understand and will comply with the ESHS obligations and code of conduct.

Form of Sub-Contractor ESHS undertaking

(to be filled in by each proposed subcontractor)

Date: _____

Proposal No.: _____

Alternative No.: _____

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

To: *[insert the name of the Employer’s agency]*

We, the undersigned, confirm that we have read, understand and will comply with the ESHS obligations and code of conduct for the above mentioned contract.

Name of the Proposed subcontractor: _____

Name and title of the person signing this undertaking on behalf of the subcontractor:

Signature of the person named above

Date signed

Name of the person duly authorized to sign the Proposal on behalf of the Proposer _____

Title of the person signing the Proposal _____

Signature of the person named above _____

Date signed _____ day of _____, _____

Qualification Forms

Form ELI 1.1. Proposer Information Sheet

Date: _____

RFP No.: _____

Page _____ of _____ pages

1. Proposer's Legal Name
2. In case of JV, legal name of each party:
3. If permitted under ITP 4.3, names of JV members that wish to form an SPV:
4. Proposer's actual or intended Country of Registration:
5. Proposer's Year of Registration:
6. Proposer's Legal Address in Country of Registration:
7. Proposer's Authorized Representative [<i>Lead Member</i>] Information Name: Address: Telephone/Fax numbers: Email Address:

8. Attached are copies of original documents of

- 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
- In case of JV, letter of intent to form JV or JV agreement, in accordance with ITP 4.1
- In case of state-owned enterprise or institution, in accordance with ITP 4.6, documents establishing:
 - Legal and financial autonomy
 - Operation under commercial law
 - Establishing that the Proposer is not under the supervision of the Employer

9. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership. *[If required under **PDS ITP 53.1**, the successful Proposer shall provide additional information on beneficial ownership, using the Beneficial Ownership Disclosure Form.]*

Form ELI 1.2. Party to JV Information Sheet

Date: _____

RFP No.: _____

Page _____ of _____ pages

1. Proposer'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 ITP 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 ITP 4.6.
8. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership. <i>[If required under PDS ITP 53.1, the successful Proposer shall provide additional information on beneficial ownership for each JV member using the Beneficial Ownership Disclosure Form.]</i>
9. Does the JV wish to form an SPV <i>[yes/ no] only relevant where PDS permits formation of SPV</i>

Form CON – 2. Historical Contract Non-Performance, and Pending Litigation

[This form should be used only if the information submitted at the time of initial selection requires updating. The following table shall be filled in for the Proposer and for JVs, each member of the Joint Venture]

Proposer’s Name: _____

Date: _____

JV Member’s Name _____

RFP No. and title: _____

Page _____ of _____ pages

Non-Performed Contracts in accordance with Section III, Evaluation and Qualification Criteria of the Initial Selection document			
<input type="checkbox"/> Contract non-performance did not occur since 1 st January <i>[insert year]</i> <input type="checkbox"/> Contract(s) not performed since 1 st January <i>[insert year]</i>			
Year	Non-performed portion of contract	Contract Identification	Total Contract Amount (current value, currency, exchange rate and US\$ equivalent)
<i>[insert year]</i>	<i>[insert amount and percentage]</i>	Contract Identification: <i>[indicate complete contract name/ number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Reason(s) for nonperformance: <i>[indicate main reason(s)]</i>	<i>[insert amount]</i>
Pending Litigation, in accordance with Section III, Evaluation and Qualification Criteria			
<input type="checkbox"/> No pending litigation <input type="checkbox"/> Pending litigation			

Year of dispute	Amount in dispute (currency)	Contract Identification	Total Contract Amount (currency), USD Equivalent (exchange rate)
		Contract Identification: _____ Name of Employer: _____ Address of Employer: _____ Matter in dispute: _____ Party who initiated the dispute: _____ Status of dispute: _____	

Form CON – 3. Environmental, Social, Health, and Safety Performance Declaration

[This form should be used only if the information submitted at the time of initial selection requires updating. The following table shall be filled in for the Proposer and for JVs, each member of the Joint Venture and each Specialized Subcontractor]

Proposer's Name: *[insert full name]*

Date: *[insert day, month, year]*

Joint Venture Member's or Specialized Subcontractor's Name: *[insert full name]*

RFP No. and title: *[insert RFP number and title]*

Page *[insert page number]* of *[insert total number]* pages

Environmental, Social, Health, and Safety Performance Declaration in accordance with Section III, Qualification Criteria, and Requirements of the Initial Selection document			
<input type="checkbox"/> No suspension or termination of contract: An employer has not suspended or terminated a contract and/or called the performance security for a contract for reasons related to Environmental, Social, Health, or Safety (ESHS) performance since the date specified in Section III, Qualification Criteria, and Requirements, Sub-Factor 2.5.			
<input type="checkbox"/> Declaration of suspension or termination of contract: The following contract(s) has/have been suspended or terminated and/or Performance Security called by an employer(s) for reasons related to Environmental, Social, Health, or Safety (ESHS) performance since the date specified in Section III, Qualification Criteria, and Requirements, Sub-Factor 2.5. Details are described below:			
Year	Suspended or terminated portion of contract	Contract Identification	Total Contract Amount (current value, currency, exchange rate and US\$ equivalent)
<i>[insert year]</i>	<i>[insert amount and percentage]</i>	Contract Identification: <i>[indicate complete contract name/ number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Reason(s) for suspension or termination: <i>[indicate main reason(s)]</i>	<i>[insert amount]</i>

<i>[insert year]</i>	<i>[insert amount and percentage]</i>	Contract Identification: <i>[indicate complete contract name/ number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Reason(s) for suspension or termination: <i>[indicate main reason(s)]</i>	<i>[insert amount]</i>
...	...	<i>[list all applicable contracts]</i>	...
Performance Security called by an employer(s) for reasons related to ESHS performance			
Year	Contract Identification		Total Contract Amount (current value, currency, exchange rate and US\$ equivalent)
<i>[insert year]</i>	Contract Identification: <i>[indicate complete contract name/ number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Reason(s) for calling of performance security: <i>[indicate main reason(s)]</i>		<i>[insert amount]</i>

Form CCC

Current Contract Commitments / Works in Progress

Proposers 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.	

Others

Commercial or contractual aspects of the RFP documents that the Proposer would like to discuss with the Employer during clarifications.

Form of Proposal Security – Demand Guarantee

Beneficiary: _____

Request for Proposals No: _____

Date: _____

PROPOSAL GUARANTEE No.: _____

Guarantor: _____

We have been informed that _____ (hereinafter called “the Applicant”) has submitted or will submit to the Beneficiary its Proposal (hereinafter called “the Proposal”) for the execution of _____ under Request for Proposals No. _____ (“the RFP”).

Furthermore, we understand that, according to the Beneficiary’s conditions, Proposals must be supported by a Proposal 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 Proposal during the period of Proposal validity set forth in the Applicant’s Letter of Proposal (“the Proposal Validity Period”), or any extension thereto provided by the Applicant; or
- (b) having been notified of the acceptance of its Proposal by the Beneficiary during the Proposal 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 and, if required, an Environmental, Social, Health and Safety (ESHS) Performance Security, in accordance with the Instructions to Proposers (“ITP”) of the Beneficiary’s RFP document.

This guarantee will expire: (a) if the Applicant is the successful Proposer, upon our receipt of copies of the contract agreement signed by the Applicant and the Performance Security and, if required, an Environmental, Social, Health and Safety (ESHS) Performance Security issued to the Beneficiary in relation to such contract agreement; or (b) if the Applicant is not the successful Proposer, upon the earlier of (i) our receipt of a copy of the Beneficiary’s notification to the Applicant of the results of the RFP process; or (ii) twenty-eight days after the end of the Proposal 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(s)]

Form of Proposal-Securing Declaration

Date: _____

Proposal No.: _____

Alternative No.: _____

To:

We, the undersigned, declare that:

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

We accept that we will automatically be suspended from being eligible for submitting proposals or bidding 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 Proposal conditions, because we:

- (a) have withdrawn our Proposal during the period of Proposal validity specified in the Letter of Proposal; or
- (b) having been notified of the acceptance of our Proposal by the Employer during the period of Proposal validity, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the Performance Security and, if required, an Environmental, Social, Health and Safety (ESHS) Performance Security, in accordance with the ITP 54.

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

Name of the Proposer* _____

Name of the person duly authorized to sign the Proposal on behalf of the Proposer** _____

Title of the person signing the Proposal _____

Signature of the person named above _____

Date signed _____ day of _____, _____

*: In the case of the Proposal submitted by joint venture specify the name of the Joint Venture as Proposer

** : Person signing the Proposal shall have the power of attorney given by the Proposer attached to the Proposal

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

SECTION V – ELIGIBLE COUNTRIES

Eligibility for the Provision of Goods, Works and non-consulting Services in Bank-Financed Procurement

In reference to **ITP 4.8** and **ITP 5.1**, for the information of the Proposers, at the present time firms, goods and services from the following countries are excluded from this RFP process:

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

Under **ITP 4.8(b)** and **ITP 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 – EMPLOYER’S REQUIREMENTS

SECTION VII – EMPLOYER’S REQUIREMENTS

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Employer’s Requirements

Notes on preparing the Employer’s Requirements

The Employer’s Requirements contains the Scope, the Specifications, the Drawings, and Supplementary Information that describe the Works and Operation Service.

This is a “single responsibility contract”. **The Employer is not expected to provide detailed technical specifications. However, the Employer must have a clear idea of what it wants and must communicate its needs to the Proposers. Hence, the section on Employer’s Requirements replaces the usual Technical Specifications of a more traditional approach.**

To enable Proposers to offer appropriate solutions, the Employer should specify the purpose for which the Works are intended (see also Sub- Clause 4.1 of the Conditions of Contract) and its particular requirements as clearly as possible. **The Employer’s requirements must therefore, specify exactly the particular requirements for the completed Works.** It will also be necessary to specify the tests that will be carried out on completion of the Works to verify compliance with the requirements specified.

The Employer should perform appropriate front-end tasks (such as geotechnical/environmental investigations and permit acquisitions) to enable the Employer to: (a) develop a realistic understanding of the contract’s scope and budget; and (b) furnish Proposers with information that they can reasonably rely upon in establishing their price and other commercial decisions.

While this section of the RFP document should endeavor to define the Employer’s Requirements as precisely as possible **care must be taken to avoid over-specifying details** to the extent that the flexibility and potential benefits associated with a “single responsibility” RFP approach are seriously eroded. This section on Employer’s Requirements should, therefore, be carefully prepared by experts who are familiar with the requirements and with the technical aspect of the required Works. As the contractor is expected to carry out the design, the Employer should provide the criteria to which it expects the design to conform. The functional/ performance specifications may specify the characteristics, nature and performance of the finished work and any limitations which the Employer wishes to impose.

The Employer’s requirements should specify the Contractor’s Documents (Sub-Clause 5.2 of the General Conditions of Contract) that are required and their submission/approval procedures.

The Employer’s Requirements must be drawn up to permit the widest, possible competition and, at the same time, present a clear statement of the required standards of workmanship, materials performance and/or functions of the Works. The Employer’s Requirements should stipulate that all goods and materials to be incorporated in the Works are new, unused, of the most recent or current models and incorporate all recent improvements in design and materials.

Care must be taken when drafting the Employer’s Requirements to ensure that the requirements are not restrictive. Recognized international standards should be used as much as possible for the description of goods, materials and workmanship. Where other particular standards are specified,

whether national standards of the Borrower’s country or other standards, it should be stated that goods, materials and workmanship meeting other authoritative standards and which promise to ensure equal or higher quality than the standards specified, will also be acceptable. Where a brand name of a product is specified it should always be qualified with the terms “or equivalent”.

For such a contract, no detailed drawings would generally be available when inviting proposals. It would, however, be useful to include **conceptual drawings** and/or outline design, if any and as appropriate, to supplement or help explain the general concept of the Employer’s needs. Proposers should be advised to the extent to which the Employer’s outline design is a suggestion or a requirement.

The Employer shall make available to Proposers all relevant data in the Employer’s possession on sub-surface and hydrological conditions at the Site, including environmental aspects. (See Sub-Clause 4.10 of the Conditions of Contract). In addition, the Employer’s Requirements should also include, as appropriate, information of a technical nature referring to Employer’s Requirements in the following Sub-Clauses of the Conditions of Contract:

Sub-Clause No.	Information required	Remarks
1.1.33	<ul style="list-style-type: none"> • Employer’s Equipment 	
1.1.43	<ul style="list-style-type: none"> • Financial Memorandum 	
1.1.55	<ul style="list-style-type: none"> • Operation Service Requirements 	
1.9	<ul style="list-style-type: none"> • Number of copies of Contractor’s Documents • Publications to be kept on Site 	
1.12	<ul style="list-style-type: none"> • Intellectual Property rights retained by Employer 	
1.14	<ul style="list-style-type: none"> • Permissions being obtained by the Employer 	
2.1	<ul style="list-style-type: none"> • Possession of foundations, structures, plant or means of access 	Please also refer to Sub-Clause 2.1 (Part A- Contract Data) to ensure consistency and applicability.
4.1	<ul style="list-style-type: none"> • Intended purposes for which the Works are required 	As mentioned above
4.5	<ul style="list-style-type: none"> • Nominated Subcontractors 	
4.6	<ul style="list-style-type: none"> • Other contractors and others on Site, if any • Documents relating to Contractor possession of assets 	

4.7	<ul style="list-style-type: none"> • Setting- out points, lines and levels of reference 	The Sub-Clause states: “... specified in the contract or notified by the Employers Representative”
4.18	<ul style="list-style-type: none"> • Emissions, surface discharges and effluent. 	
4.19	<ul style="list-style-type: none"> • Details and prices of electricity, water, gas and other services if the services are to be available for the Contractor to use. 	
4.20	<ul style="list-style-type: none"> • Details of Employer’s Equipment and free-issue material, if any. 	
4.21	<ul style="list-style-type: none"> • Number of copies of progress reports • Contents of progress reports • Reporting requirements for the Operation Service 	
4.27	<ul style="list-style-type: none"> • Existing facilities 	
5.1	<ul style="list-style-type: none"> • Criteria (if any) for design personnel 	Consistent with any such requirement in Section III- Evaluation and Qualification Criteria
5.2	<ul style="list-style-type: none"> • Contractor’s Documents required and whether for approval 	Specify, as appropriate, the extent to which the Contractor’s Documents are required, which of them are required for approval or consent (not just review), and the submission procedures. See “Contractor’s Documents” section below.
5.4	<ul style="list-style-type: none"> • Applicable Technical Standards and regulations 	
5.5	<ul style="list-style-type: none"> • As- built drawings and other records of the Works 	
6.1	<ul style="list-style-type: none"> • Engagement of staff and labour 	
6.6	<ul style="list-style-type: none"> • Facilities for Contractor’s Personnel • Facilities for Employer’s staff 	
7.2	<ul style="list-style-type: none"> • Samples 	
7.4	<ul style="list-style-type: none"> • Testing 	

7.8	<ul style="list-style-type: none"> • Royalties 	
8.7	<ul style="list-style-type: none"> • Handback requirements 	
10.3	<ul style="list-style-type: none"> • Terms for appointment of the Auditing Body 	
10.4	<ul style="list-style-type: none"> • Free issue materials, fuels, consumables and other items to be provided by the Employer: 	
10.5	<ul style="list-style-type: none"> • Training required for Employer’s Personnel • Training materials 	
11.1	<ul style="list-style-type: none"> • Tests for completion of the Design-Build 	

Any additional **sustainable procurement** technical requirements (*beyond the ESHS requirements stated in the Environmental, Social, Health and Safety Requirements section below*) shall be clearly specified. Please refer to the Bank’s Procurement Regulations for IPF Borrowers and Sustainable procurement guidance notes/tool kit for further information. The sustainable procurement requirements may be specified to enable evaluation of such a requirement on a pass/fail basis and/or rated criteria (point system), as appropriate.

Separate draft templates for Employer’s Requirements for Water Treatment Plant and Wastewater Treatment Plant have been prepared to be used in conjunction with these SPDs and are annexed to the Guidance Note to these SPDs. The Employer should also take into account the general guidance set out here when drafting the Employer’s Requirements.

Environmental, Social, Health and Safety Requirements

The Employer should use the services of a suitably qualified environmental, social, health and safety specialist/s to prepare this section, working with a procurement specialist/s.

The Employer should attach or refer to the Employer’s environmental, social, health and safety policies that will apply to the project. If these are not available, the Employer should use the following guidance in drafting an appropriate policy for the Works.

SUGGESTED CONTENT FOR AN ENVIRONMENTAL AND SOCIAL POLICY (STATEMENT)

The Works’ policy goal, as a minimum, should be stated to integrate environmental protection, occupational and community health and safety, gender, equality, child protection, vulnerable people (including those with disabilities), sexual harassment, gender-based violence (GBV), sexual exploitation and abuse (SEA), HIV/AIDS awareness and prevention and wide stakeholder engagement in the planning processes, programs, and activities of the parties involved in the execution of the Works. The Employer is advised to consult with the World Bank to agree the issues to be included which may also address: climate adaptation, land acquisition and resettlement, indigenous people, etc. The policy should set the frame for monitoring, continuously improving processes and activities and for reporting on the compliance with the policy.

The policy shall include a statement that, for the purpose of the policy and/or code of conduct, the term “child” / “children” means any person(s) under the age of 18 years.

The policy should, as far as possible, be brief but specific and explicit, and measurable, to enable reporting of compliance with the policy in accordance with the Particular Conditions of the Contract Sub-Clause 4.21 and Appendix C to the General Conditions of Contract.

As a minimum, the policy is set out to the commitments to:

- 1. apply good international industry practice to protect and conserve the natural environment and to minimize unavoidable impacts;*
- 2. provide and maintain a healthy and safe work environment and safe systems of work;*
- 3. protect the health and safety of local communities and users, with particular concern for those who are disabled, elderly, or otherwise vulnerable;*
- 4. ensure that terms of employment and working conditions of all workers engaged in the Works meet the requirements of the ILO labour conventions to which the host country is a signatory;*
- 5. be intolerant of, and enforce disciplinary measures for illegal activities. To be intolerant of, and enforce disciplinary measures for GBV, inhumane treatment, sexual activity with children, and sexual harassment;*
- 6. incorporate a gender perspective and provide an enabling environment where women and men have equal opportunity to participate in, and benefit from, planning and development of the Works;*

7. *work co-operatively, including with end users of the Works, relevant authorities, contractors and local communities;*
8. *engage with and listen to affected persons and organizations and be responsive to their concerns, with special regard for vulnerable, disabled, and elderly people;*
9. *provide an environment that fosters the exchange of information, views, and ideas that is free of any fear of retaliation, and protects whistleblowers;*
10. *minimize the risk of HIV transmission and to mitigate the effects of HIV/AIDS associated with the execution of the Works;*

The policy should be signed by the senior manager of the Employer. This is to signal the intent that it will be applied rigorously.

MINIMUM CONTENT OF ESHS REQUIREMENTS

[In addition, set out the other ESHS requirements/standards applicable to the Works considering the following]

- World Bank Group EHS Guidelines;
- World Bank Group stakeholder engagement and information disclosure requirements;
- *relevant international conventions or treaties etc.*, national legal and/or regulatory requirements and standards (where these represent higher standards than the WBG EHS Guidelines);
- relevant international standards e.g. WHO Guidelines for Safe Use of Pesticides; and
- relevant sector standards e.g. EU Council Directive 91/271/EEC Concerning Urban Waste Water Treatment.
- *grievance redress mechanism including types of grievances to be recorded and how to protect confidentiality e.g. of those reporting allegations of GBV/SEA.*
- *GBV/SEA prevention and management.*

The detail specification for ESHS should, to the extent possible, describe the intended outcome rather than the method of working.

[In compiling the requirements/standards, the Employer is advised to consult with the World Bank. Issues to be considered include: gender, gender- based violence (GBV), climate adaptation, land acquisition and resettlement, indigenous people, etc.]

When preparing the specifications have regard to the relevant General Conditions of Contract and Particular Conditions of Contract, and in particular:

General and Particular Conditions of Contract

- Sub-clause 1.14 Compliance with Laws
- Sub-clause 2.2 Permits, Licenses and Approvals
- Sub-clause 4.1 Contractor’s General Obligations

Sub-clause 4.4	Subcontractors
Sub-clause 4.8	Safety Procedures
Sub-clause 4.14	Avoidance of Interference
Sub-clause 4.18	Protection of the Environment
Sub-clause 4.23	Contractor’s Operations on the Site
Sub-clause 4.24	Fossils
Sub-clause 5.2	Contractor’s Documents
Section 6	Staff and Labour (includes health and safety)
Sub-clause 7.1	Manner of Execution

MINIMUM REQUIREMENTS FOR THE PROPOSER’S CODE OF CONDUCT

The Employer should set out the minimum requirement for the Code of Conduct, taking into consideration the issues, impacts, and mitigation measures identified, for example, in:

- *any particular GBV/SEA requirements*
- *required standards including World Bank Group EHS Guidelines*
- *relevant international conventions, standards or treaties, etc., national legal and/or regulatory requirements and standards (where these represent higher standards than the WBG EHS Guidelines)*
- *relevant standards e.g. Workers’ Accommodation: Process and Standards (IFC and EBRD)*
- *relevant sector standards e.g. workers’ accommodation*
- *grievance redress mechanisms.*

The types of issues identified could include. risks associated with: labor influx, spread of communicable diseases, sexual harassment, gender based violence, illicit behavior and crime, and maintaining a safe environment etc.

[Amend the following instructions to the Proposer taking into account the above considerations.]

A satisfactory code of conduct will contain obligations on all Contractor’s Personnel (including sub-contractors and day workers) that are suitable to address the following issues, as a minimum. Additional obligations may be added to respond to particular concerns of the region, the location and the project sector or to specific project requirements. The code of conduct shall contain a statement that the term “child” / “children” means any person(s) under the age of 18 years.

The issues to be addressed include:

1. Compliance with applicable laws, rules, and regulations

2. Compliance with applicable health and safety requirements to protect the local community (including vulnerable and disadvantaged groups), the Employer’s Personnel, and the Contractor’s Personnel (including wearing prescribed personal protective equipment, preventing avoidable accidents and a duty to report conditions or practices that pose a safety hazard or threaten the environment)
3. The use of illegal substances
4. Non-Discrimination in dealing with the local community (including vulnerable and disadvantaged groups), the Employer’s Personnel, and the Contractor’s Personnel, (for example on the basis of family status, ethnicity, race, gender, religion, language, marital status, age, disability, (physical and mental), sexual orientation, gender identity, political conviction or social, civic, or health status)
5. Interactions with the local community(ies) members of the local community (ies), and any affected person(s) (for example to convey an attitude of respect , including to their culture and traditions)
6. Sexual harassment (for example to prohibit use of language or behavior, in particular towards women and/or children, that is inappropriate, harassing, abusive, sexually provocative, demeaning or culturally inappropriate)
7. Violence, including sexual and/or gender based violence (for example acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion, and deprivation of liberty)
8. Exploitation including sexual exploitation and abuse (for example the prohibition of the exchange of money, employment, goods, or services for sex, including sexual favors or other forms of humiliating, degrading behavior, or exploitative behavior or abuse of power)
9. Protection of children (including prohibitions against sexual activity or abuse, or otherwise unacceptable behavior with children, limiting interactions towards children, and ensuring their safety in project areas)
10. Sanitation requirements (for example, to ensure workers use specified sanitary facilities provided by their employer and not open areas)
11. Avoidance of conflicts of interest (such that benefits, contracts, or employment, or any sort of preferential treatment or favors, are not provided to any person with whom there is a financial, family, or personal connection)
12. Respecting reasonable work instructions (including regarding environmental and social norms)
13. Protection and proper use of property (for example, to prohibit theft, carelessness or waste)
14. Duty to report violations of this Code
15. Non retaliation against workers who report violations of the Code, if that report is made in good faith.

The Code of Conduct should be written in plain language and signed by each worker to indicate that they have:

- received a copy of the code;
- had the code explained to them;
- acknowledged that adherence to this Code of Conduct is a condition of employment; and

- understood that violations of the Code can result in serious consequences, up to and including dismissal, or referral to legal authorities.
- *A copy of the code shall be displayed in a location easily accessible to the community and project affected people. It shall be provided in languages comprehensible to the local community, Contractor’s Personnel, Employer’s Personnel and affected persons.*

SPECIFIED PROVISIONAL SUMS FOR ESHS OUTCOMES

The total of the prices of the activities in the Activity Schedule is the Proposer’s offer to complete the works on a “single responsibility” basis. This includes all of the Contractor’s ESHS obligations under the Contract.

Provisional sums may be specified by the Employer for achieving specific ESHS outcomes. (e.g. for HIV counselling service, and GBV/SEA awareness and sensitization or to encourage the contractor to deliver ESHS outcomes beyond the requirement of the Contract).

Scope of the Works

[See template of Employer Requirements for Water/ Wastewater Treatment Plant]

Site Information

[See template of Employer Requirements for Water/ Wastewater Treatment Plant]

Specifications

[Insert the specifications-see note above on drafting the specifications. The specifications should set out the applicable minimum standards that apply for the Works. In addition, other technical requirements to be incorporated in the design should be set out]

Site Plans / Concept Drawings

Contractor’s Documents

(Reference Sub-Clause 5.2 Of The General Conditions Of Contract)

[Note to the Employer: See the note on Sub- Clause 5.2 above in “Notes on preparing the Employer’s Requirements.” List the documents that are required to be submitted by the Contractor, for the Employer’s review and/or for approval e.g.:

<i>Description</i>	<i>For review leading to consent</i>	<i>For approval</i>
<i>1. Design Schedule</i>		
<i>2. Preliminary Design</i>		
<i>3. Detailed Design</i>		
<i>4. Design for Environmental Consents/Permits</i>		
<i>5. Design for Construction</i>		
<i>6. Environmental Design</i>		
<i>7. Drainage Design</i>		
<i>8. Temporary and Permanent 3rd Party Access Design</i>		
<i>9. Design Safety Report</i>		
<i>10. Construction Safety Report</i>		
<i>11. Environmental and Social Impact Assessment</i>		
<i>12. Permitting and Consents Plan</i>		
<i>13. etc.]</i>		

As a general rule, there is no point in requiring documents to be submitted for approval if the Employer does not intend to give approval. The Employer should carefully weigh-in the documents that it requires for review and/or for approval. Unreasonable approval requirements may interfere in the Contractor’s design process. Further, notwithstanding the last paragraph of Sub-Clause 5.2 of the General Conditions, it may be difficult, in case a dispute arises, for the Employer to refute all liability for an approved submission.

The Employer shall specify any independent verification requirements for any of the Contractor’s Documents.

The Employer’s Requirements shall also require the Contractor to provide the following (Contractor’s Documents for approval):

- a plan describing value engineering (design change) arrangements and how ESHS policy requirements will be taken into consideration;

- the strategy for gathering baseline ESHS information in time to inform design development;
- a plan describing the measures to ensure geotechnical investigations or other advance works meet the ESHS requirements;
- stakeholder engagement plan;
- Construction environmental and social management plan;
- occupational and community health and safety management plan;
- Construction traffic management plan
- Operational systems comprising the processes and procedures for managing Environmental, social and health and safety risks during operation
- grievance redress mechanisms.]

Supplementary Information

PART 3 – CONDITIONS OF CONTRACT AND CONTRACT FORMS

SECTION VIII – GENERAL CONDITIONS (GC)

The Conditions of Contract are the “General Conditions” which form part of the *Conditions of Contract for Design, Build and Operate Projects first edition 2008* published by the Federation Internationale Des Ingenieurs – Conseils (FIDIC) and the following “Particular Conditions” which include amendments and addition to such General Conditions.

Copies of the above FIDIC publication i.e. “Conditions of Contract for Design, Build and Operate Projects” can be obtained from

International Federation of Consulting Engineers
FIDIC Bookshop – Box- 311 – CH – 1215 Geneva 15 Switzerland
Fax: +41 22 799 49 054
Telephone: +41 22 799 49 01
E-mail: fidic@fidic.org
www.fidic.org

Appendix - General Conditions of Dispute Adjudication Agreement is replaced with the following:

APPENDIX A

General Conditions of Dispute Board Agreement

1. Definitions

Each “Dispute Board Agreement” is a tripartite agreement by and between:

- (a) the “Employer”;
- (b) the “Contractor”; and
- (c) the “Member” who is defined in the Dispute Board Agreement as being:
 - (i) the sole member of the “DB” and, where this is the case, all references to the “Other Members” do not apply, or
 - (ii) one of the three persons who are jointly called the “DB” (or “Dispute Board”) and, where this is the case, the other two persons are called the “Other Members”.

The Employer and the Contractor have entered (or intend to enter) into a contract, which is called the “Contract” and is defined in the Dispute Board Agreement, which incorporates this Appendix. In the Dispute Board Agreement, words and expressions which are not otherwise defined shall have the meanings assigned to them in the Contract.

2. General Provisions

Unless otherwise stated in the Dispute Board Agreement, it shall take effect on the latest of the following dates:

- (a) the Commencement Date defined in the Contract,
- (b) when the Employer, the Contractor and the Member have each signed the Dispute Board Agreement, or
- (c) when the Employer, the Contractor and each of the Other Members (if any) have respectively each signed a dispute board agreement.

This employment of the Member is a personal appointment. At any time, the Member may give not less than 70 days’ notice of resignation to the Employer and to the Contractor, and the Dispute Board Agreement shall terminate upon the expiry of this period.

3. Warranties

The Member warrants and agrees that he/she is and shall be impartial and independent of the Employer, the Contractor and the Employer’s

Representative. The Member shall promptly disclose, to each of them and to the Other Members (if any), any fact or circumstance which might appear inconsistent with his/her warranty and agreement of impartiality and independence.

When appointing the Member, the Employer and the Contractor relied upon the Member's representations that he/she is:

- (a) experienced in the work which the Contractor is to carry out under the Contract,
- (b) experienced in the interpretation of contract documentation, and
- (c) fluent in the language for communications defined in the Contract.

**4. General
Obligations of the
Member**

The Member shall:

- (a) have no interest financial or otherwise in the Employer, the Contractor or Employer's Representative, nor any financial interest in the Contract except for payment under the Dispute Board Agreement;
- (b) not previously have been employed as a consultant or otherwise by the Employer, the Contractor or the Employer's Representative, except in such circumstances as were disclosed in writing to the Employer and the Contractor before they signed the Dispute Board Agreement;
- (c) have disclosed in writing to the Employer, the Contractor and the Other Members (if any), before entering into the Dispute Board Agreement and to his/her best knowledge and recollection, any professional or personal relationships with any director, officer or employee of the Employer, the Contractor or the Employer's Representative, and any previous involvement in the overall project of which the Contract forms part;
- (d) not, for the duration of the Dispute Board Agreement, be employed as a consultant or otherwise by the Employer, the Contractor or the Employer's Representative, except as may be agreed in writing by the Employer, the Contractor and the Other Members (if any);
- (e) comply with the annexed procedural rules and with Sub-Clause 20.4 of the Conditions of Contract;
- (f) not give advice to the Employer, the Contractor, the Employer's Personnel or the Contractor's Personnel concerning the conduct of the Contract, other than in accordance with the annexed procedural rules;

- (g) not while a Member enter into discussions or make any agreement with the Employer, the Contractor or the Employer's Representative regarding employment by any of them, whether as a consultant or otherwise, after ceasing to act under the Dispute Board Agreement;
- (h) ensure his/her availability for all site visits and hearings as are necessary;
- (i) become conversant with the Contract and with the progress of the Works (and of any other parts of the project of which the Contract forms part) by studying all documents received which shall be maintained in a current working file;
- (j) treat the details of the Contract and all the DB's activities and hearings as private and confidential, and not publish or disclose them without the prior written consent of the Employer, the Contractor and the Other Members (if any); and
- (k) be available to give advice and opinions, on any matter relevant to the Contract when requested by both the Employer and the Contractor, subject to the agreement of the Other Members (if any).

**5. General
Obligations of the
Employer and the
Contractor**

The Employer, the Contractor, the Employer's Personnel and the Contractor's Personnel shall not request advice from or consultation with the Member regarding the Contract, otherwise than in the normal course of the DB's activities under the Contract and the Dispute Board Agreement. The Employer and the Contractor shall be responsible for compliance with this provision, by the Employer's Personnel and the Contractor's Personnel respectively.

The Employer and the Contractor undertake to each other and to the Member that the Member shall not, except as otherwise agreed in writing by the Employer, the Contractor, the Member and the Other Members (if any):

- (a) be appointed as an arbitrator in any arbitration under the Contract;
- (b) be called as a witness to give evidence concerning any dispute before arbitrator(s) appointed for any arbitration under the Contract; or
- (c) be liable for any claims for anything done or omitted in the discharge or purported discharge of the Member's functions, unless the act or omission is shown to have been in bad faith.

The Employer and the Contractor hereby jointly and severally indemnify and hold the Member harmless against and from claims from which he is relieved from liability under the preceding paragraph.

Whenever the Employer or the Contractor refers a dispute to the DB under Sub-Clause 20.4 of the Conditions of Contract, which will require the Member to make a site visit and attend a hearing, the Employer or the Contractor shall provide appropriate security for a sum equivalent to the reasonable expenses to be incurred by the Member. No account shall be taken of any other payments due or paid to the Member.

6. Payment

The Member shall be paid as follows, in the currency named in the Dispute Board Agreement:

- (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 Clause.

The retainer fee shall be paid with effect from the last day of the calendar month in which the Dispute Board Agreement becomes effective; until the last day of the calendar month in which the Taking-Over Certificate is issued for the whole of the Works.

With effect from the first day of the calendar month following the month in which the Taking-Over Certificate is issued for the whole of the Works, the retainer fee shall be reduced by one third. This reduced fee shall be paid until the first day of the calendar month in which the Member resigns or the Dispute Board Agreement is otherwise terminated.

- (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 Member's

home and the Site, or another location of a meeting with the Other Members (if any);

- (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 Member'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 Clause;
- (d) any taxes properly levied in the Country on payments made to the Member (unless a national or permanent resident of the Country) under this Clause 6.

The retainer and daily fees shall be as specified in the Dispute Board Agreement. Unless it specifies otherwise, these fees shall remain fixed for the first 24 calendar months, and shall thereafter be adjusted by agreement between the Employer, the Contractor and the Member, at each anniversary of the date on which the Dispute Board Agreement became effective.

If the parties fail to agree on the retainer fee or the daily fee, the appointing entity or official named in the Contract Data shall determine the amount of the fees to be used.

The Member shall submit invoices for payment of the monthly retainer and air fares quarterly in advance. Invoices for other expenses and for daily fees shall be submitted following the conclusion of a Site visit or hearing. All invoices shall be accompanied by a brief description of activities performed during the relevant period and shall be addressed to the Contractor.

The Contractor shall pay each of the Member's invoices in full within 56 calendar days after receiving each invoice and shall apply to the Employer (in the Statements under the Contract) for reimbursement of one-half of the amounts of these invoices. The Employer shall then pay the Contractor in accordance with the Contract.

If the Contractor fails to pay to the Member the amount to which he/she is entitled under the Dispute Board Agreement, the Employer shall pay the amount due to the Member and any other amount which may be

required to maintain the operation of the DB; and without prejudice to the Employer's rights or remedies. In addition to all other rights arising from this default, the Employer shall be entitled to reimbursement of all sums paid in excess of one-half of these payments, plus all costs of recovering these sums and financing charges calculated at the rate specified in Sub-Clause 14.8 of the Conditions of Contract.

If the Member does not receive payment of the amount due within 70 days after submitting a valid invoice, the Member may (i) suspend his/her services (without notice) until the payment is received, and/or (ii) resign his/her appointment by giving notice under Clause 7.

7. Termination

At any time: (i) the Employer and the Contractor may jointly terminate the Dispute Board Agreement by giving 42 days' notice to the Member; or (ii) the Member may resign as provided for in Clause 2.

If the Member fails to comply with the Dispute Board Agreement, the Employer and the Contractor may, without prejudice to their other rights, terminate it by notice to the Member. The notice shall take effect when received by the Member.

If the Employer or the Contractor fails to comply with the Dispute Board Agreement, the Member may, without prejudice to his other rights, terminate it by notice to the Employer and the Contractor. The notice shall take effect when received by them both.

Any such notice, resignation and termination shall be final and binding on the Employer, the Contractor and the Member. However, a notice by the Employer or the Contractor, but not by both, shall be of no effect.

8. Default of the Member

If the Member fails to comply with any of his obligations under Clause 4 (a) - (d) above, he shall not be entitled to any fees or expenses hereunder and shall, without prejudice to their other rights, reimburse each of the Employer and the Contractor for any fees and expenses received by the Member and the Other Members (if any), for proceedings or decisions (if any) of the DB which are rendered void or ineffective by the said failure to comply.

If the Member fails to comply with any of his obligations under Clause 4 (e) - (k) above, he shall not be entitled to any fees or expenses hereunder from the date and to the extent of the non-compliance and shall, without prejudice to their other rights, reimburse each of the Employer and the Contractor for any fees and expenses already received by the Member, for proceedings or decisions (if any) of the DB which are rendered void or ineffective by the said failure to comply.

9. Disputes

Any dispute or claim arising out of or in connection with this Dispute Board Agreement, or the breach, termination or invalidity thereof, shall be finally settled by institutional arbitration. If no other arbitration institute is agreed, the arbitration shall be conducted under the Rules of Arbitration of the International Chamber of Commerce by one arbitrator appointed in accordance with these Rules of Arbitration.

PROCEDURAL RULES

Unless otherwise agreed by the Employer and the Contractor, the DB shall visit the Site at intervals of not more than 140 days, including times of critical construction events, at the request of either the Employer or the Contractor. Unless otherwise agreed by the Employer, the Contractor and the DB, the period between consecutive visits shall not be less than 70 days, except as required to convene a hearing as described below.

The timing of and agenda for each Site visit shall be as agreed jointly by the DB, the Employer and the Contractor, or in the absence of agreement, shall be decided by the DB. The purpose of Site visits is to enable the DB to become and remain acquainted with the progress of the Works and of any actual or potential problems or claims, and, as far as reasonable, to endeavour to prevent potential problems or claims from becoming disputes.

Site visits shall be attended by the Employer, the Contractor and the Employer's Representative and shall be coordinated by the Employer in co-operation with the Contractor. The Employer shall ensure the provision of appropriate conference facilities and secretarial and copying services. At the conclusion of each Site visit and before leaving the site, the DB shall prepare a report on its activities during the visit and shall send copies to the Employer and the Contractor.

The Employer and the Contractor shall furnish to the DB one copy of all documents which the DB may request, including Contract documents, progress reports, variation instructions, certificates and other documents pertinent to the performance of the Contract. All communications between the DB and the Employer or the Contractor shall be copied to the other Party. If the DB comprises three persons, the Employer and the Contractor shall send copies of these requested documents and these communications to each of these persons.

If any dispute is referred to the DB in accordance with Sub-Clause 20.4 of the Conditions of Contract, the DB shall proceed in accordance with Sub-Clause 20.4 and these Rules. Subject to the time allowed to give notice of a decision and other relevant factors, the DB shall:

- (a) act fairly and impartially as between the Employer and the Contractor, giving each of them a reasonable opportunity of putting his case and responding to the other's case, and
- (b) adopt procedures suitable to the dispute, avoiding unnecessary delay or expense.

The DB may conduct a hearing on the dispute, in which event it will decide on the date and place for the hearing and may request that written documentation and arguments from the Employer and the Contractor be presented to it prior to or at the hearing.

Except as otherwise agreed in writing by the Employer and the Contractor, the DB shall have power to adopt an inquisitorial procedure, to refuse admission to hearings or audience at hearings to any persons other than representatives of the Employer, the Contractor and the Employer's Representative, and to proceed in the absence of any party who the DB is satisfied received notice of the hearing; but shall have discretion to decide whether and to what extent this power may be exercised.

The Employer and the Contractor empower the DB, among other things, to:

- (a) establish the procedure to be applied in deciding a dispute,
- (b) decide upon the DB's own jurisdiction, and as to the scope of any dispute referred to it,
- (c) conduct any hearing as it thinks fit, not being bound by any rules or procedures other than those contained in the Contract and these Rules,
- (d) take the initiative in ascertaining the facts and matters required for a decision,
- (e) make use of its own specialist knowledge, if any,
- (f) decide upon the payment of financing charges in accordance with the Contract,
- (g) decide upon any provisional relief such as interim or conservatory measures, and
- (h) open up, review and revise any certificate, decision, determination, instruction, opinion or valuation of the Employer's Representative, relevant to the dispute.

The DB shall not express any opinions during any hearing concerning the merits of any arguments advanced by the Parties. Thereafter, the DB shall make and give its decision in accordance with Sub-Clause 20.4, or as otherwise agreed by the Employer and the Contractor in writing. If the DB comprises three persons:

- (a) it shall convene in private after a hearing, in order to have discussions and prepare its decision;
- (b) it shall endeavour to reach a unanimous decision: if this proves impossible the applicable decision shall be made by a majority of the Members, who may require the minority Member to prepare a written report for submission to the Employer and the Contractor; and
- (c) if a Member fails to attend a meeting or hearing, or to fulfil any required function, the other two Members may nevertheless proceed to make a decision, unless:
 - (i) either the Employer or the Contractor does not agree that they do so, or
 - (ii) the absent Member is the chairman and he/she instructs the other Members not to make a decision.

APPENDIX B

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;¹⁴ (ii) to be a nominated¹⁵ 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 inspect¹⁶ all accounts, records and other relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the Bank.

¹⁴ 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.

¹⁵ 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.

¹⁶ 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.

APPENDIX C

Environmental, Social, Health and Safety (ESHS)

Metrics for Progress Reports

[Note to Employer: the following metrics may be amended to reflect the Employer's environmental, social, health and safety policies and/or the ESHS requirements of the project. The metrics that are required should be determined by the ESHS risks of the Works and not necessarily by the scale of the Works]

Metrics for regular reporting:

- a. *environmental incidents or non-compliances with contract requirements, including contamination, pollution or damage to ground or water supplies;*
- b. *health and safety incidents, accidents, injuries and all fatalities that require treatment;*
- c. *interactions with regulators: identify agency, dates, subjects, outcomes (report the negative if none);*
- d. *status of all permits and agreements:*
 - i. *work permits: number required, number received, actions taken for those not received;*
 - ii. *status of permits and consents:*
 - *list areas/facilities with permits required (quarries, asphalt & batch plants), dates of application, dates issued (actions to follow up if not issued), dates submitted to resident engineer (or equivalent), status of area (waiting for permits, working, abandoned without reclamation, decommissioning plan being implemented, etc.);*
 - *list areas with landowner agreements required (borrow and spoil areas, camp sites), dates of agreements, dates submitted to resident engineer (or equivalent);*
 - *identify major activities undertaken in each area in the reporting period and highlights of environmental and social protection (land clearing, boundary marking, topsoil salvage, traffic management, decommissioning planning, decommissioning implementation);*
 - *for quarries: status of relocation and compensation (completed, or details of activities and current status in the reporting period).*
- e. *health and safety supervision:*
 - i. *safety officer: number days worked, number of full inspections & partial inspections, reports to construction/project management;*
 - ii. *number of workers, work hours, metric of PPE use (percentage of workers with full personal protection equipment (PPE), partial, etc.), worker violations observed (by type of violation, PPE or otherwise), warnings given, repeat warnings given, follow-up actions taken (if any);*

- f. worker accommodations:*
 - i. number of expats housed in accommodations, number of locals;
 - ii. date of last inspection, and highlights of inspection including status of accommodations' compliance with national and local law and good practice, including sanitation, space, etc.;
 - iii. actions taken to recommend/require improved conditions, or to improve conditions.
- g. HIV/AIDS: provider of health services, information and/or training, location of clinic, number of non-safety disease or illness treatments and diagnoses (no names to be provided);*
- h. gender (for expats and locals separately): number of female workers, percentage of workforce, gender issues raised and dealt with (cross-reference grievances or other sections as needed);*
- i. training:*
 - i. number of new workers, number receiving induction training, dates of induction training;
 - ii. number and dates of toolbox talks, number of workers receiving Occupational Health and Safety (OHS) environmental and social training;
 - iii. number and dates of HIV/AIDS sensitization and/or training, no. workers receiving training (in the reporting period and in the past); same questions for gender sensitization, flag person training.
 - iv. number and date of GBV /SEA sensitization and/or training, number of workers receiving training on code of conduct (in the reporting period and in the past), etc.
- j. environmental and social supervision:*
 - i. environmentalist: days worked, areas inspected and numbers of inspections of each (road section, work camp, accommodations, quarries, borrow areas, spoil areas, swamps, forest crossings, etc.), highlights of activities/findings (including violations of environmental and/or social best practices, actions taken), reports to environmental and/or social specialist/construction/site management;
 - ii. sociologist: days worked, number of partial and full site inspections (by area: road section, work camp, accommodations, quarries, borrow areas, spoil areas, clinic, HIV/AIDS center, community centers, etc.), highlights of activities (including violations of environmental and/or social requirements observed, actions taken), reports to environmental and/or social specialist/construction/site management; and
 - iii. community liaison person(s): days worked (hours community center open), number of people met, highlights of activities (issues raised, etc.), reports to environmental and/or social specialist /construction/site management.

- k. Grievances: list new grievances (e.g. allegations of GBV / SEA) received in the reporting period and unresolved past grievances by date received, complainant, how received, to whom referred to for action, resolution and date (if completed), data resolution reported to complainant, any required follow-up (Cross-reference other sections as needed):*
- i. Worker grievances;
 - ii. Community grievances
- l. Traffic and vehicles/equipment:*
- i. traffic accidents involving project vehicles & equipment: provide date, location, damage, cause, follow-up;
 - ii. accidents involving non-project vehicles or property (also reported under immediate metrics): provide date, location, damage, cause, follow-up;
 - iii. overall condition of vehicles/equipment (subjective judgment by environmentalist); non-routine repairs and maintenance needed to improve safety and/or environmental performance (to control smoke, etc.).
- m. Environmental mitigations and issues (what has been done):*
- i. dust: number of working bowsers, number of waterings/day, number of complaints, warnings given by environmentalist, actions taken to resolve; highlights of quarry dust control (covers, sprays, operational status); % of rock /spoil lorries with covers, actions taken for uncovered vehicles;
 - ii. erosion control: controls implemented by location, status of water crossings, environmentalist inspections and results, actions taken to resolve issues, emergency repairs needed to control erosion/sedimentation;
 - iii. quarries, borrow areas, spoil areas, asphalt plants, batch plants: identify major activities undertaken in the reporting period at each, and highlights of environmental and social protection: land clearing, boundary marking, topsoil salvage, traffic management, decommissioning planning, decommissioning implementation;
 - iv. blasting: number of blasts (and locations), status of implementation of blasting plan (including notices, evacuations, etc.), incidents of off-site damage or complaints (cross-reference other sections as needed);
 - v. spill cleanups, if any: material spilled, location, amount, actions taken, material disposal (report all spills that result in water or soil contamination);
 - vi. waste management: types and quantities generated and managed, including amount taken offsite (and by whom) or reused/recycled/disposed on-site;
 - vii. details of tree plantings and other mitigations required undertaken in the reporting period;
 - viii. details of water and swamp protection mitigations required undertaken in the reporting period.

n. compliance:

- i. compliance status for conditions of all relevant consents/permits, for the Work, including quarries, etc.): statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance;
- ii. compliance status of C-ESMP/ESIP requirements: statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance
- iii. compliance status of GBV/SEA prevention and response action plan: statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance
- iv. compliance status of Health and Safety Management Plan re: statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance
- v. other unresolved issues from previous reporting periods related to environmental and social: continued violations, continued failure of equipment, continued lack of vehicle covers, spills not dealt with, continued compensation or blasting issues, etc. Cross-reference other sections as needed.

SECTION IX – PARTICULAR CONDITIONS (PC)

The following particular conditions shall supplement the GC. Whenever there is a conflict, the provisions herein shall prevail over those in the GC.

Particular Conditions of Contract

Part A – Contract Data

Conditions	Sub-Clause	Data
Where the Contract allows for Cost Plus Profit, percentage profit to be added to the Cost:	1.1.24	_____ <i>[insert the %, normally 5%]</i>
Cut-Off Date (number of days after the Time for Completion of Design-Build):	1.1.26	<i>[number of days]</i>
Contractor's Key Personnel names	1.1.21 & 6.9	<i>[insert the name of each of the Contractor's Key Personnel to the extent agreed by the Employer prior to Contract signature]</i>
Employer's Representative's name and address: For the Design Build Period: For the Operation Service Period:	1.1.35	
Parts of the Works that shall be designated a Section for the purposes of the Contract:	1.1.70	
Time for Completion of Design-Build:	1.1.78	_____ days
Borrowers Name:	1.1.85	
Agreed methods of electronic transmission:	1.3	
Address of Employer for communications:	1.3	
Address of Employer's Representative for communications: For the Design Build Period:	1.3	

Conditions	Sub-Clause	Data
For the Operation Service Period:		
Address of Contractor for communications:	1.3	
Governing law:	1.4	
Ruling language:	1.4	
Language for communications:	1.4	
Assignment: Name of agency to which the Contract may be assigned (if any):	1.8	[]
Joint and Several Liability: Type and minimum amounts of paid up share capital required: Minimum shareholding requirement after lock-in period:	1.15	If JV is permitted to form an SPV, specify here [] Lead shareholder Other shareholders
Time for access to the Site:	2.1	No later than the Commencement Date, except for the following parts (if applicable, with detailed description of the parts concerned: _____ Days after Commencement Date
Employer approval not required for variations less than:	3.1 % of Accepted Contract Amount
Performance Security:	4.2	The Performance Security will be in the form of a _____ [insert either one of “demand guarantee” or “performance bond”] in the amount(s) of [insert related figure(s)] percent of the Accepted Contract Amount for the Design Build and in the same currency (ies) of the Accepted Contract Amount.
Reduction in Performance Security at the end of the Retention Period: Further reduction in Performance Security following five consecutive years of Operation Service	4.2	

Conditions	Sub-Clause	Data
during which the Contractor has achieved full compliance with the standards specified in the Schedule of Performance Standards		
Environmental, Social, Health and Safety (ESHS) Performance Security: ESHS Performance Security Required: Amount and type of the ESHS Performance Security:	4.2	<p>Yes / No</p> <p>The ESHS Performance Security will be in the form of a “demand guarantee” in the amount(s) of <i>[insert % figure(s) normally 1% to 3%]</i> of the Accepted Contract Amount and in the same currency(ies) of the Accepted Contract Amount.</p> <p><i>[The sum of the total “demand guarantees” (Performance Security and ESHS Performance Security) shall normally not exceed 10% of the Accepted Contract Amount for Design Build.]</i></p>
Contractor’s Representative’s name	4.3	<i>[insert the name of the Contractor’s Representative agreed by the Employer prior to Contract signature]</i>
Protection of the Environment Provisional sum for costs of complying with the EMP if not covered within the Contractor’s price.	4.18	[]
Period for notification of errors, faults and other defects:	5.1	_____ days after the Commencement Date
Normal working hours on the Site:	6.5	
Period of the Operation Service:	8.2	[] months
Time for Completion of Design-Build:	9.2, 1.1.78	[] months

Conditions	Sub-Clause	Data
Time for Completion of each Section:	9.2, 1.1.78	[] months
Amount of delay damages	9.6	[] per day
Maximum amount of delay damages	9.6	[]% of Accepted Contract Amount for Design Build
Commencement Date if different from PCC 10.2.	10.2	
Maximum amount of Performance Damages payable by the Contractor (Operation Service):	10.6 and 10.7	
Maximum amount of compensation payable by Employer (Operation Service):	10.6b	
Maximum amount of performance damages payable by the Contractor in any contract year during the Operation Service Period:	10.6 and 10.7	
Rights of the Employer if the failure continues for more than 84 days:	10.7	<i>[if to be different from that as set out in Sub-Clause 10.7]</i>
Percentage rate to be applied to Provisional Sums:	13.5	___%
Contract Price and Rates and Prices to be adjusted for changes in cost as further detailed in the Schedule of Cost Indexation: a) Design-Build b) Operation Service (excluding Asset Replacement) c) Asset Replacement	13.8	a) Yes /No b) Yes /No c) Yes /No
Price adjustment permitted in Accepted Contract Amount for Operation	13.9	Yes /No

Conditions	Sub-Clause	Data
Service to account for long term variations in Influent quality relative the Influent Baseline.		<i>[If price adjustment is permitted then the Employer must include an Influent Baseline in the Employer's Requirements]</i>
Amount of Advance Payment (percent of Accepted Contract Amount for the Design-Build):	14.2	
Currencies of payment if different to the currencies quoted in the Contract	14.2	
Percentage deductions for the repayment of the Advance Payment:	14.2	
Requirements for submission of Statements if different from the GCC and PCC:	14.3	
Percentage of Retention:	14.3	____%
Limit of Retention Money:	14.3	
Plant and Materials for payment when shipped:	14.6(b)(i)	
Plant and Materials for payment when delivered to the Site:	14.6(c)(i)	
Minimum Amount of Interim Payment Certificate applicable for the Design-Build. Minimum Amount of Interim Payment Certificate applicable for the Operation Service.	14.7(b)	
Financing charges for delayed payment:	14.9	
Currencies for payment of Contract Price: <i>[or reference Schedule of Payments]</i>	14.17	

Conditions	Sub-Clause	Data
Proportions of Local and Foreign Currencies are: <i>[or reference Schedule of Payments]</i>	14.17	
Rate of Exchange <i>[or reference Schedule of Payments]</i>	14.17	
Currencies of Payment of damages shall be: During the Design-Build During the Operation Service:	14.17	<i>[insert currencies or reference Schedule of Performance Damages]</i>
Amount of Maintenance Retention Fund:	14.19	
Operation of forces of nature allocated to the Contractor:	17.1 b (iii)	
Maximum total liability of the Contractor shall not exceed:	17.8	
Permitted deductible limits:	19.2(a)(i)	
Additional sum to be insured:	19.2(a)(ii)	
Employer's Risks to be insured if different to Sub-Clause 17.1:	19.2(a)4	
Exceptional Risks to be insured if different to Sub-Clause 18.1:	19.2(a)5	
Insurance of Contractor's Equipment (minimum amount required):	19.2(b)	<i>[insert amount of insurance]</i>
Minimum amount of professional liability insurance required:	19.2(c)	<i>[insert amount of insurance]</i>
Period for which professional liability insurance required:	19.2(c)	

Conditions	Sub-Clause	Data
Minimum amount of insurance required for injury to persons and damage to property:	19.2(d)	<i>[insert amount of insurance]</i>
Other insurances required from the Contractor (give details):	19.2(f)	
Minimum amount of fire extended cover insurance required:	19.3(a)	<i>[insert amount of insurance]</i>
Minimum amount of insurance required to cover injury to any person and damage to property:	19.3(b)	<i>[insert amount of insurance]</i>
Other insurances required by law from the Contractor (give details):	19.3(d)	
Other optional insurances required from the Contractor (give details):	19.3(e)	
Date of appointment of DB:	20.3	28 days after the Commencement Date
The DB shall be comprised of:	20.3	<i>Either: one sole Member Or: three Members</i>
List of potential DB sole members:	20.4	<i>[only when the DB is to be comprised of one sole member, list names of potential sole members; if no potential sole members are to be included, insert: "none"]</i>
Appointing entity (official) for DB members, if not agreed between Parties:	20.4	<i>[Insert name of the appointing entity or official]</i>
Rules of arbitration:	20.8 (a)	<i>[Insert rules of arbitration if different from those of the International Chamber of Commerce]</i>
Place of arbitration	20.8 (a)	<i>[Insert a neutral location, as appropriate to the applicable arbitration rules]</i>

Particular Conditions of Contract

Part B- Specific Provisions

- Sub-Clause 1.1.11** **Contract Agreement:**
“if any” is deleted.
- Sub-Clause 1.1.21** **Key Personnel**
The following is added at the end of the sub-clause:
“Contractor’s Personnel includes Key Personnel as named in Part A - Contract Data.”
- Sub-Clause 1.1.27** **DAB**
the whole Sub-Clause is replaced with:
“DB means the person or three persons appointed under Sub-Clause 20.3 [Appointment of the Dispute Board] or Sub-Clause 20.4 [Failure to Agree on the Composition of the Dispute Board] or Sub-Clause 20.10 Disputes Arising under the Operation Service Period.
- Sub-Clause 1.1.49** **Letter of Tender**
After “entitled letter of tender”, “or letter of Proposal” is added.
- Sub-Clause 1.1.72** **Site**
After “are to be executed”, “, including storage and working areas,” is added.
- Sub-Clause 1.1.84** **Accepted Contract Amount for the Design Build**
The following is added as a new Sub-Clause:
“1.1.84 “**Accepted Contract Amount for the Design Build**” means the amount accepted in the Letter of Acceptance for the Design-Build of the Works;”
- Sub-Clause 1.1.85** **Accepted Contract Amount for the Operation Service**
The following is added as a new Sub-Clause:
“1.1.85 “**Accepted Contract Amount for the Operation Service**” means the amount accepted in the Letter of Acceptance for the provision of the Operation Service, including the amount of the Asset Replacement Fund;”

- Sub-Clause 1.1.86** **Bank**
Added
“1.1.86 **“Bank”** means The International Bank for Reconstruction and Development and/or the International Development Association (whether acting on its own account or in its capacity as administrator of trust funds provided by other donors.”
- Sub-Clause 1.1.87** Added
“**1.1.87 “Borrower”** means the borrower or recipient of Bank’s Investment Project Financing (IPF) identified in the Contract Data.”
- Sub-Clause 1.1.88** **EMP**, the following is added as a new Sub-Clause:
“1.1.88 **“EMP”** means the Environmental Management Plan;”
- Sub-Clause 1.1.89** **Existing Facilities**: the following is added as a new Sub-Clause:
“1.1.89 **“Existing Facilities”** means the existing plant, equipment, buildings and other assets at the Site to be taken over and operated by the Contractor as further described in the Employer’s Requirements;”
- Sub-Clause 1.1.90** **Notice of Dissatisfaction**: the following is added as a new Sub-Clause
“1.1.90 **“Notice of Dissatisfaction”** means the notice given by either party to the other under Sub-Clause 20.4 [Obtaining Dispute Board’s Decision] indicating its dissatisfaction and intention to commence arbitration.”
- Sub-Clause 1.1.91** **Performance Standards**: the following is added as a new Sub-Clause:
“1.1.91 **“Performance Standards”** means the standards to be achieved by the Contractor during the Operations Period and includes the standards specified in the Schedule of Performance Standards;”
- Sub-Clause 1.1.92** **Schedule of Performance Standards**: the following is added as a new Sub-Clause:
“1.1.92 **“Schedule of Performance Standards”** means the schedule attached to the Contract Agreement specifying the core output Performance Standards to be achieved by the Works and the Contractor at commissioning and during the Operation Service Period;”
- Sub-Clause 1.1.93** **Schedule of Performance Damages**: the following is added as a new Sub-Clause:
“1.1.93 **“Schedule of Performance Damages”** means the schedule attached to the Contract Agreement which specifies the amounts of

damages payable by the Contractor in respect of a breach of the standards specified in the Schedule of Performance Standards”;

Sub-Clause 1.1.94**Influent**

The following is added as a new Sub-Clause:

“1.1.94 **“Influent”** means the untreated water/ wastewater entering the Works at the delivery point to the Works).”

Sub-Clause 1.1.95**Influent**

The following is added as a new Sub-Clause:

“**1.1.95 “Influent Baseline”** means the quality characteristics of the untreated Influent as set out in the Employer Requirements, used as the baseline for the design of the Works;”

Sub-Clause 1.1.96

the following is added as a new Sub-Clause:

“**1.1.6.96 “ESHS”** means environmental, social (including sexual exploitation and abuse (SEA) and gender based violence (GBV)), health and safety.

Sub-Clause 1.2**1.2 Interpretation**

The following is added as a new sub- clause:

Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of the Parties thereunder shall be prescribed by Incoterms. Incoterms means international rules for interpreting trade terms published by the International Chamber of Commerce (latest edition), 38 Cours Albert 1er, 75008 Paris, France.

Sub Clause 1.2(g)**Tender**

The following is added as a new sub-clause:

(e) “the word “tender” is synonymous with “Proposal” and “tenderer” with “Proposer” and the words “tender documents” with “request for proposal documents”.

Sub-Clause 1.3**Communications**

In the third line “, discharges” is added after “requests.”

Sub-Clause 1.4**Law and Language**

the whole Sub-Clause is replaced with the following in its entirety:

“**1.4 Law and Language**

The second sentence is deleted and replaced by:

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

Sub-Clause 1.6 Contract Agreement

in the second line “unless they agree otherwise” is replaced with “unless the Particular Conditions establish otherwise.”

Sub-Clause 1.7 Operating License

Delete the first paragraph and replace with the following:

“In consideration of the Contractor’s performance of the Operation Service, from the date of commencement of the Operation Service the Employer grants to the Contractor for the Operation Service Period, the exclusive right, license and authority to occupy, use and enjoy the Site free of charge and free and clear of all claims for the purposes of carrying the Operation Services.

Together with the Letter or Acceptance, the Employer shall, where necessary, issue, or cause to be issued, to the Contractor the Operating License or equivalent legal authorization to enable the Contractor to operate and maintain the Works during the Operation Service Period.”

This Operating License shall come into full force and effect upon the issue of the Commissioning Certificate required under Clause 11.7 and shall remain in force during the Operation Service Period.”

Sub-Clause 1.8 Assignment

The whole sub-clause is replaced with the following:

- “(a) Except as provided in (b), (c) and (d) below, neither Party shall assign the whole or any part of the Contract or any benefit or interest in or under the Contract without the consent of the other Party.
- (b) The Contractor may as security in favour of a bank or financial institution, assign its right to any monies due, or to become due, under the Contract.
- (c) During the Operation Service Period, the Employer may assign the whole of the Contract to the agency, if any, specified in the Contract Data subject to the following:
 - (i) The Employer shall provide at least 90 days’ written notice to the Contractor of its intention to assign the Contract. Such notice shall specify the financial arrangements that have been made for payment of the Contract Price to the Contractor.

- (ii) The Employer shall not assign the Contract until reasonable evidence has been provided to the Contractor that financial arrangements have been made, and will be maintained, which will enable the agency to pay the Contract Price punctually.
- (d) Where the Contractor is composed of a joint venture, no joint venture member shall assign or novate its interest in the Contract or the joint venture until the second anniversary of the date of the Commissioning Certificate. Following the second anniversary of the issue of the Commissioning Certificate a joint venture party that is not the lead member of the joint venture may assign its interest to the other partners to the joint venture on the consent of the Employer, such consent not to be unreasonably withheld.
- (e) Where the Contractor is an SPV, no member of the SPV shall assign its holding in the SPV until the second anniversary of the date of the Commissioning Certificate. Following the second anniversary of the issue of the Commissioning Certificate a member of the SPV on the consent of the Employer, such consent not to be unreasonably withheld, dilute its shareholding in the SPV to the percentage stated in the request for proposal documents.

Sub-Clause 1.9**Care and Supply of Documents**

“of a technical nature” is deleted from the last paragraph.

Sub-Clause 1.13**Confidential Details**

Sub-Clause 1.13 is replaced with the following in its entirety:

“1.13 Confidential Details

The Contractor’s Personnel and the Employer’s Personnel shall disclose all such confidential and other information as may be reasonably required in order to verify compliance with the Contract and allow its proper implementation.

Each of them shall treat the details of the Contract as private and confidential, except to the extent necessary to carry out their respective obligations under the Contract or to comply with applicable Laws. Each of them shall not publish or disclose any particulars of the Works prepared by the other Party without the previous agreement of the other Party. However, the Contractor shall be permitted to disclose any publicly available information, or information otherwise required to establish his qualifications to compete for other projects.

Sub-Clause 1.14**Compliance with Laws**

At the end of (b), “failure to do so.” Is replaced with “failure to do so, unless the Contractor is impeded to accomplish these actions and shows evidence of its diligence.”

Sub-Clause 1.15.2

Joint and Several Liability

Before “If the Contractor constitutes” add “1.15.1”.

[1.15.2 If the Contractor is an SPV, throughout the Contract Period, the Contractor shall be bound to maintain its share capital at a minimum level of set out in the Contract Data of the total paid up share capital of the Contractor. The share capital may be increased without the Employer’s prior approval but a written notice of information shall be sent to the Employer. Any reduction of the Contractor’s share capital shall be subject to the prior written consent of the Employer.

1.15.2 The Lead Member who holds at least fifty-one percent (51%) of the subscribed and paid up equity of the Contractor at the Commencement Date shall continue holding at least fifty-one percent (51%) of the subscribed and paid up equity of the Contractor for a period up to the second anniversary of the date of the Commissioning Certificate, [and at least twenty-six percent (26%) for the following five (5) years] subject to the transferee having similar experience to the Lead Member and the approval of the Employer¹.

1.15.3 The other Members who hold less than forty-nine percent (49%) of the subscribed and paid up equity of the Contractor at the Commencement Date shall continue holding the same percentage of the subscribed and paid up equity of the Concessionaire up to the second anniversary of the date of the Commissioning Certificate.²

Sub-Clause 1.16

Inspections and Audit by the Bank

Add the following:

“1.15 Inspections and Audit by the Bank

Pursuant to paragraph 2.2 e. of Appendix B to the General Conditions, the Contractor shall permit and shall cause its subcontractors and sub-consultants 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 sub-consultants’ attention is drawn to Sub-Clause 15.6 (Fraud and Corruption) which provides, inter alia, that acts intended to materially impede the exercise of the Bank’s inspection and audit rights

¹ This depends on the project

² If permitted by Employer – typically for DBOs of longer contract duration

constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to the Bank’s prevailing sanctions procedures).”

Sub-Clause 2.4**Employer’s Financial Arrangements**

The Sub-Clause is replaced with the following:

“2.4 Employer’s Financial Arrangements

The Employer shall submit, before the Commencement Date and thereafter 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 Contract Price punctually (as estimated at that time) in accordance with Clause 14 [Contract Price and Payment]. 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 Works, 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 Employer’s Representative, 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 his Notice of the extent to which such funds will be available.”

Sub-Clause 3.1**Employer’s Representative’s Duties and Authority****“3.1 Employer’s Representative’s Duties and Authority”**

the following shall be added to the end of the third paragraph:

“The Employer shall promptly inform the Contractor of any change to the authority attributed to the Employer’s Representative.”

Paragraph 3.1(c) is followed by:

“and

- (d) any act by the Employer’s Representative in response to a Contractor’s request except as otherwise expressly specified shall be notified in writing to the Contractor within 28 days of receipt.”

The following provisions apply thereafter:

“The Employer’s Representative shall obtain the specific approval of the Employer before taking action under the-following Sub-Clauses of these Conditions:

- (a) Sub-Clause 4.12: agreeing or determining an extension of time and/or additional cost.
- (b) Sub-Clause 13.1: instructing a Variation, except;
 - (i) in an emergency situation as determined by the Employer’s Representative, or
 - (ii) if such a Variation would increase the Accepted Contract Amount by less than the percentage specified in the Contract Data.
- (c) Sub-Clause 13.3: Approving a proposal for Variation submitted by the Contractor in accordance with Sub Clause 13.1 or 13.2.
- (d) Sub-Clause 13.4: Specifying the amount payable in each of the applicable currencies

Notwithstanding the obligation, as set out above, to obtain approval, if, in the opinion of the Employer’s Representative, an emergency occurs affecting the safety of life or of the Works or of adjoining property, he may, without relieving the Contractor of any of his duties and responsibility under the Contract, instruct the Contractor to execute all such work or to do all such things as may, in the opinion of the Employer’s Representative, be necessary to abate or reduce the risk. The Contractor shall forthwith comply, despite the absence of approval of the Employer, with any such instruction of the Employer’s Representative. The Employer’s Representative shall determine an addition to the Contract Price, in respect of such instruction, in accordance with Clause 13 and shall notify the Contractor accordingly, with a copy to the Employer.”

Sub-Clause 3.3

Instructions of the Employer’s Representative

The last sentence in the second paragraph starting: “These instructions shall be given in writing.” is replaced with: “Whenever practicable, their instructions shall be given in writing. If the Employer’s Representative or a delegated assistant:

- (a) gives an oral instruction,
- (b) receives a written confirmation of the instruction, from (or on behalf of) the Contractor, within two working days after giving the instruction, and
- (c) does not reply by issuing a written rejection and/or instruction within two working days after receiving the confirmation,

then the confirmation shall constitute the written instruction of the Employer's Representative or delegated assistant (as the case may be).”

Sub- Clause 3.4**Replacement of the Employer's Representative**

Replace the sub-clause with the following:

“3.4 Replacement of the Employer's Representative

If the Employer intends to replace the Employer's Representative, the Employer shall, not less than 21 days before the intended date of replacement, give notice to the Contractor of the name, address and relevant experience of the intended replacement Employer's Representative. If the Contractor considers the intended replacement Employer's representative to be unsuitable, he has the right to raise objection against him by notice to the Employer, with supporting particulars, and the Employer shall give full and fair consideration to this objection.”

Sub- Clause 3.5**Determinations**

In the second paragraph replace the first sentence with: “The Employer's Representative shall give notice to both Parties of each agreement or determination, with supporting particulars, within 28 days from the receipt of the corresponding claim or request except when otherwise specified.”

Sub-Clause 4.1**Contractor's General Obligations**

At the end of the second paragraph, the following is added: “All equipment, material, and services to be incorporated in or required for the Works shall have their origin in any eligible source country as defined by the Bank.”

Insert in the fifth paragraph after the sentence “*The Contractor shall, whenever required by the Employer's Representative, submit details of the arrangements and methods which the Contractor proposes to adopt for the execution of the Works.*”

“Notwithstanding Sub-Clause 8.1, the Contractor shall not carry out works, including mobilization and/or pre-construction activities (e.g. limited clearance for haul roads, site accesses and work site establishment, geotechnical investigations or investigations to select ancillary features such as quarries and borrow pits), unless the Employer's Representative is satisfied that appropriate measures are in place to address environmental, social, health and safety risks and impacts. The Contractor shall submit, on a continuing basis, for the Employer's Representative's prior approval, a Contractor's Environmental and Social Management Plan (C-ESMP) to manage

the ESHS risks and impacts of the Works. The C-ESMP shall be approved prior to the commencement of construction activities (e.g. excavation, earth works, bridge and structure works, stream and road diversions, quarrying or extraction of materials, concrete batching and asphalt manufacture). The approved C-ESMP shall be reviewed, periodically (but not less than every six (6) months), and updated in a timely manner, as required, by the Contractor to ensure that it contains measures appropriate to the Works activities to be undertaken. The updated C-ESMP shall be subject to prior approval by the Employer’s Representative.”

Sub-Clause 4.2

Performance security

Add in the first paragraph second line after “of the Contract” “and, if applicable, an Environmental, social, Safety and Health (ESHS) Performance Security³ for compliance with the contractor’s ESHS obligations”.

Delete the third paragraph and replace with the following:

“The Contractor shall deliver the Performance Security and, if applicable⁴, an ESHS Performance Security, to the Employer within 28 days after receiving the Letter of Acceptance, and shall send a copy to the Engineer. The Performance Security and, if applicable, ESHS Performance Security, shall be issued by a reputable bank or financial institution selected by the Contractor, and shall be in the form annexed to the Particular Conditions, as stipulated by the Employer in the Contract Data, or in another form approved by the Employer.”

In the fourth, sixth [and seventh] paragraphs, references to “Performance Security” shall include references to “ESHS Performance Security” if applicable.

Delete the fifth paragraph and replace with:

“The Employer shall not make a claim under the Performance Security or the ESHS Performance Security, as applicable, except for amounts to which the Employer is entitled under the Contract.”

At the end of the sub-clause, add

“Without limitation to the provisions of the rest of this Sub-Clause, whenever the Employer’s Representative determines an addition or a reduction to the Contract Price as a result of a change in cost and/or legislation, or as a result of a Variation, amounting to more than 25

³ Whether ESHS Performance Security would be applicable and appropriate and whether it would need to be extended beyond Design Build Period should be discussed with World Bank task team leader and the ESHS specialist assigned to the Project. If separate ESHS Performance Security is appropriate, then the sum of the ESHS Performance Security and Performance Security should fall within the overall World Bank guidance of 10% of Contract Amount during the Design Build Period, and reduce over the Operation Service period.

⁴ See footnote 20

percent of the portion of the Contract Price payable in a specific currency, the Contractor shall at the Employer's Representative's request promptly increase, or may decrease, as the case may be, the value of the Performance Security [⁵and the ESHS Performance Security] in that currency by an equal percentage.”

After the seventh sub-clause, add:

“Without limitation to the provisions of the rest of this Sub-Clause, whenever the Employer's Representative determines an addition or a reduction to the Contract Price as a result of a change in cost and/or legislation, or as a result of a Variation, amounting to more than 25 percent of the portion of the Contract Price payable in a specific currency, the Contractor shall at the Employer's Representative's request promptly increase, or may decrease, as the case may be, the value of the Performance Security in that currency by an equal percentage.”

At the end of this Sub Clause 4.2:

“If specified in the Contract Data the Contractor shall obtain at his cost an Environmental, Social, Safety and Health (ESHS) Performance Security⁶ for compliance with the Contractor's ESHS obligations during the Design-Build Period in the amounts and currencies set out in the Contract Data.

The Contractor shall deliver the ESHS Performance Security to the Employer within 28 days after receiving the Letter of Acceptance, and shall send a copy to the Employer's Representative. The ESHS 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, as stipulated by the Employer in the Contract Data, or in another form approved by the Employer.

The Contractor shall ensure that the ESHS Performance Security is valid and enforceable until the issue of the Commissioning Certificate. If the terms of the Performance Security specify its expiry date, and the Contractor has not become entitled to receive the Commissioning Certificate by the date 28 days prior to the expiry date, the Contractor shall extend the validity of the ESHS Performance Security until the Contractor has been entitled to receive the Commissioning Certificate. Failure by the Contractor to maintain the validity of the ESHS Performance Security shall be grounds for termination in accordance with Sub-Clause 15.2 [Termination for Contractor's Default].

⁵ See footnote 20

⁶ See footnote 20

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

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 which the Employer was not entitled to make.

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

In the following General Conditions sub-clauses references to “Performance Security” shall include references to “ESHs Performance Security, as applicable”:

2.1- Right of Access to the Site

14.7- Issue of Interim Payment Certificate

14.8(a)- Payment

14.14- Discharge

15.2(a)- Termination

15.5- Employer’s Entitlement to Termination

16.4(a)- Payment on termination”.

Sub-Clause 4.3

Contractor’s Representative

The following sentence is added at the end of the Sub-Clause: “If the Contractor’s Representative’s delegates 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.”

Sub-Clause 4.4

Subcontractors

In (a), “solely of” is added after: “suppliers”. The following is added at the end of the Sub-Clause: “The Contractor shall ensure that the requirements imposed on the Contractor by Sub-Clause 1.13 [Confidential Details} apply equally to each Subcontractor. Where practicable, the Contractor shall give fair and reasonable opportunity for contractors from the Country to be appointed as Sub-Contractors.”

Sub-Clause 4.6

Co-operation

in the second paragraph “to suffer delays and/or” is added before “to incur Unforeseeable Cost.”

Sub-Clause 4.12

Unforeseeable Physical Conditions

The last paragraph is replaced with: “The Employer’s Representative shall take account of any evidence of the physical conditions foreseen by the Contractor when submitting the Tender, which shall be made available by the Contractor, but shall not be bound by the Contractor’s interpretation of any such evidence.”

Sub-Clause 4.13**Rights of Way and Facilities**

The sub-clause is replaced with the following: “Unless otherwise specified in the Contract the Employer shall provide effective access to and possession of the Site including special and/or temporary rights-of-way which are necessary for the Works. The Contractor shall obtain, at his risk and cost, any additional rights of way or facilities outside the Site which he may require for the purposes of the Works.”

Sub-Clause 4.15**Access Route**

“at Base Date” is added at the end of the first sentence.

Sub-Clause 4.18**Protection of the Environment**

In the last sentence “and shall not breach the limits prescribed by applicable laws” is replaced with “or prescribed by applicable Laws.”

At the end of the Sub-clause add: “The Contractor’s obligations with respect to the preparation and implementation of the Environmental Management Plan (hereinafter the “EMP”) shall be as detailed in the Employer’s Requirements. The Contractor shall at all times comply with the conditions of the approved EMP. Unless stated otherwise in the Contract Data, the Contract Price shall be deemed to include all things necessary to meet the requirements of the EMP.”

Sub-Clause 4.21**Progress Reports**

Sub-Clause 4.21 (g) is replaced by the following:

“**4.21 (g)** the Environmental, Social, Health and Safety (ESHS) metrics set out in Appendix C;”

At the end of, and as part of Sub-Clause 4.21 add a new paragraph as follows:

“**4.21** The Contractor shall provide immediate notification to the Employer’s Representative of incidents in the following categories. Full details of such incidents shall be provided to the Employer’s Representative within the timeframe agreed with the Employer’s Representative.

- (d) confirmed or likely violation of any law or international agreement;
- (e) any fatality or serious (lost time) injury;

- (f) significant adverse effects or damage to private property (e.g. vehicle accident, damage from fly rock, working beyond the boundary)
- (g) major pollution of drinking water aquifer or damage or destruction of rare or endangered habitat (including protected areas) or species; or
- (h) any allegation of sexual exploitation or abuse, gender-based violence (GBV), sexual harassment or sexual misbehavior, rape, sexual assault, child abuse or defilement, or other violations involving children.”

Sub-Clause 4.26

Demolition: add the following Sub-Clause:

“The Contractor shall not demolish any building or structure except where specified in the Employer’s Requirements, or with the prior written approval of the Employer’s Representative.

The conditions for the re-use, sale and disposal of demolished materials shall be as specified in the Employer Requirements.”

Sub-clause 4.27

Existing Facilities: Add the following Sub-Clause:

“The Contractor shall take over, rehabilitate, upgrade, operate and maintain the Existing Facilities to the extent specified in the Employer’s Requirements.

Unless stated otherwise in the Employer’s Requirements, the Contractor shall provide, and pay for, all labour, equipment, materials (including spare parts and consumables), and electricity necessary to operate and maintain the Existing Facilities.

During the Design-Build Period,

- (a) the Contractor shall use all reasonable endeavors to meet the standards of performance specified for the Existing Facilities in the Employer’s Requirements;
- (b) The Employer shall indemnify and hold harmless the Contractor against any and all claims made against it in respect of the operation of the Existing Facilities to the extent that the condition or design of the Existing Facilities renders them unable to meet the applicable performance standards.”

As at the date of commencement of the Operation Service the Existing Facility, unless specified otherwise in the Employer’s Requirements, will be deemed to form part of the Works, and all references in the Contract to Works, Permanent Works, Plant and Site etc. shall be deemed to include the Existing Facilities.

Sub-Clause 6.1 Engagement of Staff and Labour

At the end of the Sub-Clause add after “transport”:

“and, when appropriate, housing.

The Contractor is encouraged, to the extent practicable and reasonable, to employ staff and labour with appropriate qualifications and experience from sources within the Country.”

Sub-Clause 6.2 Rates of Wages and Conditions of Labour

The following paragraph is added: “The Contractor shall inform the Contractor’s Personnel about their liability to pay personal income taxes in the Country in respect of such of their salaries, wages, allowances and any benefits as are subject to tax under the Laws of the Country for the time being in force, and the Contractor shall perform such duties in regard to such deductions thereof as may be imposed on him by such Laws.”

Sub-Clause 6.7 Health and Safety

The following three paragraphs are added:

“HIV-AIDS Prevention. The Contractor shall conduct an HIV-AIDS awareness program via an approved service provider, and shall undertake such other measures as are specified in this Contract to reduce the risk of the transfer of the HIV virus between and among the Contractor’s Personnel and the local community, to promote early diagnosis and to assist affected individuals.

The Contractor shall throughout the contract (including the Defects Notification Period): (i) conduct Information, Education and Communication (IEC) campaigns, at least every other month, addressed to all the Site staff and Labour (including all the Contractor’s employees, all Subcontractors and any other Contractor’s or Employer’s personnel employees, and all truck drivers and crew making deliveries to Site for construction activities) and to the immediate local communities, concerning the risks, dangers and impact, and appropriate avoidance behavior with respect to, of Sexually Transmitted Diseases (STD) - or Sexually Transmitted Infections (STI) in general and HIV/AIDS in particular; (ii) provide male or female condoms for all Site staff and labour as appropriate; and (iii) provide for STI and HIV/AIDS screening, diagnosis, counselling and referral to a dedicated national STI and HIV/AIDS program, (unless otherwise agreed) of all Site staff and labour.

The Contractor shall include in the program to be submitted for the execution of the Works under Sub-Clause 8.3 an alleviation programme for Site staff and labour and their families in respect of Sexually Transmitted Infections (STI) and Sexually Transmitted

Diseases (STD) including HIV/AIDS. The STI, STD and HIV/AIDS alleviation programme shall indicate when, how and at what cost the Contractor plans to satisfy the requirements of this Sub-Clause and the related Employer's Requirements. For each component, the programme shall detail the resources to be provided or utilized and any related sub-contracting proposed. The programme shall also include provision of a detailed cost estimate with supporting documentation. Payment to the Contractor for preparation and implementation this programme shall not exceed the Provisional Sum dedicated for this purpose."

Sub-Clause 6.9

Contractor's personnel

Or at the end of (c) is deleted and the following is added as (e) and (f):

- "(e) based on reasonable evidence, is determined to have engaged in Fraud and Corruption during the execution of the Works; or
- (f) Undertakes behavior which breaches the Code of Conduct (ESHS) (e.g. spreading communicable diseases, sexual harassment, gender-based violence (GBV), sexual exploitation or abuse, illicit activity or crime)."

After the sentence: "*If appropriate, the Contractor shall then appoint (or cause to be appointed) a suitable replacement person.*" the following is added as a new paragraph:

"The Contractor's Personnel includes Key Personnel. If the Contractor intends to replace a Key Personnel, the Contractor shall, not less than 30 days before the intended date of replacement, give notice to the Employer's Representative, the name, address, academic qualifications and relevant experience of the intended replacement Key Personnel. The Contractor shall not, without the prior consent of the Employer's Representative, revoke the appointment of the Key Personnel or appoint a replacement."

Sub-Clause 6.12 – 6.24 Staff and Labour

The following additional sub-clauses added:

"6.12 Foreign personnel

The Contractor may bring in to the Country any foreign personnel who are necessary for the execution of the Works to the extent allowed by the applicable Laws. 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 endeavors in a timely and expeditious manner to assist the Contractor in obtaining any local, state, and 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.

6.13 Supply of Food stuffs

The Contractor shall arrange for the provision of a sufficient supply of suitable food as may be stated in the Employer's Requirements at reasonable prices for the Contractor's Personnel for the purposes of or in connection with the Contract.

6.14 Supply of Water

The Contractor shall, having regard to local conditions, provide on the Site an adequate supply of drinking and other water for the use of the Contractor's Personnel.

6.15 Measures against Insect and Pest Nuisance

The Contractor shall at all times take the necessary precautions to protect the Contractor's Personnel employed on the Site from insect and pest nuisance, and to reduce the danger to their health. The Contractor shall comply with all the regulations of the local health authorities, including use of appropriate insecticide.

6.16 Alcoholic Liquor or Drugs

The Contractor shall not, otherwise than in accordance with the Laws of the Country, import, sell, give, barter or otherwise dispose of any alcoholic liquor or drugs, or permit or allow importation, sale, gift, barter or disposal thereof by Contractor's Personnel.

17 Arms and Ammunition

The Contractor shall not give, barter, or otherwise dispose of, to any person, any arms or ammunition of any kind, or allow Contractor's Personnel to do so

6.18 Festivals and religious Customs

The Contractor shall respect the Country's recognized festivals, days of rest and religious or other customs.

6.19 Funeral Arrangements

The Contractor shall be responsible, to the extent required by local regulations, for making any funeral arrangements for any of his local employees who may die while engaged upon the Works.

6.20 Prohibition of Forced or Compulsory Labour

The Contractor shall not employ forced labour, which consists of any work or service, not voluntarily performed, that is exacted from an

individual under threat of force or penalty, and includes any kind of involuntary or compulsory labour, such as indentured labour, bonded labour or similar labour -contracting arrangements.

6.21 Prohibition of Harmful Child Labour

The Contractor shall not employ children in a manner that is economically exploitative, or is likely to be hazardous, or to interfere with, the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development. Where the relevant labour laws of the Country have provisions for employment of minors, the Contractor shall follow those laws applicable to the Contractor. Children below the age of 18 years shall not be employed in dangerous work.

6.22 Employment Records of Workers

The Contractor shall keep complete and accurate records of the employment of labour at the Site. The records shall include the names, ages, genders, hours worked and wages paid to all workers. These records shall be summarized on a monthly basis and submitted to the Employer's Representative. These records shall be included in the details to be submitted by the Contractor under Sub-Clause 6.10 [Records of Contractor's Personnel and Equipment].

6.23 Workers' Organizations

In countries where the relevant labour laws recognize workers' rights to form and to join workers' organizations of their choosing without interference and to bargain collectively, the Contractor shall comply with such laws. Where the relevant labour laws substantially restrict workers' organizations, the Contractor shall enable alternative means for the Contractor's Personnel to express their grievances and protect their rights regarding working conditions and terms of employment. In either case described above, and where the relevant labour laws are silent, the Contractor shall not discourage the Contractor's Personnel from forming or joining workers' organizations of their choosing or from bargaining collectively, and shall not discriminate or retaliate against the Contractor's Personnel who participate, or seek to participate, in such organizations and bargain collectively. The Contractor shall engage with such workers' representatives. Workers' organizations are expected to fairly represent the workers in the workforce.

6.24 Non-Discrimination and Equal Opportunity

The Contractor shall not make employment decisions on the basis of personal characteristics unrelated to inherent job requirements. The Contractor shall base the employment relationship on the principle of equal opportunity and fair treatment, and shall not discriminate with respect to aspects of the employment relationship, including

recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, promotion, termination of employment or retirement, and discipline. In countries where the relevant labour laws provide for non-discrimination in employment, the Contractor shall comply with such laws. When the relevant labour laws are silent on non-discrimination in employment, the Contractor shall meet this Sub-Clause's requirements. Special measures of protection or assistance to remedy past discrimination or selection for a particular job based on the inherent requirements of the job shall not be deemed discrimination."

Sub-Clause 7.4**Testing**

The second paragraph shall start as: "Except as otherwise specified in the Contract, the Contractor shall....".

Sub-Clause 7.7**Ownership of Plant and Materials**

The first paragraph shall start as: "Except as otherwise specified in the Contract," Further in each of point (b) and (c), "when the Contractor is entitled to payment of the value" is replaced with "when the Contractor is paid the corresponding value".

The following is added at the end of the sub-clause:

"For the avoidance of doubt, vehicles, trucks, mobile plant and site equipment (other than temporary mobile plant and temporary site equipment brought onto the site to undertake specific remedial tasks), tools, office equipment, software and office consumables used by the Contractor for the Operation Service shall become the property of the Employer. Vehicles used for personal transportation of the Contractor's Personnel and computers and mobile devices allocated for the personal use of the Contractor's Personnel shall be Contractor's Equipment.

The Contractor shall maintain up-to-date inventories of the Contractor's Equipment, Materials and Temporary Works throughout the term of the Contract."

Sub-Clause 8.1**Commencement of Work**

The sub-clause is replaced in its entirety with the following:

"8.1 Commencement of Work

Except as otherwise specified in the Contract, the Commencement Date shall be the date at which the following precedent conditions have all been fulfilled and the Employer's Representative's notification recording the agreement of both Parties on such fulfilment and instructing to commence the Work is received by the Contractor:

- (a) signature of the Contract Agreement by both Parties, and if required, approval of the Contract by relevant authorities of the Country;
- (b) delivery to the Contractor of reasonable evidence of the Employer’s financial arrangements (under Sub-Clause 2.4 [Employer’s Financial Arrangements]);
- (c) except if otherwise specified in the Contract Data, effective access to and possession of the Site given to the Contractor together with such permission(s) under (a) of Sub-Clause 1.14 [Compliance with Laws] as required for the commencement of the Works
- (d) receipt by the Contractor of the Advance Payment under Sub-Clause 14.2 [Advance Payment] provided that the corresponding bank guarantee has been delivered by the Contractor.

If the said Employer’s Representative’s instruction is not received by the Contractor within 180 days from his receipt of the Letter of Acceptance, the Contractor shall be entitled to terminate the Contract under Sub-Clause 16.2 [Termination by Contractor].

The Contractor shall commence the execution of the Works as soon as is reasonably practicable after the Commencement Date, and shall then proceed with the Works with due expedition and without delay.”

Sub-Clause 9.5

Rate of Progress

The following is added as the last paragraph of the sub- clause:

“Additional costs of revised methods including acceleration measures, instructed by the Employer’s Representative to reduce delays resulting from causes listed under Sub-Clause 8.4 [Extension of Time for Completion] shall be paid by the Employer, without generating, however, any other additional payment benefit to the Contractor.”

Sub-Clause 9.11

Resumption of Work

The following is added at the end of the sub-clause after “suspension”:

“after receiving from the Employer’s Representative an instruction to this effect under Clause 13 [Variations and Adjustments].”

Sub-Clause 10.1

General Requirements:

Add the following after Operation Management Requirements: “, and Performance Standards.”

Sub-Clause 10.1 General Requirements:

Replace the second paragraph with the following:

“The Contractor shall follow the requirements of the operation and maintenance manuals and any additional Operation Service plans and manuals, prepared by the Contractor in accordance with the Operation Management Requirements. No significant alteration to such arrangements and methods shall be made without the prior approval of the Employer's Representative.”

Sub-Clause 10.2**Commencement of Operation Service:**

Replace the first paragraph with the following:

“Unless otherwise stated in the Contract Data, the date of commencement of the Operation Service shall be the date seven days following the date of issuance of the Commissioning Certificate issued under Sub-Clause 11.7 [Commissioning Certificate], or such earlier date the Parties may agree to.”

Sub-Clause 10.4**Delivery of Raw Materials**

In the first paragraph, delete “Employer’s Requirements” and replace with “Contract Data”.

Sub-Clause 10.6**Delays and Interruptions during the Operation Service:**

Replace sub-paragraph (a) with the following

- (a) If there are any delays or interruptions during the Operation Service which are caused by the Contractor or by a cause for which the Contractor is responsible, the Contractor, subject to Sub-Clause 3.5 [*Determinations*], shall pay the Employer the performance damages for delay and interruptions specified in the Schedule of Performance Damages. The Employer shall be entitled to recover the amounts due by making corresponding deductions from the payments due to the Contractor. However, the amount of Performance Damages in any contract year of the Operation Service, and the total amount of Performance Damages payable by the Contractor to the Employer, shall not exceed the amounts stated in the Contract Data.

There will be no extension of the period of the Operation Service as a result of any such delay or interruption.

If a delay or interruption results in a failure to meet Performance Standards and the Contractor is also liable to pay performance damages pursuant to Sub-Clause 10.7, then damages shall not be imposed under both clauses, and the Employer shall determine whether to impose damages under this Sub-Clause 10.6 (a) or under Sub-Clause 10.7.

Sub-Clause 10.7

Failure to Reach Production Outputs: replace title with “Failure to Meet Performance Standards” and replace entire sub-clause with the following:

In the event that the Contractor fails to achieve the Performance Standards required under the Contract, the Parties shall jointly establish the cause of such failure.

- (a) If the failure is due to the Employer or any of his servants or agents, then, after consultation with the Contractor, the Employer shall give written instruction to the Contractor of the measures which the Employer requires the Contractor to take.

If the Contractor suffers any additional cost as a result of the failure or the measures instructed by the Employer, the Employer, subject to Sub-Clause 3.5 [*Determinations*] and Sub-Clause 20.1 [*Contractor's Claims*], shall pay the Contractor his Cost Plus Profit.

- (b) If the failure is due to the Contractor then, after due consultation with the Employer, the Contractor shall at its own expense make any changes, modifications or additions to the Works, to its operating procedures, and to the Contractor's Personnel, as may be necessary to bring the Works and Operation Service into compliance with the Performance Standards.

If the failure relates to a Performance Standard for which damages are specified in the Schedule of Performance Damages, then the Contractor, subject to Sub-Clause 3.5 [*Determinations*], shall pay the Employer the performance damages specified in the Schedule of Performance Damages. The Employer shall be entitled to recover the amount due by making corresponding deductions from the payments due to the Contractor.

The amount of compensation payable by the Contractor to the Employer under this sub-clause in any contract year of the Operation Service Period and total amount of compensation payable by the Contractor under this Sub-Clause 10.7 (*Failures to meet Performance Standards*) shall not exceed the amounts stated in the Contract Data.

Unless otherwise stated in the Contract Data, if the failure continues for a period of more than 84 days and the Contractor is unable to achieve the required Performance Standards, the Employer may either:

- (i) continue with the Operation Service at a reduced level of compensation determined in accordance with Sub-Clause 3.5 [*Determinations*]; or,
- (ii) give Notice to the Contractor of not less than 56 days of its decision to terminate the Contract, in accordance with Sub-Clause 15.2 [*Termination for Contractor's Default*].

In such an event, the Employer shall be free to continue the Operation Service itself or by others.

Sub-Clause 10.9 **Ownership of Output and Revenue:** Add at the beginning of the paragraph the following:

“Unless specified otherwise in the Contract Data,”

Sub-Clause 11.1 In the fifth paragraph, “Schedule of Guarantees” is replaced with “Schedule of Performance Standards”

Sub-Clause 11.8 **Joint Inspection Prior to Contract Completion:** Replace the first paragraph with the following:

Not less than two years prior to the expiry date of the Operation Service Period, the Employer's Representative and the Contractor shall carry out a joint inspection of the Works and, within 28 days of the completion of the joint inspection, the Contractor shall submit a report on the condition of the Works, for the Approval of the Employer's Representative, identifying all remedial works and asset replacements (excluding routine maintenance works) that are necessary a) to satisfy the handback requirement specified in the Employer's Requirements, and b) to ensure that the Works can be operated in full compliance with the Performance Standards after the Contract Completion Date.

Sub-Clause 13.1 **Right to Vary**

In the first paragraph, “The variation shall not comprise the omission of any work which is to be carried out by others” is deleted. In the second paragraph, added as (iv): “such Variation triggers a substantial change in the sequence or progress of the Works.”

In the second paragraph, “Schedule of Guarantees” is replaced with “Schedule of Performance Standards”

Sub-Clause 13.3 **Variation procedure**

Add the following to the end of Sub-Clause 13.3. (a):

“and sufficient ESHS information to enable an evaluation of ESHS risks and impacts;”

Sub-Clause 13.7 Adjustments for Change in Legislation

The following is added at the end of the sub-clause:

“Notwithstanding the foregoing, the Contractor shall not be entitled to an extension of time if the relevant delay has already been taken into account in the determination of a previous extension of time and such Cost shall not be separately paid if the same shall already have been taken into account in the indexing of any inputs to the table of adjustment data in accordance with the provisions of Sub-Clause 13.8 [Adjustments for Changes in Cost].”

Sub-Clause 13.9 Adjustments for Changes in Influent Quality: The following Sub-Clause is added

“If provided for in the Contract Data, the Contract Price and/or Performance Standards shall be adjusted to take account of the impacts of long term changes in the characteristics of the Influent received at the delivery point to the Works, relative to the Influent Baseline, provided that:

- (a) The changes in Influent characteristics are sustained and permanent;
- (b) The changes give rise to an increase or decrease in the Contractor’s annual Operation Service costs (excluding any Asset Replacement amounts) of greater than 5 % [*or Employer may insert alternative value*] relative to what the costs would have been had the long term changes in the characteristics of the Influent not occurred.

In such case, either the Employer or the Contractor shall be entitled to initiate an adjustment in the Contract Price and/or Performance Standards. The Contractor shall be entitled to make a claim for an adjustment in the Contract Price in accordance with Sub-Clause 20.1 (Contractor’s Claims), and/or may submit a proposal for an adjustment in the Performance Standards under Sub-Clause 13.2 (Value Engineering). The Employer shall be entitled to vary the Contract Price or Performance Standards by issuing a Variation in accordance with Clause 13 (Variations and Adjustments)

Following a successful claim under this Sub-Clause, the Employer’s Representative shall update the Influent Baseline to reflect the long term changes to the characteristics, and the updated Influent Baseline shall be used as the baseline against which to evaluate any further claims for price adjustment under this Sub-Clause.”

Sub-Clause 14.1 The Contract Price

the following is added at the end of the sub-clause:

“Notwithstanding the provisions of subparagraph (b), Contractor's Equipment, including essential spare parts therefor, imported by the Contractor for the sole purpose of executing the Contract shall be exempt from the payment of import duties and taxes upon importation.”

Sub-Clause 14.2

Advance payment

The sub-clause is replaced in its entirety by the following:

“14.2 Advance Payment

The Employer shall make an advance payment, as an interest-free loan for mobilization and cash flow support, when the Contractor submits a guarantee in accordance with this Sub-Clause. The total advance payment, the number and timing of instalments (if more than one), and the applicable currencies and proportions, shall be as stated in the Contract Data.

Unless and until the Employer receives this guarantee, or if the total advance payment is not stated in the Contract Data, this Sub-Clause shall not apply.

The Employer's Representative shall deliver to the Employer and to the Contractor an Interim Payment Certificate for the advance payment or its first instalment after receiving a Statement (under Sub-Clause 14.3 [Application for Advance and Interim Payment Certificates]) and after the Employer receives (i) the Performance Security in accordance with Sub-Clause 4.2 [Performance Security] and (ii) a guarantee in amounts and currencies equal to the advance payment. This guarantee shall be issued by a reputable bank or financial institution selected by the Contractor and shall be [based on the sample form included in the tender documents][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 shall be progressively reduced by the amount repaid by the Contractor as indicated in the Payment Certificates. 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 the Contract Data, the advance payment shall be repaid through percentage deductions from the interim payments determined by the Employer's Representative in accordance with Sub-Clause 14.7 [Issue of Advance and Interim Payment Certificates], as follows:

- (a) deductions shall commence in the next interim Payment Certificate following that in which the total of all certified interim payments (excluding the advance payment and deductions and repayments of retention) exceeds 30 percent (30%) of the Accepted Contract Amount for the Design Build less Provisional Sums; and
- (b) deductions shall be made at the amortization rate stated in the Contract Data of the amount of each Interim Payment Certificate (excluding the advance payment and deductions for its repayments as well as deductions for retention money) in the currencies and proportions of the advance payment until such time as the advance payment has been repaid; provided that the advance payment shall be completely repaid prior to the time when 90 percent (90%) of the Accepted Contract Amount less Provisional Sums has been certified for payment.

If the advance payment has not been repaid prior to the issue of the Commissioning Certificate for the Works or prior to termination under Clause 15 [Termination by Employer], Clause 16 [Suspension and Termination by Contractor] or Clause 18 [Exceptional Risks] (as the case may be), the whole of the balance then outstanding shall immediately become due and in case of termination under Clause 15 [Termination by Employer], except for Sub-Clause 15.5 [Employer's Entitlement to Termination for Employer's Convenience], payable by the Contractor to the Employer.”

Sub-Clause 14.3

Application for Advance and Interim Payment Certificates

Add to the end of the second paragraph:

“The Contractor shall prepare separate Statements for the Design-Build and for the Operation Service.”

Sub- Clause 14.7

Issue of Advance and Interim Payment Certificates

In the first paragraph, “issue to the Employer” is replaced with “deliver to the Employer and to the Contractor.”

The following is added to the third paragraph as (c):

- (c) if the Contractor was, or is, failing to perform any ESHS obligations or work under the Contract, the value of this work or obligation, as determined by the Employer's Representative, may be withheld until the work or obligation has been performed, and/or the cost of rectification or replacement, as determined by the Employer's Representative, may be withheld until rectification or replacement has been completed. Failure to perform includes, but is not limited to the following:

- (i) failure to comply with any ESHS requirements described in the Employer’s Requirements;
- (ii) failure to regularly review C-ESMP and/or update it in a timely manner to address emerging ESHS issues, or anticipated risks or impacts;
- (iii) failure to implement the C-ESMP e.g. failure to provide required training or sensitization;
- (iv) failing to have appropriate consents/permits prior to undertaking Works or related activities;
- (v) failure to submit ESHS report/s (as described in Particular Conditions of Contract 4.21 and/or Appendix C), or failure to submit such reports in a timely manner;
- (vi) failure to implement remediation as instructed by the Employer’s Representative within the specified timeframe (e.g. remediation addressing non-compliance/s).

Sub-Clause 14.8**Payment**

(b) and (c) are replaced with the following

“(b) the amount certified in each Interim Payment Certificate within 56 days after the Employer’s Representative receives the Statement and supporting documents; or, at a time when the Bank’s loan or credit (from which part of the payments to the Contractor is being made) is suspended, the amount shown on any statement submitted by the Contractor within 14 days after such statement is submitted, any discrepancy being rectified in the next payment to the Contractor; and

(c) the amount certified in the Final Payment Certificate within 56 days after the Employer receives this Payment Certificate; or, at a time when the Bank’s loan or credit (from which part of the payments to the Contractor is being made) is suspended, the undisputed amount shown in the Final Statement within 56 days after the date of notification of the suspension in accordance with Sub-Clause 16.2 [Termination by Contractor].”

Sub-Clause 14.9**Delayed Payment**

In the second paragraph, 4th line, after “currency of payment,” the following is inserted: “or, if not available, the interbank offered rate,”

Sub-Clause 14.10**Payment of Retention money**

Add to the end of the Sub-Clause:

Unless otherwise stated in the Contract, when the Commissioning Certificate has been issued for the Works and the first half of the Retention Money has been certified for payment by the Employer's Representative, the Contractor shall be entitled to substitute a guarantee, in the form annexed to the Particular Conditions or in another form approved by the Employer and issued by a reputable bank or financial institution selected by the Contractor, for the second half of the Retention Money. The Contractor shall ensure that the guarantee is in the amounts and currencies of the second half of the Retention Money and is valid and enforceable until the Contractor has executed and completed the Works and remedied any defects, as specified for the Performance Security in Sub-Clause 4.2. On receipt by the Employer of the required guarantee, the Employer's Representative shall certify and the Employer shall pay the second half of the Retention Money. The release of the second half of the Retention Money against a guarantee shall then be in lieu of the release under the second paragraph of this Sub-Clause. The Employer shall return the guarantee to the Contractor within 21 days after receiving a copy of the performance certificate.

Sub-Clause 14.12**Issue of Final Payment Certificate Design-Build**

In the first paragraph, "issue, to the Employer," is replaced with "deliver, to the Employer and to the Contractor". Further (a) is replaced with: "the amount which he fairly determines is finally due for the Design Build; and"

Sub-Clause 14.15**Issue of Final Payment Certificate Operation Service**

In the first paragraph, "issue, to the Employer," is replaced with "deliver, to the Employer and to the Contractor". Further (a) is replaced with: "the amount which he fairly determines is finally due for the Operation Service; and; and (b) is replaced with: "the amount which he fairly determines is finally due for the Contract; and"

Sub- Clause 14.17**Currencies of Payment**

In the first paragraph, "Unless otherwise stated in the Particular Conditions," is deleted.

Sub-Clause 15.2**Termination for Contractor's Default**

The following is added as (h) before "or if any of the Contractor's Personnel": "(h) based on reasonable evidence, has engaged in Fraud and Corruption as defined in paragraph 2.2 of the Appendix B to these General Conditions, in competing for or in executing the Contract." Further in the second paragraph, "or (h)" is added after "or (g)" and paragraph (h) is renumbered (i).

Sub-Clause 15.5 Termination for Employer’s Convenience

The last paragraph shall be replaced with the following:

“The Employer shall not terminate the Contract under this Sub-Clause in order to execute or operate the Works (or any part thereof) himself, or arrange for the Works (or any part thereof) to be executed or operated by another contractor, or to avoid a termination of the Contract by the Contractor under Clause 16.2 [Termination by Contractor]”

Sub-Clause 16.2 Termination by Contractor

Replace (d) with: “the Employer substantially fails to perform his obligations under the Contract in such manner as to materially and adversely affect the economic balance of the Contract and/or the ability of the Contractor to perform the Contract,”

Further, the “or” is deleted at the end of sub-paragraph (f), and the following is added as a new sub-paragraph (h): “the Contractor does not receive the Employer’s Representative’s instruction recording the agreement of both Parties on the fulfilment of the conditions for the Commencement of Works under Sub-Clause 8.1 [Commencement of Works].

The following is added as penultimate paragraph: “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 upon expiration of the 14 days referred to in Sub-Clause 14.8 [Payment] for payments under Interim Payment Certificates, the Contractor may, without prejudice to the Contractor's entitlement to financing charges under Sub-Clause 14.9 [Delayed Payment], take one of the following actions, namely (i) suspend work or reduce the rate of work under Sub-Clause 16.1, or (ii) terminate the Contract by giving notice to the Employer, with a copy to the Employer’s Representative, such termination to take effect 14 days after the giving of the notice.”

Sub-clause 16.3 Cessation of Work and removal of Contractor’s Equipment

In paragraph (b), add after “received payment” “, including those items listed in the Employer’s Requirements”.

Sub-Clause 15.8 Fraud and Corruption

The following new Sub-Clause added: “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 B to these General Conditions.”

Sub-Clause 16.1**Contractor’s Entitlement to Suspend Work**

The following paragraph added after the first paragraph: “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 Works, and no alternative funds are available as provided for in Sub-Clause 2.4 [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.”

Sub-Clause 16.2**Termination by Contractor**

Replace (d) with: “the Employer substantially fails to perform his obligations under the Contract in such manner as to materially and adversely affect the economic balance of the Contract and/or the ability of the Contractor to perform the Contract,” Further the following is added as (h): “the Contractor does not receive the Employer’s Representative’s instruction recording the agreement of both Parties on the fulfilment of the conditions for the Commencement of Works under Sub-Clause 8.1 [Commencement of Works].”

Sub-Clause 17.8

Limitation of Liability: The sub-clause is replaced with the following:

“Neither Party shall be liable to the other Party for loss of use of any Works, 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, other than as specifically provided in Sub-Clause 9.8 [Delay Damages relating to Design Build]; Sub-Clause 10.6 [Delays and Interruption during the Operation Service]; Sub-Clause 10.7 [Failure to Meet Performance Standards]; Sub-Clause 12.2 [Cost of Remedying Defects]; Sub-Clause 15.4 [Payment after Termination for Contractor’s Default]; Sub-Clause 16.4 [Payment on Termination]; Sub-Clause 17.9 [Indemnities by the Contractor]; Sub-Clause 17.10 [Indemnities by the Employer]; Sub-Clause 17.6(b) [Consequences of Employer’s Risks resulting in Damage], Sub-Clause 17.12 [Risk of Infringement of Intellectual and Industrial Property Rights], Sub-Clause 19.1 [non-recovery of insurance from insurers].⁷

The total liability of the Contractor to the Employer, under or in connection with the Contract other than under Sub-Clause 4.19 [Electricity, Water and Gas], Sub-Clause 4.20 [Employer’s Equipment and Free-Issue Materials], Sub-Clause 17.1 [Indemnities]

⁷ What about failure to provide insurances?

and Sub-Clause 17.5 [Intellectual and Industrial Property Rights], shall not exceed the sum resulting from the application of a multiplier (less or greater than one) to the Accepted Contract Amount, as stated in the Contract Data, or (if such multiplier or other sum is not so stated) the Accepted Contract Amount.

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

Sub-Clause 17.9

Indemnities by the Contractor

Sub-paragraph (b) is replaced with:

“damage to or loss of any property, real or personal (other than the Works), to the extent that such damage or loss arises out of or in the course of or by reason of the design, the execution and completion or operation and maintenance of the Works, 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.”

Sub-Clause 17.13

Use of Employer’s Accommodation/Facilities

The following sub-clause added as 17.13:

“Sub-Clause 17.13 - Use of Employer’s Accommodation/ Facilities

The Contractor shall take full responsibility for the care of the Employer provided accommodation and facilities, if any, as detailed in the Employer’s Requirements, from the respective dates of hand-over to the Contractor until cessation of occupation (where hand-over or cessation of occupation may take place after the date stated in the Commissioning Certificate for the Works).

If any loss or damage happens to any of the above items while the Contractor is responsible for their care arising from any cause whatsoever other than those for which the Employer is liable, the Contractor shall, at his own cost, rectify the loss or damage to the satisfaction of the Employer’s Representative.”

Sub-Clause 18.1

Exceptional Risks

The following added in (b) before “rebellion”: sabotage by persons other than the Contractor’s Personnel,” Further in (c) and other employees of the Contractor and Subcontractors” is deleted.

The following additional paragraphs are added at the end of the Sub-Clause:

“(g) upstream pollution of the Influent that prevents the Contractor from providing the Operation Service in accordance with this Agreement.

- (h) if provided for in the Contract Data, events of high Influent turbidity in which the suspended solids exceed the value specified in the Contract Data and which prevent the Contractor from providing the Operation Service in accordance with this Agreement. [*Only relevant for water treatment - provision to be deleted for wastewater treatment plant projects*]
- (i) the wastewater Influent flow exceeds a capacity Performance Standard for the Works and prevents the Contractor from providing the Operation Service in accordance with this Agreement [*provision to be deleted for water treatment plant projects*]

Sub-Clause 18.4**Consequences of an Exceptional Event**

- (b) is replaced with: “if the event or circumstance is of the kind described in sub-paragraphs (i) to (iv) of Sub-Clause 18.1 [Exceptional Risks] and, in sub-paragraphs (b) to (e), and (g) to (i), occurs in the Country, payment of any such Cost, including the costs of rectifying or replacing the Works and/or Goods damaged or destroyed by Exceptional Event, to the extent they are not recovered through the insurance policy referred to in Sub-Clause 19.2 [Insurances to be Provided by the Contractor during the Design-Build Period].”

Sub-Clause 18.56**Optional Termination, Payment and Release**

In (c), “and necessarily” is inserted after “reasonably”.

Sub-Clause 19.1**Insurance General Requirements**

After the fourth paragraph the following paragraph is added: “Wherever the Employer is the insuring Party, each insurance shall be effected with insurers and in terms acceptable to the Contractor. 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.”

Further the following is added as the final paragraph: “The Contractor shall be entitled to place all insurance relating to the Contract (including, but not limited to the insurance referred to Clause 19) with insurers from any eligible source country.”

Sub-Clause 19.2**Insurances to be provided by the Contractor during the Design Build Period**

At the beginning of the Sub-Clause, add “unless otherwise stated in the Contract Data,”

The following is added at the end of the Sub-Clause:

“For those insurances required under this Sub-Clause to be in the joint names of the Parties, the Parties shall be jointly entitled to receive payments from the insurers, payments being held or allocated to the Party actually bearing the costs of rectifying the loss or damage,”

Sub-Clause 19.3**Insurances to be provided by the Contractor during the Operation Service Period**

At the beginning of the Sub-Clause, add “unless otherwise stated in the Contract Data,”

The following is added at the end of the Sub-Clause:

“(f) Liability for breach of professional duty

The Contractor shall insure the legal liability of the Contractor arising out of the negligent fault, defect, error or omission of the Contractor or any person for whom the Contractor is responsible in the carrying out their professional duties in an amount not less than that stated in the Contract Data.

Such insurance shall contain an extension indemnifying the Contractor for his liability arising out of negligent fault, defect, error or omission in the carrying out his professional duties which result in the Works not being fit for the purpose specified in the Contract and resulting in any loss and/or damage to the Employer.

The Contractor shall maintain this insurance for the period specified in the Contract Data.

For those insurances required under this Sub-Clause to be in the joint names of the Parties, the Parties shall be jointly entitled to receive payments from the insurers, payments being held or allocated to the Party actually bearing the costs of rectifying the loss or damage.”

Sub-Clause 20**Claims, Disputes and Arbitration and its Appendix A to the General Conditions:**

“DB” and “Dispute Board” replace “DAB” and “Dispute Adjudication Board” respectively. The term “adjudicator” is also deleted.

Sub-Clause 20.1**Contractor’s Claims**

In the eighth paragraph, “Within the above defined period of 42 days” is inserted before “the Employer’s Representative shall proceed”. Further, the following is inserted as a new paragraph after the eight paragraphs: “If the Employer’s Representative does not respond within the timeframe defined in this Clause, either Party may consider that the claim is rejected by the Employer’s Representative and any

of the Parties may refer to the Dispute Board in accordance with Sub-Clause 20.4 [Obtaining Dispute Board's Decision].”

Sub-Clause 20.3

Appointment of the Dispute Board

In the second paragraph, after (“the members”) to be added “, each of whom shall be fluent in the language for communication defined in the Contract and shall be a professional experienced in the type of construction involved in the Works and with the interpretation of contractual documents.”

The following is inserted after the third paragraph:

If the Parties have not jointly appointed the DB 21 days before the date stated in the Contract Data and the DB is to comprise three persons, each Party shall nominate one member for the approval of the other Party. The first two members shall recommend and the Parties shall agree upon the third member, who shall act as chairman.

In the paragraph commencing “The terms of the remuneration”, the following is added after “members”: “, including the remuneration of any expert whom the DB consults,”

The rest of the sub-clause is deleted and replaced by: “If at any time the Parties so agree, they may jointly refer a matter to the DB for it to give its opinion. Neither Party shall consult the DB on any matter without the agreement of the other Party.

If a member declines to act or is unable to act as a result of death, disability, resignation or termination of appointment, a replacement shall be appointed in the same manner as the replaced person was required to have been nominated or agreed upon, as described in this Sub-Clause.

The appointment of any member may be terminated by mutual agreement of both Parties, but not by the Employer or the Contractor acting alone. Unless otherwise agreed by both Parties, the appointment of the DB (including each member) shall expire upon the issue of the Commissioning Certificate under Sub-Clause 9.12 [Completion of Design-Build] or 28 days after the DAB has given its decision to a Dispute under sub-Clause 20.6 [Obtaining Dispute Adjudication Board's Decision], whichever is the later.”

Sub-Clause 20.4

Failure to agree on the Composition of the Dispute Board

In (b), “, or fails to approved a member nominated by the other Party,” is added after “(for approval by the other Party).”

Sub-Clause 20.6 Obtaining Dispute Board’s Decision

In paragraph 5, “and intention to commence arbitration” is added in both instances after “dissatisfaction”.

Sub- Clause 20.8 Arbitration

The first paragraph is replaced with:

“Any dispute between the Parties arising out of or in connection with the Contract not settled amicably in accordance with Sub-Clause 20.7 above and in respect of which the DB’s decision (if any) has not become final and binding shall be finally settled by arbitration. Arbitration shall be conducted as follows:

- (a) if the contract is with foreign contractors, unless otherwise specified in the Contract Data, international arbitration in accordance with proceedings administered by the International Chamber of Commerce (ICC) and conducted under the ICC Rules of Arbitration; by one or more arbitrators appointed in accordance with said arbitration rules. The place of arbitration shall be the neutral location specified in the Contract Data; and the arbitration shall be conducted in the language for communications defined in Sub-Clause 1.4 [Law and Language].
- (b) if the Contract is with domestic contractors, arbitration with proceedings conducted in accordance with the laws of the Employer’s country.”

SECTION X – CONTRACT FORMS

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Notification of Intention to Award

[This Notification of Intention to Award shall be sent to each Proposer that submitted a Proposal, unless the Proposer has previously received notice of exclusion from the process at an interim stage of the procurement process.]

[Send this Notification to the Proposer's Authorized Representative named in the Proposer Information Form]

For the attention of Proposer'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 participating Proposers. The Notification must be sent to all Proposers 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]*

Project: *[insert name of project]*

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

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

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

RFP No: *[insert RFP 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 Proposal, and/or
- b) submit a Procurement-related Complaint in relation to the decision to award the contract.

1. The successful Proposer

Name:	<i>[insert name of successful Proposer]</i>
Address:	<i>[insert address of the successful Proposer]</i>
Contract price:	<i>[insert contract price of the successful Proposer]</i>
Total combined score:	<i>[insert the total combined score of the successful Proposer]</i>

2. Other Proposers *[INSTRUCTIONS: insert names of all Proposers that submitted a Proposal. If the Proposal's price was evaluated include the evaluated price as well as the Proposal price as read out.]*

Name of Proposer	Technical Score	Proposal price	Evaluated Proposal Cost (if applicable)	Combined Score
<i>[insert name]</i>	<i>[insert Technical score]</i>	<i>[insert Proposal price]</i>	<i>[insert evaluated cost]</i>	<i>[insert combined score]</i>
<i>[insert name]</i>	<i>[insert Technical score]</i>	<i>[insert Proposal price]</i>	<i>[insert evaluated cost]</i>	<i>[insert combined score]</i>
<i>[insert name]</i>	<i>[insert Technical score]</i>	<i>[insert Proposal price]</i>	<i>[insert evaluated cost]</i>	<i>[insert combined score]</i>
<i>[insert name]</i>	<i>[insert Technical score]</i>	<i>[insert Proposal price]</i>	<i>[insert evaluated cost]</i>	<i>[insert combined score]</i>
<i>[insert name]</i>	<i>[insert Technical score]</i>	<i>[insert Proposal price]</i>	<i>[insert evaluated cost]</i>	<i>[insert combined score]</i>

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

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

4. How to request a debriefing

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 Proposal. 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 Proposer, 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 Proposer, 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, 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 Proposer who submitted a Proposal in this procurement, 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 the Employer:

Signature: _____

Name: _____

Title/position: _____

Telephone: _____

Email: _____

Beneficial Ownership Disclosure Form

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

This Beneficial Ownership Disclosure Form (“Form”) is to be completed by the successful Proposer¹. In case of joint venture, the Proposer 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 Proposer is any natural person who ultimately owns or controls the Proposer 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 Proposer*

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

Request for Proposal 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 Proposer (Yes / No)
<i>[include full name (last, middle, first),</i>			

<i>nationality, country of 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 Proposer

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 Proposer 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 Proposer]

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

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

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

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

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

Letter of Acceptance

[letterhead paper of the Employer]

[date]

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

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

The amount is made up of the following components:

The Accepted Contract Amount for the Design-Build of:

.....

(currency and amount in figures)

The Accepted Contract Amount for the Operation Service* of:

.....

(currency and amount in figures)

**Insert value including amounts for asset replacement*

You are requested to furnish (i) the Performance Security and an Environmental, Social, Health and Safety Performance Security ***[Delete ESHS Performance Security if it is not required under the contract]*** within 28 days in accordance with the Conditions of Contract, using for that purpose one of the Performance Security and an Environmental, Social, Health and Safety Performance Security Forms ***[Delete ESHS Performance Security if it is not required under the contract]*** and (ii) the additional information on beneficial ownership in accordance with PDS ITP 53.1, within eight (8) Business days using the Beneficial Ownership Disclosure Form, included in Section X, Contract Forms, of the request for proposals 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 Works known as _____ should be designed, executed and operated by the Contractor, and has accepted a Proposal by the Contractor for the design, execution, completion and operation and maintenance of these Works 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.
 - (i) the Letter of Acceptance
 - (ii) the Letter of Proposal
 - (iii) the addenda Nos _____ (if any)
 - (iv) the Particular Conditions
 - (v) the General Conditions
 - (vi) the Employer’s Requirements
 - (vii) the completed Schedules,
 - (viii) The Operating License and
 - (ix) The Contractor’s Proposal and any other documents forming part of the Contract.
3. In consideration of the payments to be made by the Employer to the Contractor as specified in this Agreement, the Contractor hereby covenants with the Employer to design, execute, complete, operate and maintain the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract and Operating License.
4. The Employer hereby covenants to pay the Contractor in consideration of the design, execution, completion operation and maintenance of the Works and the remedying of defects therein, the Contract Price, 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 and to grant the

Contractor (or cause the Contractor to be granted) a royalty-free license to enable him to operate and maintain the Works during the Operation Service Period

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 specified above.

Signed by _____ (for the Employer)

Signed by _____ (for the Contractor)

Appendices to the Contract Agreement:

- Appendix 1: Schedule of Payments
- Appendix 2: Schedule of Cost Indexation
- Appendix 3: Schedule of Performance Standards
- Appendix 4: Schedule of Performance Damages

Appendix 1 – Schedule of Payments

1) Procedures for payment of the Design-Build

[If payment for the Design-Build are to be made in instalments pursuant to GC Sub-Clause 14.4 then the Employer shall include a table of instalments here. If not already stated in the Contract Data, this section should include:

- *Table of Instalments*
- *Currencies of payment,*
- *Exchange rates,*
- *Payment of taxes and duties,*
- *Procedures for certification of amounts due*
- *Documentation to be provided*
- *]*

2) Procedures for the payment of the Operation Service (Excluding Asset Replacement)

[the Employer shall set out the terms and procedures for payment during the Operation Service Period. Unless already stated in the Contract Data, this section should include:

- *Frequency of payment (normally Monthly in arrears)*
- *Currencies of payment*
- *Treatment of VAT and other taxes and duties*
- *Formulae and procedures for calculating and validating variable payments*
- *Arrangements for payment of electricity costs (where applicable)*
- *Deductions and adjustments (e.g. for use of standby generation)*
- *Documentation to be provided*
- *]*

3) Procedures for the payment of assets replaced under the Asset Replacement Fund

[insert procedures for payment if different from the contract]

Appendix 2 – Schedule of Cost Indexation

1. General requirements

To the extent, that the Contract Data allows for price adjustment, the amounts payable to the Contractor shall be adjusted for rises or falls in the cost of labour, goods and other inputs to the Works or Operation Service by the addition or deduction of the amounts determined by the formulae prescribed in this Appendix. To the extent that full compensation for any rise or fall in costs is not covered by the provisions of this or other Clauses, the Accepted Contract Amount shall be deemed to have included amounts to cover the contingency of other rises and falls in costs.

The adjustment to be applied to the amount otherwise payable to the Contractor, as valued in accordance with the appropriate Schedule and certified in Payment Certificates, shall be determined from formulae for each of the currencies in which the Contract Price is payable. No adjustment is to be applied to work valued on the basis of Cost or current prices.

2. Adjustment of Design-Build Prices

If the contract data allows for price adjustment of design-build amounts, the formulae shall be of the following general type:

$$P_n = a + b \frac{L_n}{L_o} + c \frac{E_n}{E_o} + d \frac{M_n}{M_o} + \dots$$

where:

“ P_n ” is the adjustment multiplier to be applied to the estimated contract value in the relevant currency of the work carried out in period “ n ”, this period being a month unless otherwise stated in the Appendix to Tender;

“ a ” is a fixed coefficient, stated in the relevant table of adjustment data, representing the non-adjustable portion in contractual payments;

“ b ”, “ c ”, “ d ”, ... are coefficients representing the estimated proportion of each cost element related to the execution of the Works as stated in the relevant table of adjustment data; such tabulated cost elements may be indicative of resources such as labour, equipment and materials;

“ L_n ”, “ E_n ”, “ M_n ”, ... are the current cost indices or reference prices for period “ n ”, expressed in the relevant currency of payment, each of which is applicable to the relevant tabulated cost element on the date 49 days prior to the last day of the period (to which the particular Payment Certificate relates); and

“ L_o ”, “ E_o ”, “ M_o ”, ... are the base cost indices or reference prices, expressed In the relevant currency of payment, each of which is applicable to the relevant tabulated cost element on the Base Date.

The cost indices or reference prices stated in the table of adjustment data shall be used. If their source is in doubt, it shall be determined by the Employer’s Representative. For this purpose, reference shall be made to the values of the indices at stated dates (quoted in the fourth and fifth

columns respectively of the table) for the purposes of clarification of the source; although these dates (and thus these values) may not correspond to the base cost indices.

In cases where the “currency of index” (stated in the table) is not the relevant currency of payment, each index shall be converted into the relevant currency of payment at the selling rate, established by the central bank of the Country, of this relevant currency on the above date for which the index is required to be applicable.

Until such time as each current cost index is available, the Employer’s Representative shall determine a provisional index for the Issue of Interim Payment Certificates. When a current cost index is available, the adjustment shall be recalculated accordingly.

If the Contractor fails to complete the within the Time for Completion, adjustment of prices thereafter shall be made using either (i) each index or price applicable on the date 49 days prior to the expiry of the Time for Completion of the Works, or (ii) the current index or price: whichever is more favourable to the Employer.

3. Adjustment of Operation Service amounts (excluding Asset Replacement)

[In most cases the operation service fees will be paid in local currency and the general type of formula indicated below can be adopted. The formula and associated bidding forms will require adjustment if the Employer intends to allow payment in foreign currency or allow more than one index per foreign currency. Separate indexation provisions may be required for each component of the operation service fee.]

If the Contract Data allows for price adjustment of Operation Service amounts, the formulae shall be of the following general type:

$$\begin{aligned} P_n = & \quad b L_n / L_0 + c E_n / E_0 + d M_n / M_0 + \dots \\ & + w [\text{Rate}_{(Fc1)n} / \text{Rate}_{(Fc1)0}] \times [\text{Ind}_{(Fc1)n} / \text{Ind}_{(Fc1)0}] \\ & + y [\text{Rate}_{(Fc2)n} / \text{Rate}_{(Fc2)0}] \times [\text{Ind}_{(Fc2)n} / \text{Ind}_{(Fc2)0}] \\ & + z \dots \end{aligned}$$

where:

“P_n” is the adjustment multiplier to be applied to the local currency amount in period “n”, this period being a month unless otherwise stated in the Appendix to Tender;

“b”, “c”, “d”, ... are coefficients representing the estimated proportion of each cost element related to **local currency** in the relevant table of adjustment data; such tabulated cost elements may be indicative of resources such as labour, equipment and materials;

“L_n”, “E_n”, “M_n”, ... are the **local currency** current cost indices or reference prices for period “n”, each of which is applicable to the relevant tabulated cost element on the date 49 days prior to the last day of the period to which the particular Payment Certificate relates;

“L₀”, “E₀”, “M₀”, ... are the **local currency** base cost indices or reference prices, each of which is applicable to the relevant tabulated cost element on the Base Date.

“w”, “y”, “z” ... are coefficients representing the estimated proportion of each cost element related to **foreign currencies** as stated in the relevant table of adjustment data; such tabulated cost elements may be indicative of resources such as labour, equipment and materials;

“Rate_{(Fc1)n}”, “Rate_{(Fc2)n}” are the **foreign currency** exchange rates which are applicable to the relevant tabulated cost element on the date 49 days prior to the last day of the period to which the particular Payment Certificate relates;

“Rate_{(Fc1)0}”, “Rate_{(Fc2)0}” are the **foreign currency** exchange rates on the base date;

“Ind_{(Fc1)n}” “Ind_{(Fc2)n}” are the **foreign currency** current cost indices for period “n” on the date 49 days prior to the last day of the period to which the particular Payment Certificate relates;

“Ind_{(Fc1)0}” “Ind_{(Fc2)0}” are the **foreign currency** cost indices on the base date.

Exchange rates in the above formulae shall be the selling rate, established by the central bank of the Country of the currency under consideration, on the date for which the index is required to be applicable.

4. Adjustment of Asset Replacement amounts

[In most cases the asset replacement amounts will be paid in local currency. The formula will require adjustment if the Employer intends to allow payment in foreign currency or allow more than one index per foreign currency.]

If the contract data allows for price adjustment of asset replacement amounts, the formulae shall be of the following general type:

$$P_n = q [\text{Ind}_{(LC)n} / \text{Ind}_{(LC)0}] + r [\text{Rate}_{(Fc1)n} / \text{Rate}_{(Fc1)0}] \times [\text{Ind}_{(Fc1)n} / \text{Ind}_{(Fc1)0}] + s \text{ [etc.....]}$$

where:

“P_n” is the adjustment multiplier to be applied to the total (in local currency) indicated in column [d] of the Asset Replacement schedule.

“q”, “r”, “s”, ... are coefficients representing the estimated proportion of each cost element related to different currencies of payment indicated in the Asset Replacement Schedule; such tabulated cost elements may be indicative of resources such as labour, equipment and materials;

Ind_{(LC)n} is the local currency cost index for period “n” on the date 49 days prior to the last day of the period to which the particular Payment Certificate relates;

Ind_{(LC)0} is the local currency cost index on the base date;

Rate_{(Fc1)n}, Rate_{(Fc1)0}, Ind_{(Fc1)n} and Ind_{(Fc1)0} ...etc. have the meanings ascribed above in subsection 3 of this schedule of adjustment data [adjustment of Operation Service amounts].

Appendix 3 - Schedule of Performance Standards

Examples:

1. Capacity Standard (s)

No	Item	Unit	Minimum Capacity

Allowable Exclusions (if any):

(i) *[list]*

2. Reliability Standards (unscheduled interruptions/downtime)

No	Item	Unit	Value

Allowable Exclusions (if any):

(i) *[list – e.g. interruptions caused by third parties]*

3. Water Quality / Effluent Discharge Standards (delete as applicable)

No	Parameter	Unit	Maximum Concentration or Limit

Allowable Exclusions (if any):

(i) *[list – e.g. [x%] failure rate permitted per Month]*

4. Sludge standards

No	Parameter	Unit	Value / Limit

Allowable Exclusions (if any):

(i) *[list- e.g. up to [] percent failure permitted per Month]*

5. Smell and Noise Standards

No	Item	Unit	Limit

Allowable Exclusions (if any):

(i) *[list]*

6. Monitoring and testing standards

No	Parameter	Type of test	Frequency of testing

Allowable exclusions (if any):

(ii) *[list]*

7. Energy efficiency standards (required for short and medium term DBOs)

No	Efficiency item	Unit	Limit Value (maximum permitted average energy use during evaluation period)	Efficiency evaluation period
	<i>[consider providing multiple efficiency standards for various conditions – e.g. high/low flow, high/low turbidity etc.]</i>	<i>[e.g. KwHr per M3 produced]</i>		<i>[state whether:</i> <ul style="list-style-type: none"> • <i>years of Operation Service Period,</i> • <i>calendar years, or</i> • <i>calendar Months]</i>

(required for shorter term DBOs)

Allowable exclusions (if any):

(i) *[list]*

8. Chemical efficiency standards (required for short and medium term DBOs)

No	Efficiency item	Unit	Limit Value (maximum permitted average chemical use during evaluation period)	Efficiency evaluation period
	<i>[Specify chemical and consider providing multiple efficiency standards for various conditions – e.g. high/low flow, high/low turbidity etc.]</i>	<i>[e.g. Kg per M3 produced]</i>		<i>[state whether:</i> <ul style="list-style-type: none"> • <i>years of Operation Service Period,</i> • <i>calendar years, or</i> • <i>Calendar Months]</i>

(required for shorter term DBOs)

Allowable exclusions (if any):

(i) *[list]*

Appendix 4 - Schedule of Performance Damages

The Contractor shall pay to the Employer performance damages in accordance with GC Sub-Clauses 10.6 and 10.7 in the amounts specified below.

Performance Damages for Delay and Interruptions

Ref:	Item	Unit <i>[e.g. amount per day, per incident etc.]</i>	Insert amount <i>[either as an amount in currency or as percentage of Accepted Contract Amount for Design-Build]</i>

Performance Damages for failure to meet Performance Standards

Ref:	Item	Unit <i>[e.g. amount per day, per incident, per cubic meter, etc.]</i>	Insert amount <i>[either as an amount in currency or as percentage of Accepted Contract Amount for Design- Build]</i>	Exclusions (if any)
				<i>[e.g. first failure in Calendar Month]</i>

The performance damages listed above shall be payable in currencies indicated in the Contract Data, or, if no currencies are listed, then the damages shall be payable in the currencies and in the proportions of the Accepted Contract Amount.

The performance damages above shall be in addition to any fines that may be imposed on the Contractor by the courts in respect of pollution of the environment and/or breach of the terms of the applicable permits, licenses or consents.

Performance Security - Option 1: Demand Guarantee

[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 _____ (hereinafter called “the Applicant”) has entered into Contract No. _____ dated _____ with the Beneficiary, for the execution of _____ (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 _____ (____),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.

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.

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

² Insert the date twenty-eight days after the expected completion date as described in GC Clause 11.9. The Employer should note that in the event of an extension of this date for completion of the Contract, the Contractor 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.”

[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 Contract Price 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 _____ 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 Proposal or Proposals from qualified Proposers 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 Proposer, arrange for a Contract between such Proposer 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 Contract Price; 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 Contract Price,” 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 Taking-Over 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 _____

Environmental, Social, Health and Safety (ESHS) Performance Security

ESHS Demand Guarantee

[Guarantor letterhead or SWIFT identifier code]

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

Date: _____ *[Insert date of issue]*

ESHS 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 _____ (hereinafter called “the Applicant”) has entered into Contract No. _____ dated _____ with the Beneficiary, for the execution of _____ (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 _____ (____),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 Environmental, Social, Health and/or Safety (ESHS) 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, less provisional sums, if any, and denominated either in the currency (cies) of the Contract or a freely convertible currency acceptable to the Beneficiary.

² Insert the date twenty-eight days after the expected completion date as described in GC Clause 11.9. 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.

Advance Payment Security

Demand Guarantee

[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 _____ (hereinafter called “the Applicant”) has entered into Contract No. _____ dated _____ with the Beneficiary, for the execution of _____ (hereinafter called “the Contract”).

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum _____ () 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 _____ ()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 the costs of mobilization in respect of the Works; 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 _____ at _____.

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, less provisional sums, has been certified for payment, or on the ____

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.

day of _____, 2____,² 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.

² Insert the expected expiration date of the Time for Completion. The Employer should note that in the event of an extension of the time 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.”

Retention Money Security

Demand Guarantee

[Guarantor letterhead or SWIFT identifier code]

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

Date: _____ *[Insert date of issue]*

RETENTION MONEY 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 _____ with the Beneficiary, for the execution of _____ *[insert name of contract and brief description of Works]* (hereinafter called “the Contract”).

Furthermore, we understand that, according to the conditions of the Contract, the Beneficiary retains moneys up to the limit set forth in the Contract (“the Retention Money”), and that when the Taking-Over Certificate has been issued under the Contract and the first half of the Retention Money has been certified for payment, payment of *[insert the second half of the Retention Money or if the amount guaranteed under the Performance Guarantee when the Taking-Over Certificate is issued is less than half of the Retention Money, the difference between half of the Retention Money and the amount guaranteed under the Performance Security and, if required, the ESHS Performance Security]* is to be made against a Retention Money 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]* () *[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 that the Applicant is in breach of its obligation(s) under the Contract, without your needing to prove or show grounds for your demand or the sum specified therein.

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 second half of the Retention Money as

¹ The Guarantor shall insert an amount representing the amount of the second half of the Retention Money or if the amount guaranteed under the Performance Guarantee when the Taking-Over Certificate is issued is less than half of the Retention Money, the difference between half of the Retention Money and the amount guaranteed under the Performance Security and denominated either in the currency(ies) of the second half of the Retention Money as specified in the Contract, or in a freely convertible currency acceptable to the Beneficiary.

referred to above has been credited to the Applicant on its account number _____ at _____ *[insert name and address of Applicant's bank]*.

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 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, 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.

² Insert the same expiry date as set forth in the Performance Security, representing the date twenty-eight days after the completion date described in GC Clause 11.9. 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."