



MINISTÉRIO DO
PETRÓLEO
E MINERAIS

**Consulting Services for Independent Administrator to
Prepare and Reconcile the 9th, 10th, 11th Timor-Leste
EITI Reports Beneficial Ownership
RFP/01/MPM-2018**

ADDENDUM No. 2
3 December 2018

This Addendum No. 2 are issued to amend certain items in the RFP in accordance with Clause 13 of the Instruction to Consultants for **RFP/01/MPM-2018: Consulting Services for Independent Administrator to Prepare and Reconcile the 9th, 10th, 11th Timor-Leste EITI Reports Beneficial Ownership**, in the form of Addendum-2.

Part/ Section/ Clause of RFP	As in the original RFP	Amended as in the Addendum-2
Section 5-Terms of Reference	Annex-A Schedule set out for 2016,2017 EITI Reconciliation report undertake by Independent Administrator Schedule set out for 2018 EITI Reconciliation report undertake by Independent Administrator	Annex-A Please refer to Appendix-1 Schedule set out for 2018 EITI Reconciliation report undertake by Independent Administrator will be discussed and finalized during contract negotiation.
Section 6, Conditions of Contract and Contract Forms	Conditions of Contract and Contract Forms	Conditions of Contract and Contract Forms-attached as Appendix-2
Section 2- Instruction to Consultants and Data Sheet	APPENDIX-1- SUMMARY EVALUATION SHEET	Please Refer to Appendix-3

Your Sincerely;

Hermenegildo Augusto Cabral Pereira

Minister of State of the Presidency of the Council of Ministers and Minister of Petroleum and Minerals

APPENDIX 2

Annex A

Schedule set out for 2016, 2017 EITI Reconciliation report undertake by Independent Administrator

EITI reporting phase	Proposed timeline	Obs.
Signing of contract	29 Dec-18	
(If relevant) Phase 0: Scoping studies of 2016, 2017 (and/or 2018 data)	3 Jan - 8 February 2019	
=> Scoping Study	8 February 2019	
Phase 1: Preliminary analysis of 2016 and 2017 data	11 February 18 - 11 March 19	
=> Inception report	18 March 19	
Phase 2: Collection of 2016 and 2017 data	18 Feb - 15 March 19	
Phase 3: Initial reconciliation	20 March- 2 April 19	
Phase 4: Investigation of discrepancies	05 April- 05 May 19	
Draft 2016 TL-EITI report	05-May-19	one to two weeks for MSWG discussion
Draft 2017 TL-EITireport	Until 30 Jul 19	
Phase 5: Final EITI report	18 Apr - 30 Oct 19	
Final 2016 report (english version) include summary of the report in xls format as per EITI Req. 7.2	08-May-19	
Final 2017 report (english version) include summary of the report in xls format as per EITI Req. 7.2	30-Sep-19	
Translation of 2016 an 2017 reports into Tetum, Portuguese & Indonesian	Until 30 Sep 19	
Feasibility studies		
Beneficial Ownership (BO) feasibility study include investigating the tasks described in table 1 of ToR and presenting a summary report to MSWG	01 - 30 Jan 19	schedule includes revision of mainstreaming study
Follow up on mainstreaming feasibility study in accordance with Annex 2	01 - 30 Jan 19	schedule includes BO feasibility study

Payment schedules in accordance of 2019 budget allocation

Phase 1 - 20% of allocated amounts for EITI reports and feasibility studies to be paid after the submission of 2016 draft report

Phase 2 - 30% of allocated amounts to be paid after the submission of 2016 final draft

Phase 3 - 20% of allocated amounts to be paid after the submission of 2017 draft report

Phase 4 - 30% of allocated amounts to be paid after the submission of 2017 final draft and translated versions of the reports

APPENDIX 1



**MINISTÉRIO DO
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STANDARD FORM OF CONTRACT

CONSULTANT SERVICES:

Lump-Sum Contract

Government of Timor – Leste

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CONTRACT FOR CONSULTANT'S SERVICES

Time-Based

Project Name Consulting Services for Independent Administrator to Prepare and Reconcile the 9th, 10th, 11th Timor-Leste EITI Report and feasibility study of Beneficial Ownership

Contract No. RPF/01/MPM-2018

between

Ministry of Petroleum and Minerals

and

I. Form of Contract

LUMP-SUM

This CONTRACT (hereinafter called the "Contract") is made the 30 day of the month of *November*, 2016, between, on the one hand, Ministry of Petroleum and Minerals Timor-Leste (hereinafter called the "Employer") and, on the other hand,

(hereinafter called the "Consultant").

WHEREAS

- (a) the Employer has requested the Consultant to provide consulting services for Independent Administrator to prepare and reconcile the Seventh and Eighth Timor-Leste EITI Report as defined in this Contract (hereinafter called the "Services");
- (b) the Consultant, having represented to the Employer that it has the required professional skills, expertise and technical resources, has agreed to provide the Services on the terms and conditions set forth in this Contract;

NOW THEREFORE the parties hereto hereby agree as follows:

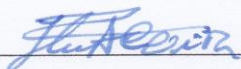
- 1. The following documents attached hereto shall be deemed to form an integral part of this Contract:
 - (a) The General Conditions of Contract;
 - (b) The Special Conditions of Contract;
 - (c) Appendices:
 - Appendix A: Terms of Reference
 - Appendix B: Key Experts
 - Appendix C: Breakdown of Contract Price
 - Appendix D: Form of Advance Payments Guarantee (Not Used)

In the event of any inconsistency between the documents, the following order of precedence shall prevail: the Special Conditions of Contract; the General Conditions of Contract, including Attachment 1; Appendix A; Appendix B; Appendix C; Appendix D. Any reference to this Contract shall include, where the context permits, a reference to its Appendices.

- 2. The mutual rights and obligations of the Employer and the Consultant shall be as set forth in the Contract, in particular:
 - (a) the Consultant shall carry out the Services in accordance with the provisions of the Contract; and
 - (b) the Employer shall make payments to the Consultant in accordance with the provisions of the Contract.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

For and on behalf of *Ministry of Petroleum and Minerals*



Hermenegildo Augusto Cabral Pereira

Minister of State of the Presidency of the Council of Ministers and Minister of Petroleum and Minerals

For and on behalf of

II. General Conditions of Contract

1. Definitions

1.1. Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- (a) "Applicable Law" means the laws and any other instruments having the force of law in the Employer's country, or in such other country as may be specified in the **Special Conditions of Contract (SCC)**, as they may be issued and in force from time to time.
- (b) "Employer" means the implementing/ executing agency that signs the Contract for the Services with the Selected Consultant.
- (c) "Consultant" means a legally-established professional consulting firm or entity selected by the Employer to provide the Services under the signed Contract.
- (d) "Contract" means the legally binding written agreement signed between the Employer and the Consultant and which includes all the attached documents listed in its paragraph 1 of the Form of Contract (the General Conditions (GCC), the Special Conditions (SCC), and the Appendices).
- (e) "Day" means a working day unless indicated otherwise.
- (f) "Effective Date" means the date on which this Contract comes into force and effect pursuant to Clause GCC 11.
- (g) "Experts" means, collectively, Key Experts, Non-Key Experts, or any other personnel of the Consultant, Sub-consultant or JV member(s) assigned by the Consultant to perform the Services or any part thereof under the Contract.
- (h) "Foreign Currency" means any currency other than the currency of the Employer's country.
- (i) "GCC" means these General Conditions of Contract.
- (j) "Government" means the government of the Employer's country.
- (k) "Joint Venture (JV)" means an association with or without a legal personality distinct from that of its members, of more than one entity where one member has the authority to conduct all businesses for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally liable to the Employer for the performance of the Contract.
- (l) "Key Expert(s)" means an individual professional whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose Curricula Vitae (CV) was taken into account in the technical evaluation of the Consultant's proposal.

- (m) "Local Currency" means the currency of the Employer's country.
- (n) "Non-Key Expert(s)" means an individual professional provided by the Consultant or its Sub-consultant to perform the Services or any part thereof under the Contract.
- (o) "Party" means the Employer or the Consultant, as the case may be, and "Parties" means both of them.
- (p) "SCC" means the Special Conditions of Contract by which the GCC may be amended or supplemented but not over-written.
- (q) "Services" means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A hereto.
- (r) "Sub-consultants" means an entity to whom/which the Consultant subcontracts any part of the Services while remaining solely liable for the execution of the Contract.
- (s) "Third Party" means any person or entity other than the Government, the Employer, the Consultant or a Sub-consultant.

**2. Relationship
between the Parties**

2.1. Nothing contained herein shall be construed as establishing a relationship of master and servant or of principal and agent as between the Employer and the Consultant. The Consultant, subject to this Contract, has complete charge of the Experts and Sub-consultants, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

**3. Law Governing
Contract**

3.1. This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.

4. Language

4.1. This Contract has been executed in the language specified in the SCC, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

5. Headings

5.1. The headings shall not limit, alter or affect the meaning of this Contract.

6. Communications

6.1. Any communication required or permitted to be given or made pursuant to this Contract shall be in writing in the language specified in Clause GCC 4. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the SCC.

6.2. A Party may change its address for notice hereunder by giving the other Party any communication of such change to the address specified in the SCC.

7. **Location**
- 7.1. The Services shall be performed at such locations as are specified in **Appendix A** hereto and, where the location of a particular task is not so specified, at such locations, whether in the Government's country or elsewhere, as the Employer may approve.
8. **Authority of Member in Charge**
- 8.1. In case the Consultant is a Joint Venture, the members hereby authorize the member specified in the SCC to act on their behalf in exercising all the Consultant's rights and obligations towards the Employer under this Contract, including without limitation the receiving of instructions and payments from the Employer.
9. **Authorized Representatives**
- 9.1. Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Employer or the Consultant may be taken or executed by the officials specified in the SCC.
10. **Corrupt and Fraudulent Practices**
- 10.1. The Employer's Anticorruption Policy requires that all consultants observe the highest standard of ethics during the selection process and in execution of such contracts. In pursuance of this policy, the Employer:
- (i) defines, for the purpose of this provision, the terms set forth below as follows:
- (a) "corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
- (b) "fraudulent practice" means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
- (c) "coercive practice" means 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;
- (d) "collusive practice" means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;
- a. **Measures to be Taken**
- 10.2. (i) will reject a proposal for award if it determines that the consultant recommended for award has directly, or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the contract in question;
- (ii) will sanction a party or its successor, including declaring ineligible, either indefinitely or for a stated period of time, such party or successor from participation in activities administered by

the Employer, if it at any time determines that the consultant has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices.

b. Commissions and Fees

10.3. The Employer requires the Consultant to disclose any commissions, gratuities or fees that may have been paid or are to be paid to agents or any other party with respect to the selection process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee. Failure to disclose such commissions, gratuities or fees may result in termination of the Contract and/or sanctions by the Government.

A. GENERAL PROVISIONS

B. COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT

11. Effectiveness of Contract

11.1. This Contract shall come into force and effect on the date (the "Effective Date") of the Employer's notice to the Consultant instructing the Consultant to begin carrying out the Services. This notice shall confirm that the effectiveness conditions, if any, listed in the SCC have been met.

12. Termination of Contract for Failure to Become Effective

12.1. If this Contract has not become effective within such time period after the date of Contract signature as specified in the SCC, either Party may, by not less than twenty two (22) days written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.

13. Commencement of Services

13.1. The Consultant shall confirm availability of Key Experts and begin carrying out the Services not later than the number of days after the Effective Date specified in the SCC.

14. Expiration of Contract

14.1. Unless terminated earlier pursuant to Clause GCC 19 hereof, this Contract shall expire at the end of such time period after the Effective Date as specified in the SCC.

15. Entire Agreement

15.1. This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.

16. Modifications or Variations

16.1. Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. However, each Party shall give due consideration to any proposals for modification or variation made by the other Party.

16.2. In cases of substantial modifications or variations, the prior written consent of the Employer is required.

17. Force Majeure

a. Definition

17.1. For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible under the circumstances, and subject to those requirements, includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action confiscation or any other action by Government agencies.

17.2. Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party's Experts, Sub-consultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both take into account at the time of the conclusion of this Contract, and avoid or overcome in the carrying out of its obligations hereunder.

17.3. Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

b. No Breach of Contract

17.4. The failure of a Party to fulfil any of its obligations hereunder shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

c. Measures to be Taken

17.5. A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

17.6. A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than fourteen (14) calendar days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.

17.7. Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a

result of Force Majeure.

17.8. During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the Employer, shall either:

- (a) demobilize, in which case the Consultant shall be reimbursed for additional costs they reasonably and necessarily incurred, and, if required by the Employer, in reactivating the Services; or
- (b) continue with the Services to the extent reasonably possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.

17.9. In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clauses GCC 44 & 45.

18. Suspension

18.1. The Employer may, by written notice of suspension to the Consultant, suspend all payments to the Consultant hereunder if the Consultant fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Consultant to remedy such failure within a period not exceeding thirty (30) calendar days after receipt by the Consultant of such notice of suspension.

19. Termination

19.1. This Contract may be terminated by either Party as per provisions set up below:

a. By the Employer

19.1.1. The Employer may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (f) of this Clause. In such an occurrence the Employer shall give at least thirty (30) calendar days' written notice of termination to the Consultant in case of the events referred to in (a) through (d); at least sixty (60) calendar days' written notice in case of the event referred to in (e); and at least five (5) calendar days' written notice in case of the event referred to in (f):

- (a) If the Consultant fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause GCC 18;
- (b) If the Consultant becomes (or, if the Consultant consists of more than one entity, if any of its members becomes) insolvent or bankrupt or enter into any agreements with their creditors

for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary;

- (c) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GCC 45.1;
- (d) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) calendar days;
- (e) If the Employer, in its sole discretion and for any reason whatsoever, decides to terminate this Contract;
- (f) If the Consultant fails to confirm availability of Key Experts as required in Clause GCC 13.

19.1.2. Furthermore, if the Employer determines that the Consultant has engaged in corrupt, fraudulent, collusive, coercive [*or obstructive*] practices, in competing for or in executing the Contract, then the Employer may, after giving fourteen (14) calendar days written notice to the Consultant, terminate the Consultant's employment under the Contract.

**b. By the
Consultant**

19.1.3. The Consultant may terminate this Contract, by not less than thirty (30) calendar days' written notice to the Employer, in case of the occurrence of any of the events specified in paragraphs (a) through (d) of this Clause.

- (a) If the Employer fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clause GCC 45.1 within forty-five (45) calendar days after receiving written notice from the Consultant that such payment is overdue.
- (b) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) calendar days.
- (c) If the Employer fails to comply with any final decision reached as a result of arbitration pursuant to Clause GCC 45.1.
- (d) If the Employer is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the Consultant may have subsequently approved in writing) following the receipt by the

Employer of the Consultant's notice specifying such breach.

c. Cessation of Rights and Obligations

19.1.4. Upon termination of this Contract pursuant to Clauses GCC 12 or GCC 19 hereof, or upon expiration of this Contract pursuant to Clause GCC 14, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of confidentiality set forth in Clause GCC 22, (iii) the Consultant's obligation to permit inspection, copying and auditing of their accounts and records set forth in Clause GCC 25, and (iv) any right which a Party may have under the Applicable Law.

d. Cessation of Services

19.1.5. Upon termination of this Contract by notice of either Party to the other pursuant to Clauses GCC 19a or GCC 19b, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Employer, the Consultant shall proceed as provided, respectively, by Clauses GCC 27 or GCC 28.

e. Payment upon Termination

19.1.6. Upon termination of this Contract, the Employer shall make the following payments to the Consultant:

- (a) payment for Services satisfactorily performed prior to the effective date of termination; and
- (b) in the case of termination pursuant to paragraphs (d) and (e) of Clause GCC 19.1.1, reimbursement of any reasonable cost incidental to the prompt and orderly termination of this Contract, including the cost of the return travel of the Experts.

C. OBLIGATIONS OF THE CONSULTANT

20. General

a. Standard of Performance

20.1 The Consultant shall perform the Services and carry out the Services with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as a faithful adviser to the Employer, and shall at all times support and safeguard the Employer's legitimate interests in any dealings with the

third parties.

20.2. The Consultant shall employ and provide such qualified and experienced Experts and Sub-consultants as are required to carry out the Services.

20.3. The Consultant may subcontract part of the Services to an extent and with such Key Experts and Sub-consultants as may be approved in advance by the Employer. Notwithstanding such approval, the Consultant shall retain full responsibility for the Services.

b. Law Applicable to Services

20.4. The Consultant shall perform the Services in accordance with the Contract and the Applicable Law and shall take all practicable steps to ensure that any of its Experts and Sub-consultants, comply with the Applicable Law.

20.5. The Employer shall notify the Consultant in writing of relevant local customs, and the Consultant shall, after such notification, respect such customs.

21. Conflict of Interests

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

a. Consultant Not to Benefit from Commissions, Discounts, etc.

21.1.1 The payment of the Consultant pursuant to GCC F (Clauses GCC 38 through 42) shall constitute the Consultant's only payment in connection with this Contract and, subject to Clause GCC 21.1.3, the Consultant shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations hereunder, and the Consultant shall use its best efforts to ensure that any Sub-consultants, as well as the Experts and agents of either of them, similarly shall not receive any such additional payment.

21.1.2 Furthermore, if the Consultant, as part of the Services, has the responsibility of advising the Employer on the procurement of goods, works or services, the Consultant shall comply with the applicable laws of the Employer's country, and shall at all times exercise such responsibility in the best interest of the Employer. Any discounts or commissions obtained by the Consultant in the exercise of such procurement responsibility shall be for the account of the Employer.

b. Consultant and Affiliates Not to Engage in Certain

21.1.3 The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-consultants and any entity affiliated with such Sub-consultants, shall be disqualified from

Activities	providing goods, works or non-consulting services resulting from or directly related to the Consultant's Services for the preparation or implementation of the project, unless otherwise indicated in the SCC.
c. Prohibition of Conflicting Activities	21.1.4 The Consultant shall not engage, and shall cause its Experts as well as its Sub-consultants not to engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.
d. Strict Duty to Disclose Conflicting Activities	21.1.5 The Consultant has an obligation and shall ensure that its Experts and Sub-consultants shall have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of their Employer, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of its Contract.
22. Confidentiality	22.1 Except with the prior written consent of the Employer, the Consultant and the Experts shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant and the Experts make public the recommendations formulated in the course of, or as a result of, the Services.
23. Liability of the Consultant	23.1 Subject to additional provisions, if any, set forth in the SCC, the Consultant's liability under this Contract shall be as determined under the Applicable Law.
24. Insurance to be Taken out by the Consultant	24.1 The Consultant (i) shall take out and maintain, and shall cause any Sub-consultants to take out and maintain, at its (or the Sub-consultants', as the case may be) own cost but on terms and conditions approved by the Employer, insurance against the risks, and for the coverage specified in the SCC, and (ii) at the Employer's request, shall provide evidence to the Employer showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid. The Consultant shall ensure that such insurance is in place prior to commencing the Services as stated in Clause GCC 13.
25. Accounting, Inspection and Auditing	<p>25.1 The Consultant shall keep, and shall make all reasonable efforts to cause its Sub-consultants to keep, accurate and systematic accounts and records in respect of the Services and in such form and detail as will clearly identify relevant time changes and costs.</p> <p>25.2 The Consultant shall permit and shall cause its Sub-consultants to permit, the Employer and/or persons appointed by the Employer to inspect the Site and/or all accounts and records relating to the performance of the Contract and the submission of the Proposal to provide the Services, and to have such accounts and records audited by auditors appointed by the</p>

Employer if requested by the Employer. The Consultant's attention is drawn to Clause GCC 10 which provides, inter alia, that acts intended to materially impede the exercise of the Employer's inspection and audit rights provided for under this Clause GCC25.2 constitute a prohibited practice subject to contract termination.

**26. Reporting
Obligations**

26.1 The Consultant shall submit to the Employer the reports and documents specified in **Appendix A**, in the form, in the numbers and within the time periods set forth in the said Appendix.

**27. Proprietary Rights of
the Employer in
Reports and Records**

27.1 Unless otherwise indicated in the SCC, all reports and relevant data and information such as maps, diagrams, plans, databases, other documents and software, supporting records or material compiled or prepared by the Consultant for the Employer in the course of the Services shall be confidential and become and remain the absolute property of the Employer. The Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Employer, together with a detailed inventory thereof. The Consultant may retain a copy of such documents, data and/or software but shall not use the same for purposes unrelated to this Contract without prior written approval of the Employer.

27.2 If license agreements are necessary or appropriate between the Consultant and third parties for purposes of development of the plans, drawings, specifications, designs, databases, other documents and software, the Consultant shall obtain the Employer's prior written approval to such agreements, and the Employer shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned. Other restrictions about the future use of these documents and software, if any, shall be specified in the SCC.

**28. Equipment, Vehicles
and Materials**

28.1 Equipment, vehicles and materials made available to the Consultant by the Employer, or purchased by the Consultant wholly or partly with funds provided by the Employer, shall be the property of the Employer and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make available to the Employer an inventory of such equipment, vehicles and materials and shall dispose of such equipment, vehicles and materials in accordance with the Employer's instructions. While in possession of such equipment, vehicles and materials, the Consultant, unless otherwise instructed by the Employer in writing, shall insure them at the expense of the Employer in an amount equal to their full replacement value.

28.2 Any equipment or materials brought by the Consultant or its Experts into the Employer's country for the use either for the project or personal use shall remain the property of the Consultant or the Experts concerned, as

applicable.

D. CONSULTANT'S EXPERTS AND SUB-CONSULTANTS

29. Description of Key Experts

29.1 The title, agreed job description, minimum qualification and estimated period of engagement to carry out the Services of each of the Consultant's Key Experts are described in **Appendix B**.

30. Replacement of Key Experts

30.1 Except as the Employer may otherwise agree in writing, no changes shall be made in the Key Experts.

30.2 Notwithstanding the above, the substitution of Key Experts during Contract execution may be considered only based on the Consultant's written request and due to circumstances outside the reasonable control of the Consultant, including but not limited to death or medical incapacity. In such case, the Consultant shall forthwith provide as a replacement, a person of equivalent or better qualifications and experience, and at the same rate of remuneration.

31. Removal of Experts or Sub-consultants

31.1 If the Employer finds that any of the Experts or Sub-consultant has committed serious misconduct or has been charged with having committed a criminal action, or shall the Employer determine that Consultant's Expert of Sub-consultant have engaged in corrupt, fraudulent, collusive, coercive *[or obstructive]* practice while performing the Services, the Consultant shall, at the Employer's written request, provide a replacement.

31.2 In the event that any of Key Experts, Non-Key Experts or Sub-consultants is found by the Employer to be incompetent or incapable in discharging assigned duties, the Employer, specifying the grounds therefore, may request the Consultant to provide a replacement.

31.3 Any replacement of the removed Experts or Sub-consultants shall possess better qualifications and experience and shall be acceptable to the Employer.

31.4 The Consultant shall bear all costs arising out of or incidental to any removal and/or replacement of such Experts.

E. OBLIGATIONS OF THE EMPLOYER

32. Assistance and Exemptions

32.1 Unless otherwise specified in the SCC, the Employer shall use its best efforts to:

- (a) Assist the Consultant with obtaining work permits and such other documents as shall be necessary to enable the Consultant to perform

the Services.

- (b) Assist the Consultant with promptly obtaining, for the Experts and, if appropriate, their eligible dependents, all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in the Employer's country while carrying out the Services under the Contract.
- (c) Facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Experts and their eligible dependents.
- (d) Issue to officials, agents and representatives of the Government all such instructions and information as may be necessary or appropriate for the prompt and effective implementation of the Services.
- (e) Assist the Consultant and the Experts and any Sub-consultants employed by the Consultant for the Services with obtaining exemption from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity in the Employer's country according to the applicable law in the Employer's country.
- (f) Assist the Consultant, any Sub-consultants and the Experts of either of them with obtaining the privilege, pursuant to the applicable law in the Employer's country, of bringing into the Employer's country reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Experts and of withdrawing any such amounts as may be earned therein by the Experts in the execution of the Services.
- (g) Provide to the Consultant any such other assistance as may be specified in the SCC.

33. Access to Project Site

33.1 The Employer warrants that the Consultant shall have, free of charge, unimpeded access to the project site in respect of which access is required for the performance of the Services. The Employer will be responsible for any damage to the project site or any property thereon resulting from such access and will indemnify the Consultant and each of the experts in respect of liability for any such damage, unless such damage is caused by the willful default or negligence of the Consultant or any Sub-consultants or the Experts of either of them.

34. Change in the Applicable Law Related to Taxes and

34.1 If, after the date of this Contract, there is any change in the applicable law in the Employer's country with respect to taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, then the remuneration and reimbursable expenses

Duties

otherwise payable to the Consultant under this Contract shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the Contract price amount specified in Clause GCC 38.1

35. Services, Facilities and Property of the Employer

35.1 The Employer shall make available to the Consultant and the Experts, for the purposes of the Services and free of any charge, the services, facilities and property described in the Terms of Reference (**Appendix A**) at the times and in the manner specified in said **Appendix A**.

36. Counterpart Personnel

36.1 The Employer shall make available to the Consultant free of charge such professional and support counterpart personnel, to be nominated by the Employer with the Consultant's advice, if specified in **Appendix A**.

36.2 Professional and support counterpart personnel, excluding Employer's liaison personnel, shall work under the exclusive direction of the Consultant. If any member of the counterpart personnel fails to perform adequately any work assigned to such member by the Consultant that is consistent with the position occupied by such member, the Consultant may request the replacement of such member, and the Employer shall not unreasonably refuse to act upon such request.

37. Payment Obligation

37.1 In consideration of the Services performed by the Consultant under this Contract, the Employer shall make such payments to the Consultant for the deliverables specified in **Appendix A** and in such manner as is provided by GCC F below.

F. PAYMENTS TO THE CONSULTANT

38. Contract Price

38.1 The Contract price is fixed and is set forth in the SCC. The Contract price breakdown is provided in **Appendix C**.

38.2 Any change to the Contract price specified in Clause 38.1 can be made only if the Parties have agreed to the revised scope of Services pursuant to Clause GCC 16 and have amended in writing the Terms of Reference in **Appendix A**.

39. Taxes and Duties

39.1 The Consultant, Sub-consultants and Experts are responsible for meeting any and all tax liabilities arising out of the Contract unless it is stated otherwise in the SCC.

40. Currency of Payment

40.1 Any payment under this Contract shall be made in the currency(ies) of the Contract.

41. Mode of Billing

41.1 The total payments under this Contract shall not exceed the

and Payment

Contract price set forth in Clause GCC 38.1.

41.2 The payments under this Contract shall be made in lump-sum installments against deliverables specified in **Appendix A**. The payments will be made according to the payment schedule stated in the SCC.

41.2.1 Advance payment: Unless otherwise indicated in the SCC, an advance payment shall be made against an advance payment bank guarantee acceptable to the Employer in an amount (or amounts) and in a currency (or currencies) specified in the SCC. Such guarantee (i) is to remain effective until the advance payment has been fully set off, and (ii) is to be in the form set forth in **Appendix D**, or in such other form as the Employer shall have approved in writing. The advance payments will be set off by the Employer in equal portions against the lump-sum installments specified in the SCC until said advance payments have been fully set off.

41.2.2 The Lump-Sum Installment Payments. The Employer shall pay the Consultant within sixty (60) days after the receipt by the Employer of the deliverable(s) and the cover invoice for the related lump-sum installment payment. The payment can be withheld if the Employer does not approve the submitted deliverable(s) as satisfactory in which case the Employer shall provide comments to the Consultant within the same sixty (60) days period. The Consultant shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated.

41.2.3 The Final Payment .The final payment under this Clause shall be made only after the final report have been submitted by the Consultant and approved as satisfactory by the Employer. The Services shall then be deemed completed and finally accepted by the Employer. The last lump-sum installment shall be deemed approved for payment by the Employer within ninety (90) calendar days after receipt of the final report by the Employer unless the Employer, within such ninety (90) calendar day period, gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report. The Consultant shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated.

41.2.4 All payments under this Contract shall be made to the accounts of the Consultant specified in the SCC.

41.2.5 With the exception of the final payment under 41.2.3 above, payments do not constitute acceptance of the whole Services nor relieve the Consultant of any obligations hereunder.

**42. Interest on
Delayed
Payments**

42.1 If the Employer had delayed payments beyond fifteen (15) days after the due date stated in Clause GCC 41.2.2, interest shall be paid to the Consultant on any amount due by, not paid on, such due date for each day of delay at the annual rate stated in the SCC.

G. FAIRNESS AND GOOD FAITH

43. Good Faith

43.1 The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

H. SETTLEMENT OF DISPUTES

**44. Amicable
Settlement**

44.1 The Parties shall seek to resolve any dispute amicably by mutual consultation.

44.2 If either Party objects to any action or inaction of the other Party, the objecting Party may file a written Notice of Dispute to the other Party providing in detail the basis of the dispute. The Party receiving the Notice of Dispute will consider it and respond in writing within fourteen (14) days after receipt. If that Party fails to respond within fourteen (14) days, or the dispute cannot be amicably settled within fourteen (14) days following the response of that Party, Clause GCC 49.1 shall apply.

45. Dispute Resolution

45.1 Any dispute or difference arising out of this Contract or in connection therewith which cannot be amicably settled according to Clause GCC 44 shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The arbitration shall take place in the location specified in the SCC.

III. Special Conditions of Contract

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
1.1(b) and 3.1	The Contract shall be construed in accordance with the law of Democratic Republic of Timor-Leste.
4.1	The language is: English
6.1 and 6.2	The addresses are: Employer : Ministry of Petroleum and Minerals Attention : Elda Guterres da Silva, TL-EITI National Coordinator Facsimile : +67 (0) 3339178 E-mail (where permitted): Vanozela@yahoo.com Consultant : Facsimile : E-mail (where permitted) :
8.1	The Authorized Representatives are: For the Employer: For the Consultant:
11	Contract become effective after both parties signed this contract
12	Termination of Contract for Failure to Become Effective: If the consultant fail to deliver Inception Report as scheduled in Term of References
13.1	Commencement of Services: 1 (one) day after both parties signed the contract and receipt of notice to commence the services Confirmation of Key Experts' availability to start the Assignment shall be submitted to the Employer in writing as a written statement signed by each Key Expert.
14.1	Expiration of Contract: The time period shall be : Three (3)Years, with (1) Year subject to performance review every quarter.
23.1	The following limitation of the Consultant's Liability towards the Employer can be subject to the Contract's negotiations: "Limitation of the Consultant's Liability towards the Employer: (a) Except in the case of gross negligence or willful misconduct on the part of the Consultant or on the part of any person or a firm acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused by the

	<p>Consultant to the Employer's property, shall not be liable to the Employer:</p> <ul style="list-style-type: none"> (i) for any indirect or consequential loss or damage; and (ii) for any direct loss or damage that exceeds three (3) times the total value of the Contract; <p>(b) This limitation of liability shall not</p> <ul style="list-style-type: none"> (i) affect the Consultant's liability, if any, for damage to Third Parties caused by the Consultant or any person or firm acting on behalf of the Consultant in carrying out the Services; (ii) be construed as providing the Consultant with any limitation or exclusion from liability which is prohibited by the applicable law in the Employer's country".
24.1	<p>The insurance coverage against the risks shall be as follows:</p> <ul style="list-style-type: none"> (a) Professional liability insurance, with a minimum coverage of one hundred percent (100%) of the Contract Price; (b) Third Party motor vehicle liability insurance in respect of motor vehicles operated in the Employer's country by the Consultant or its Experts or Sub-consultants, with a minimum coverage of Two Hundred Thousand US Dollars (USD200,000.00); (c) Third Party liability insurance, with a minimum coverage of Two Hundred Thousand United States Dollars (USD200,000.00);
27.2	<p>The Consultant shall not use reports and documents prepared for the Services for purposes unrelated to this Contract without the prior written approval of the Employer.</p>
38.1	<p>The Contract price is: USD\$] inclusive of taxes.</p> <p>The Consultant shall pay local taxes without reimbursement by the Employer.</p>
40	<p>All payments shall be in United States Dollars (USD).</p>
41.2	<p>The payment schedule:</p> <ul style="list-style-type: none"> • The first payment equivalent to 20% of the Contract price will be paid to the Consultant after the Inception Report is submitted and approved by the Employer; • The final payment equivalent to 80% of the contract price will be paid to the Consultant after the approval by Employer and publication of the EITI report. <p>The Employer will retain 5% from each progress payment as Performance and Quality Guarantee for satisfactory performance of the Contract. The total retention money will be payable after successful completion of the Contract.</p>

	<p>Note: Total sum of all instalments shall not exceed the Contract price set up in SCC38.1.</p> <p>The report shall be produce in three (3) Language as follows:</p> <ol style="list-style-type: none"> 1. English, 2. Portugues, 3. Bahasa Indonesia
41.2.4	<p>The accounts are Account Name: Account Number: Sort Code IBAN: IBAN BIC:</p>
42.1	<p>The interest rate is: 10% per annum</p>
45.1	<p>The location is:</p>

APPENDIX 3

Section 2 – Instructions to Consultants and Data Sheet

APPENDIX 1 -SUMMARY EVALUATION SHEET

EVALUATION CRITERIA		Max. Weight	Firm 1		Firm 2		Firm 3		Firm 4		Firm 5		Firm 6	
			Rating	Score	Rating	Score	Rating	Score	Rating	Score	Rating	Score	Rating	Score
I. Qualification of the Firm		300												
a.	Experience of the firm in similar assignments. Previous experience in EITI reporting is not required, but would be an advantageous	250												
b.	Expertise and experience in the oil, gas and mining sectors	30												
c.	Experience in Timor-Leste or in similar region	20												
II. Approach and Methodology		500												
a.	Understanding of Objectives	100												
b.	Quality of Methodology	150												
c.	Innovative Comments to Terms of Reference	50												
d.	Work Program	100												
e.	Organisation and staffing	100												
III. Key Experts Qualifications and Competence		200												
The Consultant shall submit the CV and evidence of the Key Experts (Team Leader, Certified Auditors) and shall be available for the execution of the services to be carried out as part of the proposal.														
The Proper allocation and availability of the Key Personnel will enable the consultant and services to be executed, managed & completed on time.														
Total		1000												
Rating:	Excellent - 100% Very Good - 90% Above Average - 80%	Average - 70%	Below Average - 50%	Non-complying - 0%										
Score:	Maximum Weight x Rating / 100													