



REPÚBLICA DEMOCRÁTICA DE TIMOR LESTE
COMISSÃO NACIONAL DE APROVISIONAMENTO

BIDDING DOCUMENTS

Procurement of Consultancy Services

ENVIRONMENTAL IMPACT ASSESSMENT OF PROPOSED DEVELOPMENT IN THE SOUTHERN COAST OF TIMOR-LESTE

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Section 1. Instructions to Consultants

Definitions

- (a) “Employer” means the agency with which the Consultant signs the Contract for the Services.
- (b) “Employer’s Country” means the Democratic Republic of Timor Leste.
- (c) “Consultant” means any private or public entity including a Joint Venture that will provide the Services to the Employer under the Contract.
- (d) “Contract” means the Contract signed by the Parties and all the attached documents listed in its Clause 1, that is the General Conditions (GC), the Special Conditions (SC) by which the GC may be amended or supplemented, and the Appendices.
- (e) “CQS” means Consultant’s Qualification Selection.
- (f) “Data Sheet” means such part of the Instructions to Consultants used to reflect specific country and assignment conditions.
- (g) “Day” means calendar day.
- (h) “FBS” means Fixed Budget Selection.
- (i) “Government” means the government of the Employer’s Country.
- (j) “Instructions to Consultants” (Section 1 of the RFP) means the document which provides interested Consultants with all information needed to prepare their Proposals.
- (k) “Joint Venture” means a Consultant which comprises two or more Partners each of whom will be jointly and severally liable to the Employer for all the Consultant’s obligations under the Contract.
- (l) “LCS” means Least Cost Selection.
- (m) “Partner” means any of the entities that make up the Joint Venture; and Partners means all those entities.
- (n) “Personnel” means qualified persons provided by the Consultant and assigned to perform the Services or any part thereof; “International Personnel” means such qualified persons who are not citizens of the Employer’s Country; “National Personnel” means such qualified persons who are citizens of the Employer’s country.
- (o) “Proposal” means a technical proposal or a financial proposal, or both.
- (p) “QBS” means Quality-Based Selection.
- (q) “QCBS” means Quality- and Cost-Based Selection.
- (r) “RFP” means this Request for Proposal.

- (s) “Services” means the work to be performed pursuant to the Contract.
- (t) “SSS” means Single Source Selection.
- (u) “Standard Electronic Means” includes facsimile and email transmissions.
- (v) “Sub-Consultant” means any person or entity with whom the Consultant associates for performance of any part of the Services and for whom the Consultant is fully responsible.
- (w) “Terms of Reference” (TOR) means the document included in the RFP as Section 5 which explains the objectives, scope of work, activities, tasks to be performed, respective responsibilities of the Employer and the Consultant, and expected results and deliverables of the assignment.

1. Introduction

- 1.1 The Employer named in the Data Sheet invites **proposals from qualified consulting firms** (the Consultant) to undertake the services defined in the Data Sheet.
Consultants with no previous experience in EIA services of the same magnitude are disqualified from participation in this tender.
- 1.2 Interested Consultants are invited to submit a Technical Proposal and a Financial Proposal, or a Technical Proposal only, as specified in the Data Sheet, for consulting services required for the assignment named in the Data Sheet. The Proposal will be the basis for contract negotiations and ultimately for a signed Contract with the selected Consultants.
- 1.3 Consultants should familiarize themselves with local conditions relevant to the Services and take them into account in preparing their Proposals. To obtain first-hand information on the assignment and local conditions, Consultants are encouraged to visit the Employer before submitting a proposal and to attend a pre-proposal conference if one is specified in the Data Sheet. Attending the pre-proposal conference is optional. Consultants should contact the Employer's representative named in the Data Sheet to arrange for their visit or to obtain additional information on the pre-proposal conference. Consultants should ensure that these officials are advised of the visit in adequate time to allow them to make appropriate arrangements.
- 1.4 The Employer will provide at no cost to the Consultants the inputs and facilities specified in the Data Sheet, assist the firm in obtaining licenses and permits needed to carry out the Services, and make available relevant project data and reports.
- 1.5 Consultants shall bear all costs associated with the preparation and submission of their proposals and contract negotiation. The Employer is not bound to accept any proposal, and reserves the right to annul the selection process at any time prior to Contract award, without thereby incurring any liability to the Consultants.

Conflict of Interest

- 1.6.1 The Employer considers a conflict of interest to be a situation in which a party has interests that could improperly influence that party's performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations. Consultants shall observe the highest standard of ethics and the Employer shall take appropriate actions to manage such conflicts of interest including disqualification of the Consultant in the selection process or termination of a resulting contract if it determines that a conflict of interest has flawed the integrity of the consultant selection or engagement or in the performance of the Services.
- 1.6.2 Without limitation on the generality of the foregoing, Consultants shall not be recruited under the circumstances set forth below:
- (a) Conflict between consulting activities and procurement of goods, works or services: Consultants or Sub-Consultants that have been engaged by the Employer to provide goods, works or services for a project shall be disqualified from providing consulting services related to such project. Conversely, a consulting firm or individual consultant hired to provide consulting services for the preparation or implementation of a project shall be disqualified from subsequently providing goods, works or services resulting from or directly related to the firm's or individual consultant's services for such preparation or implementation.
 - (b) Consulting firms or individual consultants shall not be hired for any assignment that, by its nature, may be in conflict with another assignment of the firm or individual. As an example, consulting firms or individual consultants hired to prepare engineering design for an infrastructure project shall not be engaged to prepare an independent environmental assessment for the same project, and consulting firms or individual consultants assisting a client in the privatization of public assets shall neither purchase, nor advise purchasers of, such assets. Similarly, consultants hired to prepare TOR for an assignment shall not be hired for the assignment in question.
 - (c) Relationship with Employer's staff. Consultants or Sub-Consultants that have a business or family relationship with a Employer staff member who are directly or indirectly involved in any part of (i) the preparation of the TOR of the Contract, (ii) the recruitment process for such Contract., or (iii) supervision of such contract may not be awarded a Contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the Employer.
- 1.6.3 Consultants have an obligation to disclose any situation of actual or potential conflict of interest. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of its Contract.
- 1.6.4 No agency or current employees of the Employer shall work as

Consultants under their own ministries, departments or agencies. In order to determine whether a conflict of interest exists, prior written approval of the Employer must be sought before former government employees or agencies of the Employer are recruited to work for their former ministries, departments or agencies. When Consultants nominate any government employees or agencies as Personnel in their technical proposal, such Personnel must have written approval from their government or employer, confirming that they will be on leave without pay from their official position and available to work full-time on the assignment for the period required by the assignment and any reasonable extension thereof. Such approval shall be provided to the Employer by the Consultant invited to contract negotiations, prior to commencement of negotiations.

- Anticorruption** 1.7 The Employer requires that consultants observe the highest standard of ethics during the selection process and in execution of contracts. In pursuance of this requirement, the Employer:
- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
 - (ii) “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;
 - (iii) “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;
 - (iv) “collusive practice” means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;
 - (b) 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;
 - (c) 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 Employer-financed or administered activities if it at any time determines that the consultant has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a contract; and
 - (e) will have the right to inspect the Consultant’s accounts and

records and other documents relating to consultant selection and to the performance of the contract and to have them audited by auditors appointed by the Employer.

- 1.9 Consultants shall furnish information on fees, gratuities, rebates, gifts, commissions or other payments if any, paid or to be paid to agents and/or representatives relating to this proposal and during execution of the assignment, as requested in the Financial Proposal submission form (Section 4).
- Only one Proposal** 1.10 A Consultant may only submit one proposal. If a Consultant submits or participates in more than one proposal, such proposals shall be disqualified. However, this does not limit the participation of a national firm (which is not a lead firm), as a sub-consultant, including individual experts, and inclusion in more than one proposal.
- Proposal Validity** 1.11 The Data Sheet indicates how long Consultants' Proposals must remain valid after the submission date. During this period, Consultants shall maintain the availability of experts nominated in the Proposal. The Employer will make its best effort to complete negotiations within this period. Should the need arise, however, the Employer may request Consultants to extend the validity period of their proposals. Consultants who do not agree have the right to refuse to extend the validity of their Proposals.
- Participation of National Consultants** 1.12 It is expected that the Consultant will be an international consultant (as the lead firm) in an association with any eligible national Consultants(s) considered to be suitable for the required services.
- 2. Clarification of RFP Documents** 2.1 Consultants may request a clarification of any of the RFP documents up to the number of days indicated in the Data Sheet before the proposal submission date. Any request for clarification must be sent in writing, or by standard electronic means to the Employer's address indicated in the Data Sheet. The Employer will respond in writing, or by standard electronic means and will send written copies of the response (including an explanation of the query but without identifying the source of inquiry) to all Consultants. Should the Employer deem it necessary to amend the RFP as a result of a clarification, it shall do so following the procedure under para. 2.2.
- Amendment of RFP Documents** 2.2 At any time before the submission of Proposals, the Employer may amend the RFP by issuing an addendum in writing or by standard electronic means. The addendum shall be sent to all Consultants and will be binding on them. Consultants shall acknowledge receipt of all amendments. To give Consultants reasonable time in which to take an amendment into account in their Proposals the Employer may, if the amendment is substantial, extend the deadline for the submission of Proposals.
- Employer Clarification of Proposals** 2.3 It is understood that from time the proposals are received by the Employer to the time that the Contract is awarded, the Employer shall not request the Consultant to provide any clarification on any matter related to the Consultant's technical or financial proposal.
- 3. Preparation of** 3.1 The Proposal (see para. 1.2), as well as all related correspondence

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exchanged by the Consultants and the Employer, shall be written in the English language.

- 3.2 In preparing their Proposal, Consultants are expected to examine in detail the documents comprising the RFP. Consultants whose proposals do not respond to the requirements of the documents comprising the RFP may fail to meet the minimum qualifying score as indicated in the Data Sheet.
- 3.3 While preparing the Technical Proposal, Consultants must give particular attention to the following:
- (i) For the purpose of submitting a proposal, a Consultant may enhance its expertise for the assignment either by:
 - (a) associating with other firm/s, in which case the Consultant shall be the lead consultant and shall be solely liable under the Contract, or
 - (b) forming a Joint Venture with other firm/s, in which case the Consultant and the Partners of the Joint Venture shall be jointly and severally liable under the Contract.
 - (ii) In the event that the Consultant constitutes a Joint Venture or an association, the Consultant shall submit together with the Technical Proposal (i) for a Joint Venture, a copy of the Joint Venture Agreement and a power of attorney (executed by all partners) that authorizes the designated lead or managing Partner of the Joint Venture to act for and on behalf of the Joint Venture and to legally bind such Joint Venture in any contractual or similar documentation; or (ii) for an association, an agreement or letters of association that evidence the terms and conditions of such collaboration and identifies the lead firm. Any Joint Venture agreement, Joint Venture power of attorney or agreement or letters of association shall be attached to TECH-1, Standard Forms (Section 3).
 - (iii) The Joint Venture Agreement shall expressly indicate joint and several liability of the partners and identify the managing or lead partner. All Partners in a Joint Venture shall sign the Proposal unless the managing or lead Partner is nominated to do so in the power of attorney.
 - (iv) None of the firms or experts proposed in an association or Joint Venture should be the subject of a sanction by the Employer.
 - (v) Alternative experts shall not be proposed, and only one curriculum vitae (CV) may be submitted for each position.
 - (vi) It is desirable that the majority of the experts proposed are regular full-time employees of the Consultant or the Sub-Consultant or have an extended and stable working relationship with it. Higher rating will be given when the expert is a regular full-time employee of the Consultant or the Sub-Consultant. A regular

full-time employee of the Consultant or the Sub-Consultant is defined as a person who, on the date of submission of the Consultant's Proposal:

- (a) is currently employed under a contract or agreement of employment with the Consultant or the Sub-Consultant;
- (b) has been employed by the Consultant or the Sub-Consultant for the last 12 consecutive months preceding the date of submission of the Proposal;
- (c) is entitled to receive regular remuneration and benefits (e.g. social security, pension or medical contributions) from the Consultant or the Sub-Consultant; and
- (d) is engaged to work for the Consultant or the Sub-Consultant for the number of hours per day and days per year considered the norm in the country of employment or in the country in which the person is assigned.

Proof of Legal Status	3.4	Prior to contract negotiations, the selected Consultant will be required to submit its proof of legal status i.e., certificate of incorporation (or registration, in the case of a partnership or joint venture) or any document required by the commercial laws of the Consultant's country establishing the Consultant's status to conduct or transact business as a legal entity.
Disqualification	3.5	<p>Zero rating resulting in disqualification will be given to a nominated expert in particular circumstances, if the expert:</p> <ul style="list-style-type: none"> (i) the CV is not signed in accordance with para. 3.6 (vi) requirements; or (ii) is a current employee of the Employer; or (iii) has failed to disclose any situation of actual or potential conflict in terms of para. 1.6.3
Technical Proposal Format and Content	3.6	<p>Depending on the nature of the assignment, Consultants are required to submit a Full Technical Proposal (FTP), a Simplified Technical Proposal (STP), or a Biodata Technical Proposal (BTP). The Data Sheet indicates the format of the Technical Proposal to be submitted. Submission of the wrong type of Technical Proposal will result in the Proposal being deemed non-responsive. The Technical Proposal shall provide the information indicated in the following paragraphs from (i) to (vii) using the attached Standard Forms (Section 3). The following table summarizes the content and maximum number of pages permitted for each type of Proposal. If the maximum number of pages is exceeded, a penalty of 5 percentage points will be applied for every page over the maximum page limit during evaluation of the Proposal. A page is considered to be one printed side of A4 or letter size paper.</p>

Proposal Type Content	Full Technical Proposal (FTP)	Simplified Technical Proposal (STP)	Biodata Technical Proposal (BTP)
Experience of the firm	(i) maximum two (2) pages introducing the firm and associate firm(s) background and general experience (Form TECH-2A). (ii) maximum of twenty (20) pages of relevant completed projects in the format of Form TECH-2B illustrating firm and associate(s) firm's relevant experience. No promotional material should be included. (iii) maximum of two (2) pages describing the firm's quality management system-in-place and how the firm will ensure quality over the life of the assignment.	not required.	not required.

Proposal Type Content	Full Technical Proposal (FTP)	Simplified Technical Proposal (STP)	Biodata Technical Proposal (BTP)
General approach and methodology, work plan	maximum fifty (50) pages inclusive of charts and diagrams (Form TECH-4).	maximum ten (10) pages including charts and diagrams (Form TECH-4).	maximum one (1) page for work plan. No written methodology to be provided.
Personnel schedule	Form TECH-7	Form TECH-7	Form TECH-7
Comments on terms of reference	no limit, but to be concise and to the point (Form TECH-3A).	included as part of general approach and methodology.	not required.
Experts' CVs	maximum of five (5) pages for each expert's CV using Form TECH-6.	maximum of five (5) page CV for each expert using Form TECH-6.	maximum of five (5) page CV for each expert using Form TECH-6.
Counterpart staff and facility requirements	maximum of two (2) pages (Form TECH-3B).	not required.	not required.
List of Proposed Expert Team and Summary of CV Particulars	Form TECH-5	Form TECH-5	Form TECH-5

- (i) (a) [For FTP only:] a brief description of the Consultants' organization and an outline of recent experience of the Consultants and, in the case of Joint Venture, for each partner, on assignments of a similar nature is required in Form TECH-2 of Section 3. For each assignment, the outline should indicate the names of Sub-Consultants/ experts who participated, duration of the assignment, contract amount, and Consultant's involvement. Information should be provided only for those assignments for which the Consultant was legally contracted as a lead firm or as one of the major firms within a Joint Venture. Assignments completed by individual experts working privately or through other consulting firms cannot be claimed as the experience of

- the Consultant, or that of the Joint Venture partners or Sub-Consultants, but can be claimed by the expert themselves in their CVs. Consultants should be prepared to substantiate the claimed experience if so requested by the Employer.
- (b) For STP information in para. 3.4(i)(a) is not required and Form TECH-2 of Section 3 shall not be used.
- (ii) (a) [For FTP only:] comments and suggestions on the Terms of Reference including workable suggestions that could improve the quality/ effectiveness of the assignment; and on requirements for counterpart staff and facilities including: administrative support, office space, local transportation, equipment, data, etc. to be provided by the Employer (Form TECH-3 A and B of Section 3).
 - (b) For STP Form TECH-3 of Section 3 shall not be used; the above comments and suggestions, if any, should be incorporated into the description of the approach and methodology (refer to following sub-para. 3.4 (iii) (b)).
- (iii) (a) [For FTP and STP:] a description of the approach, methodology and work plan for performing the assignment covering the following subjects: technical approach and methodology, work plan, and organization and personnel schedule. Guidance on the content of this section of the Technical Proposals is provided under Form TECH-4 of Section 3. The work plan should be consistent with the Work Schedule (Form TECH-8 of Section 3) which will show in the form of a bar chart the timing proposed for each activity.
 - (b) For STP only: the description of the approach, methodology and work plan shall consist of 10 pages, including charts, diagrams, and comments and suggestions, if any, on Terms of Reference and counterpart staff and facilities. The reference to charts and diagrams (see preceding table) in the maximum 10 page limit does not include Form TECH-7 and Form TECH-8 which shall be provided separately.
- (iv) The list of the proposed team by area of expertise, the position that would be assigned to each team member, their tasks and a summary of essential CV information (Form TECH-5 of Section 3).
 - (v) Estimates of the expert and/or specialist input (person-months of international and national personnel) needed to carry out the assignment (Form TECH-7 of Section 3). The person-months input should be indicated separately for home office and field activities, and for international and national personnel.

- (vi) CVs of the experts signed by the experts themselves or by the authorized representative submitting the proposal (Form TECH-6 of Section 3). Should the firm be ranked first, copies of the same CVs signed by the experts must be submitted to the Employer prior to commencement of contract negotiations.
- 3.7 The Technical Proposal shall not include any financial information. A Technical Proposal containing financial details under any selection method, except CQS and SSS, will be declared non responsive.
- Financial Proposals**
- 3.8 (i) The Consultant shall submit a hard copy of the Financial Proposal using the attached standard forms (Section 4). The Employer shall read the Hard Copy during the public opening of Financial Proposals.
- (ii) It is the Consultant's responsibility to ensure that the correct Financial Proposal format is used for the selected method indicated in the Data Sheet.
- (iii) The Financial Proposal requires completion of the six forms FIN-1 to FIN-6 shown in Section 4.
- a. Form FIN-1 is the Financial Proposal Submission Form.
- b. Form FIN-2 summarizes the proposed cost(s). Remuneration is divided into billing rates for international and national experts; reimbursable expenses are divided into per diem rates for international and national experts and costs for other reimbursable expenses items required to perform the Services, as indicated in the Data Sheet. When QBS is used, the financial proposal should remain within the estimated budget specified. When QCBS is used, the Data Sheet will specify either an estimated budget or a maximum budget [see 5.6(iii)-(iv)]:
1. For estimated budgets: the gross evaluated financial proposal (inclusive of provisional sums and contingencies) **may** exceed the estimated budget for the assignment;
 2. For maximum budgets: the gross evaluated financial proposal (inclusive of provisional sums and contingencies) **cannot** exceed the maximum budget for the assignment, and if it does, this will result in disqualification of such financial proposal.
- c. Forms FIN-3 and FIN-4 show the remuneration. **FIN-4 shows the remuneration details and shall only be used when CQS, QBS or SSS method is used.**
- d. FIN-5 shows details of reimbursable expenses.
- e. **Form FIN-6 is the declaration of compliance with**

the requirements of the Request for Proposal (RFP) documents. The Consultant's authorized representative shall sign and date this Form on behalf of the Consultant. Failure to do so and submit the duly signed declaration of compliance with the Financial Proposal will result in the disqualification of the Proposal.

- f. The amounts stated under provisional sums and for contingency in FIN-2 must be the exact amounts as specified in the Data Sheet for such cost and are included within the maximum budget for the assignment specified in the Data Sheet. The exact amounts of provisional sums and contingency and the applicable payment schedule will be determined during contract negotiations.
- g. All activities and items described in the Technical Proposal must be priced. Any activities or items described in the Technical Proposal but not priced, shall be assumed to be included in the prices of other activities or items provided for in the Financial Proposal. For remuneration related costs, if less than the minimum number of person months specified in the Data Sheet is provided in the Personnel Schedule of the Technical Proposal for international and/or national experts, the difference between such proposed person months for each expert in the Financial Proposal will be added to remuneration related costs at the remuneration rate per month (either home or field) specified for such expert in the Financial Proposal.

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| Taxes | 3.9 | The Consultant may be subject to local taxes (such as: value added or sales tax, social charges or income taxes on non resident International Personnel, duties, fees, levies) on amounts payable by the Employer under the Contract. The Employer will state in the Data Sheet if the Consultant is subject to payment of any local taxes. If affirmative, the Consultant shall include in the Financial Proposal all taxes and charges related to this consultancy services. Information related to Timor Leste taxation can be found at:
http://www.mof.gov.tl/en/TLRS/DomesticTax/TaxGuidesAndForms/taxguide/ |
| Currencies | 3.10 | Consultants shall express the price of their services in United States Dollar . |
| Fees, Gratuities and Commissions | 3.11 | Fees, gratuities, rebates, gifts, commissions or other payments or benefits, if any, paid or to be paid or provided or to be provided by Consultants and related to the assignment will be listed in the Financial Proposal Form FIN-1 of Section 4. |
| 4. Submission, Receipt, and Opening of | 4.1 | The original proposal (Technical Proposal and, if required, Financial Proposal; see para. 1.2) shall contain no interlineations or overwriting, except as necessary to correct errors made by the Consultants |

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themselves. The person who signed the proposal must initial such corrections. Submission letters for both Technical and Financial Proposals should be in the format of TECH-1 of Section 3 and FIN-1 of Section 4, respectively, including required attachments, if any. [See para. 3.3(i) above.]

- 4.2 An authorized representative of the Consultants shall initial all pages of Financial Proposals. The authorization shall be in the form of a written power of attorney accompanying the Proposal or in any other form demonstrating that the representative has been duly authorized to sign. The signed Financial Proposal shall be marked "ORIGINAL."
- 4.3 The Technical Proposal shall be marked "ORIGINAL" or "COPY" as appropriate. The Technical Proposals shall be sent to the addresses referred to in para. 4.5 and in the number of copies indicated in the Data Sheet. All required copies of the Technical Proposal are to be made from the original. If there are discrepancies between the original and the copies of the Technical Proposal, the original governs.
- 4.4 The original and all copies of the Technical Proposal shall be placed in a sealed envelope clearly marked "TECHNICAL PROPOSAL" Similarly, the original Financial Proposal, in the case of FBS, LCS and QCBS, shall be placed in a sealed envelope clearly marked "FINANCIAL PROPOSAL" followed by the Name of the assignment, and with a warning "**Do NOT OPEN WITH THE TECHNICAL PROPOSAL.**" The envelopes containing the Technical and Financial Proposals shall be placed into an outer envelope and sealed. This outer envelope shall bear the submission address, reference number and Name of the assignment, and be clearly marked "**Do NOT OPEN, EXCEPT IN PRESENCE OF THE OFFICIAL APPOINTED, BEFORE** [*insert the time and date of the submission deadline indicated in the Data Sheet*]" The Employer shall not be responsible for misplacement, losing or premature opening if the outer envelope is not sealed and/or marked as stipulated. This circumstance may be cause for Proposal rejection. If the Financial Proposal is not submitted in a separate sealed envelope duly marked as indicated above, for FBS, LCS and QCBS, this will constitute grounds for declaring the Proposal non-responsive.
- 4.5 The Proposals must be sent to the address indicated in the Data Sheet and received by the Employer no later than the time and the date indicated in the Data Sheet, or any extension to this date in accordance with para. 2.2. Any proposal received by the Employer after the deadline for submission shall be returned unopened.
- 4.6 The Employer shall open the Technical Proposal immediately after the deadline for their submission. For FBS, LCS and QCBS methods, the envelopes with the Financial Proposal shall remain sealed and securely stored.
- 4.7 From the time the Proposals are opened to the time the Contract is awarded, the Consultants should not contact the Employer on any matter related to its Technical and/or Financial Proposal. Any effort by Consultants to influence the Employer in the examination, evaluation, ranking of Proposals, and recommendation for award of Contract may result in the rejection of the Consultants' Proposal.

- 4.8 For FBS, LCS and QCBS methods, the evaluators of Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is concluded.
- 5. Evaluation of Technical Proposals**
- 5.1 The evaluation committee shall evaluate the Technical Proposals on the basis of their responsiveness to the Terms of Reference, applying the evaluation criteria, subcriteria, and rating system specified in the Data Sheet in terms of the Summary and Personnel Evaluation Criteria detailed in the Appendix thereto. Each responsive Proposal will be given a technical score (St). A Proposal shall be rejected at this stage if it does not respond to important aspects of the RFP, and particularly the Terms of Reference or if it fails to achieve the minimum technical score, if any, indicated in the Data Sheet.
- Financial Proposals for CQS, QBS, and SSS**
- 5.2 Following the ranking of Technical Proposals, when selection is based on CQS, QBS and SSS methods, in the event of submission of a responsive technical proposal, the first-ranked Consultant is invited to negotiate its Financial Proposal and the Contract in accordance with the instructions given under para. 6 of these Instructions.
- Public Opening and Evaluation of Financial Proposals (only for QCBS, FBS and LCS)**
- 5.3 In the case of FBS, LCS and QCBS, after the technical evaluation is completed, the Employer shall notify those Consultants whose Proposals did not meet the minimum qualifying mark or were considered non-responsive to the RFP, indicating that their Financial Proposals will be returned unopened after completing the selection process. The Employer shall simultaneously notify in writing Consultants that have secured the minimum qualifying mark, informing them of the technical scores obtained by their Technical Proposals, and indicating the date, time and location for opening the Financial Proposals. The expected date for the public opening of the Financial Proposals is indicated in the Data Sheet; the opening date should allow Consultants sufficient time to make arrangements for attending the opening. Consultants' attendance at the opening of Financial Proposals is optional.
- Opening and Evaluation of Financial Proposals (only for QCBS, FBS, and LCS)**
- 5.4 Financial Proposals shall be opened publicly in the presence of the Consultants' representatives who choose to attend. The name of the Consultants, and the technical scores of the Consultants shall be read aloud. The Financial Proposal of the Consultants who met the minimum qualifying mark will then be inspected to confirm that they have remained sealed and unopened. These Financial Proposals shall be then opened, and the total prices read aloud and recorded. Copy of the record shall be sent to all Consultants.
- 5.5 The evaluation committee will review the detailed content of each Financial Proposal. During the review of Financial Proposals under FBS, LCS and QCBS methods, the Committee and any Employer personnel and others involved in the evaluation process, will not be permitted to seek clarification or additional information from any Consultant, who has submitted a Financial Proposal. Financial Proposals will be reviewed to ensure these are:
- (i) complete (i.e., whether Consultants have priced all items of the corresponding Technical Proposal); if not, for material

omissions, the Employer will price them by application of the highest unit cost and quantity of the omitted item as provided in the other Financial Proposals and add their cost to the offered price, and correct any arithmetical errors. When correcting computational errors, in case of discrepancy between (a) a partial amount and the total amount the partial amount shall prevail; (b) words and figures, the words shall prevail. The evaluated total price (ETP) for each Financial Proposal will be determined. The ETP excludes non-competitive components (i.e. contingencies and provisional sums).

- (iii) In compliance with the requirements set forth in the Data Sheet, each Financial Proposal must include provisional sums and contingencies in the amounts specified in the Data Sheet and the validity period of the Consultants' proposals must accord with the validity period indicated in the Data Sheet. Provision for a discount in any Financial Proposal is not permissible and the ETP for each Financial Proposal will be determined without applying any discount.

5.6 When the QCBS method is used:

- (i) to allow comparison on a common basis, each Financial Proposal will be carefully scrutinized in accordance with the procedure outlined in para. 5.5, and an ETP will be determined. The lowest evaluated Financial Proposal will receive the maximum score of 1,000 marks. The score for each other Financial Proposal is inversely proportional to its ETP and will be computed as follows:

$$S_f = 1,000 \times F_m / F \quad \text{where:}$$

S_f is the financial score of the Financial Proposal being evaluated,

F_m is the ETP of the lowest priced Financial Proposal,

F is the ETP of the Financial Proposal under consideration.

- (ii) following completion of evaluation of Technical and Financial Proposals, final ranking of the Proposals will be determined. This will be done by normally applying a weight as specified in the Data Sheet (i.e., 90%:10%, 80%:20%, or 70%:30%) respectively to the technical and financial score of each evaluated qualifying Technical and Financial Proposal and then computing the relevant combined total score for each Consultant. After such final ranking, the first-ranked Consultants will be invited for contract negotiations.
- (iii) if a maximum budget is specified in the Data Sheet, Financial Proposals must be within such maximum budget. If any proposal exceeds such maximum budget, such proposal will be held non-responsive and be given a zero score. In such cases, if the firm submitting a Financial Proposal exceeding the maximum budget still obtains the highest combined score in final ranking, this winning firm will be advised, as a condition of

contract negotiations, to reduce the Financial Proposal to the maximum budget without compromising the TOR for the assignment (and without modification of proposed unit rates.)

- (iv) if an estimated budget is specified in the Data Sheet, a Financial Proposal may exceed such estimated budget, if considered necessary by the firm submitting the financial proposal. In such cases, if the firm submitting a Financial Proposal exceeding the estimated budget still obtains the highest combined score in final ranking, this winning firm may be advised, as a condition of contract negotiations, to reduce the Financial Proposal to such maximum budget without compromising the TOR for the assignment (and without modification of proposed unit rates).

5.7 When the FBS method is used:

- (i) the Employer will select the Consultant that submitted the highest ranked Technical Proposal within the budget specified in the Data Sheet.
- (ii) **Financial Proposals that exceed the maximum budget specified in the Data Sheet will be rejected.**

5.8 When the LCS method is used:

- (i) the Employer will select the lowest Financial Proposal of a Consultant whose Technical Proposal passed the minimum technical score specified in the Data Sheet.
- (ii) **Financial Proposals that exceed the maximum budget specified in the Data Sheet will be rejected.**

6. Negotiations

6.1 Subject to Clause 2.2, negotiations will be held at the date and address indicated in the Data Sheet. The invited Consultant will, as a prerequisite for attendance at the negotiations, confirm availability of all experts named in its proposal in the absence of death or medical incapacity. Failure in satisfying such requirements may result in the Employer proceeding to initiate the negotiation process with the next-ranked Consultant. Representatives conducting negotiations on behalf of the Consultant must have written authority to negotiate and conclude a Contract.

Technical negotiations

6.2 Negotiations will include a discussion of the Technical Proposal, the proposed technical approach and methodology, work plan and schedule, and organization and personnel, and any suggestions made by the Consultant to improve the TOR. The Employer and the Consultants will finalize the TOR, personnel schedule, work schedule, logistics, and reporting. These documents will then be incorporated in the Contract as "Description of Services." Special attention will be paid to clearly defining the inputs and facilities required from the Employer to ensure satisfactory implementation of the assignment. The Employer shall prepare minutes of negotiations which will be signed by the Employer and the Consultant.

- Financial negotiations**
- 6.3 (i) **When CQS, QBS, or SSS** method is used, the financial negotiations will include a detailed review of all the Consultant's proposed costs including a review of all documentation provided by the Consultant in support of proposed costs. In particular, the Consultants shall provide full details of the remuneration of all nominated experts, according to Section 4 - Financial Proposal - Standard Forms of this RFP, including the information required in Form FIN-4.
- (ii) **When FBS, LCS or QCBS** method is used, the financial negotiations will, as necessary, fine-tune duration of the expert's inputs and quantities of out-of-pocket expenditure items that may be increased or decreased from the relevant amounts shown or agreed otherwise in the Financial Proposal but without significant alterations. The details of expert remuneration and specific unit rates for out-of-pocket expenditures will not be subject to negotiations.
- (iii) **For QCBS** where the Financial Proposal of the first-ranked firm is substantially higher than any maximum or estimated budget specified in the Data sheet, the Employer reserves the right to invite the next-ranked firm to negotiate, if negotiations with such first-ranked firm do not result in an acceptable contract having due regard to the inputs and scope of work required under the TOR (see 5.6(iii)-(iv)).¹
- Availability of Personnel**
- 6.4 Having selected the Consultant on the basis of, among other things, an evaluation of proposed personnel, the Employer expects to negotiate a Contract on the basis of the personnel named in the Proposal. Before contract negotiations, the Employer will require assurances that the personnel will be actually available. The Employer will not consider substitutions during contract negotiations unless both parties agree that undue delay in the selection process makes such substitution unavoidable or for reasons such as death or medical incapacity. The Employer may also request the replacement of any expert nominated by the invited firm who receives a rating below 70% (average) or is deemed to be unsuitable for a proposed position. In the event that the Employer requests a replacement, such replacement shall have the same unit rate of remuneration proposed for the original candidate by the firm in its Financial Proposal except where the method of selection is CQS, QBS, or SSS, where the rate of remuneration will be based on supporting documentation. Any proposed substitute shall have equivalent or better qualifications and experience than the original candidate and be submitted by the Consultant within the period of time specified in the letter of invitation to negotiate. Failure to meet either of these requirements may result in disqualification.
- Conclusion of the negotiations**
- 6.5 Negotiations will conclude with a review of the draft Contract. To complete negotiations the Employer and the Consultant will initial the agreed Contract. If negotiations fail, the Employer will invite the Consultant whose Proposal received the second highest score to

¹ N.B. Proposed unit rates for remuneration shall not be altered since the unit rate cost has been a factor in the selection process.

- negotiate a Contract.
- 7. Award of Contract**
- 7.1 After completing negotiations the Employer shall award the Contract to the selected Consultant and notify the other Consultants who could have been invited to negotiate a Contract that they were unsuccessful. When FBS, LCS or QCBS is used, after Contract signature the Employer shall return the unopened Financial Proposals to the consultants whose Technical Proposals have not secured the minimum qualifying mark, or were found to be technically non-responsive.
- 7.2 The Consultant is expected to commence the Services on the date and at the location specified in the Data Sheet.
- 7.3 Consultants who were not awarded the Contract may request an oral debriefing from the executing agency after Contract award in respect of their Proposal.
- 8. Confidentiality**
- 8.1 Information relating to evaluation of Proposals and recommendations concerning awards shall not be disclosed to the Consultants who submitted the Proposals or to other persons not officially concerned with the process. The use by any Consultant of confidential information related to the process may make it subject to the provisions of the anti-corruption policy in accordance with para. 1.7.

1. DATA SHEET - INSTRUCTION TO CONSULTANTS

Paragraph Reference	
1.1	<p>Name of the Employer: MINISTRY OF NATURAL RESOURCES ON BEHALF OF THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF TIMOR LESTE</p> <p>Method of selection: QUALITY COST BASED SELECTION (QCBS)</p>
1.2	<p>Financial Proposal to be submitted together with Technical Proposal: YES</p> <p>Name of the assignment is: ENVIRONMENTAL IMPACT ASSESSMENT OF PROPOSED DEVELOPMENT IN THE SOUTHERN COAST OF TIMOR-LESTE</p>
1.3	<p>A pre-proposal conference will be held: NO</p> <p>The Employer's representative is:</p> <p>PETER PEASE Coordinator, National Procurement Commission</p> <p>Address: 3rd Floor, Land and Property Management Building, Bebora, Dili - Timor-Leste</p> <p>Telephone: +670 730 4290</p> <p>Email address: ppease@npc.gov.tl</p>
1.4	<p>The Employer will provide the following inputs and facilities:</p> <p>The Employer will make available copies of all relevant reports, maps and other relevant reference material and will provide liaison with other government agencies, as required to carry out the consulting assignment.</p> <p>The Employer will also allow the Consultant any reasonable use of equipment apparatus/facilities required to execute the investigations for which provision is not already made under the contract.</p> <p>Employer will facilitate the issue of visas, work permits and other documents required for carrying out the assignments under contract as appropriate.</p>
1.12	Proposals must remain valid NINETY (90) DAYS after the submission date.
2.1	<p>Clarifications may be requested not later than SEVEN (7) days before the submission date.</p> <p>The address for requesting clarifications is:</p> <p>PETER PEASE Coordinator, National Procurement Commission</p>

Section 2 – Data Sheet

Paragraph Reference	
	<p>Address: 3rd Floor, Land and Property Management Building, Bebora, Dili</p> <p>Telephone: +670 730 4290</p> <p>Email address: ppease@npc.gov.tl</p>
3.6	<p>The format of the Technical Proposal to be submitted is:</p> <p>Full Technical Proposal (FTP)</p>
3.6 and 3.8(g)	<p>Minimum number of person-months that must be shown on the personnel schedule are:</p> <p>International experts: THIRTY (30)</p> <p>National experts: SIX (6)</p>
3.8 (iii) b	<p>Estimated Budget for the Assignment: Not specified.</p>
3.8 (iii) d	<p>Applicable Reimbursable expenses are:</p> <ol style="list-style-type: none"> (1) a per diem allowance in respect of Personnel of the Consultant for every day in which the personnel shall be absent from their home office; (2) cost of necessary international and local air travel, including international travel of the international experts by the most appropriate means of transport and the most direct practicable route; (3) land transportation including vehicle rental; (4) cost of international or local communications such as the use of telephone and facsimile required for the purpose of the Services; (5) cost, rental and freight of any equipment required to be provided by the Consultants for the purposes of the Services; (6) cost of printing and dispatching of the reports to be produced for the Services; (7) miscellaneous administrative and support costs including office operations, support personnel and translation; and (8) cost of such further items required for purposes of the Services not covered in the foregoing.
3.8 (iii) f	<p>Amount for provisional sums: NIL</p> <p>Contingency amount: USD100,000</p>
3.9	<p>Amounts payable by the Employer to the Consultant under the contract to be subject to local taxation: YES. The Consultant shall pay local taxes without reimbursement by the Employer.</p>

Paragraph Reference	
4.3	Consultant must submit the original and TWO (2) copies of the Technical Proposal and the original of the Financial Proposal.
4.4	Financial Proposal to be submitted in sealed envelope: YES
4.5	<p>Consultant must submit the original and two copies of the Technical Proposal, and the original Financial Proposal to the Employer to the following address:</p> <p style="text-align: center;">BID BOX Office of the National Procurement Commission 3rd Floor, Land & Property Management Building, Bebora, Dili</p> <p>Proposals must be submitted no later than the following date and time:</p> <p style="text-align: center;"><u>26 SEPTEMBER 2011; 1600 HOURS TIMOR LESTE TIME</u></p>
5.1	<p>Criteria, sub-criteria, and point system for the evaluation of Technical Proposals are those indicated in the Evaluation Sheets listed in Appendix 1.</p> <p style="text-align: center;">The minimum technical score required to pass is 750 from a maximum of 1,000 points.</p>
5.3	<p>Expected date for public opening of Financial Proposals:</p> <p style="text-align: center;">3 OCTOBER 2011; 1000 HOURS TIMOR LESTE TIME to be held at:</p> <p style="text-align: center;">Office of the National Procurement Commission 3rd Floor, Land & Property Management Building, Bebora, Dili</p>
5.6(ii)	Quality-Cost Ratio: 80:20
6.1	<p>Expected date and address for contract negotiations:</p> <p style="text-align: center;">10 OCTOBER 2011 to be held at:</p> <p style="text-align: center;">Office of the National Procurement Commission 3rd Floor, Land & Property Management Building, Bebora, Dili</p>
7.2	<p>Expected date for commencement of consulting services:</p> <p style="text-align: center;">26 OCTOBER 2011</p>

APPENDIX

Evaluation Sheets to be used for the evaluation of Technical Proposals

- (i) Summary Evaluation Sheet;
- (ii) Personnel Evaluation Sheet.

Section 3. Technical Proposal - Standard Forms

Refer to Clause 3.6 of the Data Sheet for format of Technical Proposal to be submitted, and paragraph 3.6 of Section 2 of the RFP for Standard Forms required and number of pages permitted.

- TECH-1 Technical Proposal Submission Form
- TECH-2 Consultant's Organization and Experience
 - A Consultant's Organization
 - B Consultant's Experience
 - C Consultant's Quality Assurance
- TECH-3 Comments or Suggestions on the Terms of Reference and on Counterpart Staff and Facilities to be Provided by the Employer
 - A On the Terms of Reference
 - B On the Counterpart Staff and Facilities
- TECH-4 Description of the Approach, Methodology and Work Plan for Performing the Assignment
- TECH-5 Team Composition, Task Assignments, and Summary of CV Information
- TECH-6 Curriculum Vitae (CV) for Proposed Professional Experts
- TECH-7 Personnel Schedule
- TECH-8 Work Schedule

FORM TECH-1 TECHNICAL PROPOSAL SUBMISSION FORM

[Location, Date]

To: [Name and address of Employer]

Dear Sirs:

We, the undersigned, offer to provide the consulting services for [Insert title of assignment] in accordance with your Request for Proposal dated [Insert Date] and our Proposal. We are hereby submitting our Proposal, which includes this Technical Proposal, and a Financial Proposal sealed under a separate envelope.

We are submitting our Proposal in association with/as a Joint Venture: [Insert a list with full name and address of each joint venture partner or sub-Consultant].¹ Attached is the following documentation: [Joint Venture Agreement and Joint Venture power of attorney for lead or managing Partner]

We hereby declare that all the information and statements made in this Proposal are true and accept that any misinterpretation contained in it may lead to our disqualification.

If negotiations are held during the period of validity of the Proposal, i.e., before the date indicated in Clause Reference 1.12 of the Data Sheet, we undertake to negotiate on the basis of the proposed personnel. Our Proposal is binding upon us and subject to the modifications resulting from Contract negotiations.

We undertake, if our Proposal is accepted, to initiate the consulting services related to the assignment not later than the date indicated in Clause Reference 7.2 of the Data Sheet.

We understand you are not bound to accept any Proposal you receive.

We remain,

Yours sincerely,

Authorized Signature [In full and initials]: _____

Name and Title of Signatory: _____

Name of Firm: _____

Address: _____

¹ [Delete in case no association or Joint Venture is proposed.]

FORM TECH-2 CONSULTANT'S ORGANIZATION AND EXPERIENCE

A - Consultant's Organization

[Provide here a brief (two pages) description of the background and organization of the Consultant and, if applicable, Sub-Consultant and each joint venture partner for this assignment.]

B - Consultant's Experience

[Using the format below, provide information on each assignment for which your firm, and each joint venture partner or sub-consultant for this assignment, was legally contracted either individually as a corporate entity or as one of the major companies within a joint venture or sub-consultancy, for carrying out consulting services similar to the ones requested under this assignment. Use a maximum of 20 pages.]

Assignment name:	Approx. value of the contract (in current US\$ or Euro):
Country: Location within country:	Duration of assignment (months):
Name of Client:	Total N ^o of person-months of the assignment:
Address:	Approx. value of the services provided by your firm under the contract (in current US\$ or Euro):
Start date (month/year): Completion date (month/year):	N ^o of professional person-months provided by the joint venture partners or the Sub-Consultants:
Name of joint venture partner or sub-Consultants, if any:	Name of senior regular full-time employees ² of your firm involved and functions performed (indicate most significant profiles such as Project Director/Coordinator, Team Leader):
Narrative description of Project:	
Description of actual services provided in the assignment:	

Firm's Name: _____

² Regular full-time employee as defined in para. 3.3(vi)

C - Consultant's Quality Assurance

[Describe briefly your firm's standard policies, procedures or practices in place that promote quality in: the workplace, your interaction with clients, and the outputs you produce.]

[Describe also how you will ensure the quality of your firm's performance over the life of this assignment]

**FORM TECH-3 COMMENTS AND SUGGESTIONS ON THE TERMS OF
REFERENCE AND ON COUNTERPART STAFF AND FACILITIES TO BE PROVIDED
BY THE EMPLOYER**

A - On the Terms of Reference

[Present and justify here any modifications or improvement to the Terms of Reference you are proposing to improve performance in carrying out the assignment (such as deleting some activity you consider unnecessary, or adding others, or increasing/reducing the type and number of staff, or proposing a different phasing of the activities). Such suggestions should be concise and to the point.]

B – On Counterpart Staff and Facilities

[Comment here on counterpart staff and facilities to be provided by the Employer according to Clause Reference 1.4 of the Data Sheet including: administrative support, office space, local transportation, equipment, data, etcetera.]

FORM TECH-4 DESCRIPTION OF APPROACH, METHODOLOGY AND WORK PLAN FOR PERFORMING THE ASSIGNMENT

[Technical approach, methodology and work plan are key components of the Technical Proposal. You are suggested to present your Technical Proposal (maximum of 50 pages, inclusive of charts and diagrams for Full Technical Proposal and maximum of 10 pages if a Simplified Technical Proposal is used) divided into the following three chapters:

- a) Technical Approach and Methodology,*
- b) Work Plan, and*
- c) Organization and Personnel,*

a) Technical Approach and Methodology. In this chapter you should explain your understanding of the objectives of the assignment, approach to the services, methodology for carrying out the activities and obtaining the expected output, and the degree of detail of such output. You should highlight the problems being addressed and their importance, and explain the technical approach you would adopt to address them. You should also explain the methodologies you propose to adopt and highlight the compatibility of those methodologies with the proposed approach.

b) Work Plan. In this chapter you should propose the main activities of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the Employer), and delivery dates of the reports. The proposed work plan should be consistent with the technical approach and methodology, showing understanding of the TOR and ability to translate them into a feasible working plan. A list of the final documents, including reports, drawings, and tables to be delivered as final output, should be included here. The work plan should be consistent with the Work Schedule of Form TECH-8.

c) Organization and Personnel. In this chapter you should propose the structure and composition of your team. You should list the main disciplines of the assignment, the key expert responsible, and proposed technical and support personnel. You shall also specify if you will be the lead firm in a joint venture or in an association with Sub-Consultants. For joint ventures, you must attach a copy of the joint venture agreement.]

FORM TECH-6 CURRICULUM VITAE (CV) FOR PROPOSED INTERNATIONAL OR NATIONAL EXPERTS

1. Proposed Position [*only one candidate shall be nominated for each position*]: _____

2. Name of Firm [*Insert name of firm proposing the expert*]: _____

3. Name of Expert [*Insert full name*]: _____

4. Date of Birth: _____ **Citizenship:** _____

5. Education [*Indicate college/university and other specialized education of expert, giving names of institutions, degrees obtained, and dates of obtainment*]: _____

6. Membership in Professional Associations: _____

7. Other Trainings [*Indicate significant training since degrees under 5 - Education were obtained*]:

8. Countries of Work Experience: [*List countries where expert has worked in the last ten years*]: _____

9. Languages [*For each language indicate proficiency: good, fair, or poor in speaking, reading, and writing*]: _____

10. Employment Record [*Starting with present position, list in reverse order every employment held by expert since graduation, giving for each employment (see format here below): dates of employment, name of employing organization, positions held.*]:

From [Year]: _____ To [Year]: _____

Employer: _____

Positions held: _____

<p>11. Detailed Tasks Assigned</p> <p><i>[List all tasks to be performed under this assignment]</i></p>	<p>12. Work Undertaken that Best Illustrates Capability to Handle the Tasks Assigned</p> <p><i>[Among the assignments in which the expert has been involved, indicate the following information for those assignments that best illustrate the expert's capability to handle the tasks listed in line 11.]</i></p> <p>Name of assignment or project: _____</p> <p>Year: _____</p> <p>Location: _____</p> <p>Client: _____</p> <p>Main project features: _____</p> <p>Positions held: _____</p> <p>Activities performed: _____</p>
----------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

13. Certification:

I, the undersigned, certify to the best of my knowledge and belief that

- (i) this CV correctly describes my qualifications and my experience;
- (ii) I am not employed by the Employer;
- (iii) In the absence of medical incapacity, I will undertake this assignment for the duration and in terms of the inputs specified for me in the Personnel Schedule in Form TECH-7 provided team mobilization takes place within the validity of this proposal or any agreed extension thereof;
- (iv) I am committed to undertake the assignment within the validity of Proposal;
- (v) I am not part of the team who wrote the terms of reference for this consulting services assignment;
- (vi) I am not sanctioned (ineligible for engagement) by the Employer.

I understand that any willful misstatement described herein may lead to my disqualification or dismissal, if engaged.

_____ Date: _____
[Signature of expert or authorized representative of the firm]³ Day/Month/Year

Full name of authorized representative: _____

³ This CV can be signed by a senior representative of the Consultant provided that if the Consultant's proposal is ranked first, a copy of the CV signed by the expert and/or specialist must be submitted to the Employer prior to the commencement of contract negotiations.

FORM TECH-7 PERSONNEL SCHEDULE¹

N°	Name of Expert /Position	Professional Expert input (in the form of a bar chart) ²													Total person-month input			
		1	2	3	4	5	6	7	8	9	10	11	12	n	Home	Field ³	Total	
International																		
1		[Home]															/	
		[Field]															/	
2																	/	
3																	/	
																	/	
n																	/	
Subtotal														/				
National																		
1		[Home]															/	
		[Field]															/	
2																	/	
																	/	
n																	/	
Subtotal														/				
Total														/				

- 1 For international experts the input should be indicated individually; for national experts it should be indicated individually, or, if appropriate, by category (e.g. economists, financial analysts, etc.).
- 2 Months are counted from the start of the assignment. For each expert indicate separately the input for home and field work.
- 3 Field work means work carried out at a place other than the expert's home office; i.e. normal place of business.

Full time input
 Part time input

FORM TECH-8 WORK SCHEDULE

N°	Activity ¹	Months ²												
		1	2	3	4	5	6	7	8	9	10	11	12	n
1														
2														
3														
4														
5														
n														

1 Indicate all main activities of the assignment, including delivery of reports (e.g.: inception, interim, and final reports), and other benchmarks such as Employer approvals. For phased assignments indicate activities, delivery of reports, and benchmarks separately for each phase.
 2 Duration of activities shall be indicated in the form of a bar chart.

Section 4. Financial Proposal - Standard Forms

Financial Proposal Standard Forms shall be used for the preparation of the Financial Proposal according to the instructions provided under para. 3.6 of Section 1 – Instructions to Consultants.

FIN-1	Financial Proposal Submission Form
FIN-2	Summary of Costs
FIN-3	Remuneration
FIN-4	Breakdown of Remuneration (not applicable)
FIN-5	Breakdown of Out-of-Pocket Expenses
FIN-6	Acknowledgment of Compliance

I. FORM FIN-1 FINANCIAL PROPOSAL SUBMISSION FORM

[Location, Date]

To: [Name and address of Employer]

Dear Sirs:

We, the undersigned, offer to provide the consulting services for [Insert title of assignment] in accordance with your Request for Proposal dated [Insert Date] and our Technical Proposal. Our attached Financial Proposal is for the sum of [Insert amount(s) in words and figures¹].

Our Financial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, up to expiration of the validity period of the Proposal, i.e. before the date indicated in Clause Reference 1.12 of the Data Sheet.

Fees, gratuities, rebates, gifts, commissions or other payments or benefits paid or to be paid or provided or to be provided to agents² relating to this Proposal and Contract execution, if we are awarded the Contract, are listed below:³

Name and Address of Agents	Amount and Currency	Purpose of Fee, Gratuity, Rebate, Gift, Commission or other Payment
_____	_____	_____
_____	_____	_____
_____	_____	_____

We understand you are not bound to accept any Proposal you receive.

We remain,

Yours sincerely,

Authorized Signature [In full and initials]: _____
Name and Title of Signatory: _____
Name of Firm: _____
Address: _____

¹ Amounts must coincide with the ones indicated under Total in Form FIN-2.
² This includes person(s) employed by the Employer.
³ If applicable, replace this paragraph with: "No fees, gratuities, rebates, gifts, commissions or other payments or benefits have been given or received in connection with this Proposal."

FIN-2 Summary by Costs - Example

RFP No. RDTL-09-0354

Detailed Design of Roads and Bridges

Competitive Components:		US\$
<i>Remuneration</i>		
National		30,000
International		796,000
<i>Out-of-Pocket Expenses</i>		
Total	Out-of-Pocket	
Expenses		86,810
Sub-Total		912,810
Non-Competitive Components:⁴		
<i>Provisional Sums</i>		0
<i>Contingencies</i>		150,000
Sub-Total		100,000
Total		1,062,810

⁴ The amount provided for these items must correspond to the exact amount specified in the Data Sheet and these will be discussed during the contract negotiations.

FIN-3 Remuneration - Example

RFP No. RDTL-09-0354

Detailed Design of Roads and Bridges

International

Expert	Citizenship	Birth Date (dd/mm/yy)	Employment Status⁵	Currency	Home Ofc Rate (per mo)	Months	Field Rate (per mo)	Months	Sub- Total
Harold B <i>Structural Engineer</i>	USA	10//11/50	FT	USD	24,500	5	25,400	10	376,500
John D <i>Environmental Specialist</i>	AUS	14/07/52	OS	USD	0	0	28,500	2	57,000
Mike A <i>Roads Engineer</i>	GER	12/09/56	FT	USD	23,500	5	24,500	10	362,500

National

Expert	Citizenship	Birth Date (dd/mm/yy)	Employment Status	Currency	Home Ofc Rate (per mo)	Months	Field Rate (per mo)	Months	Sub- Total
Mario Pereira <i>Roads Engineer</i>	TL		IP	USD		0	3,000	10	30,000

⁵ Full-time (FT) – employee of the lead firm or joint venture partner or sub-Consultant; Other Source (OS) – an expert provided by another source that is not a joint venture partner or a sub-Consultant firm; Independent Expert (IP) – independent, self-employed expert

FIN-4 Breakdown of Remuneration (THIS FORM IS NOT REQUIRED)

FIN-5 Breakdown of Out of Pocket Expenses

RFP No. RDTL-09-0354

Detailed Design of Roads and Bridges

<i>Item</i>	Unit	Currency	Unit Cost	Qty	Cost
<i>Per Diem</i>	<i>Day</i>	USD	135	90	12,150
<i>International Air Travel</i>					
London/Timor Leste: Mike A	RT	USD	4,010	6	24,060
San Francisco/Timor Leste: Harold B	RT	USD	3,500	6	21,000
Tokyo/Timor Leste: John D	RT	USD	2,500	6	15,000
<i>National Air Travel</i>	RT	USD	100	5	500
<i>Communications</i>	Month	USD	6,000	1	6,000
<i>Office Operations, LC (Office supplies, support staff)</i>	Month	USD	350	6	2,100
<i>Report Preparation, Production, and Submission</i>	lump sum	USD	6,000	1	6,000
Total for Out of Pocket Expenses		USD			86,810

FORM FIN-6⁶
DECLARATION OF COMPLIANCE

A. I, _____ [*name and position of authorized signatory*] duly authorized by _____ [*name of Consulting firm/Joint Venture Partner*] (“Consultant”) hereby certify on behalf of the Consultant and myself that information provided in the Technical and Financial Proposals (collectively “Proposals”) submitted by the Consultant for RFP No. _____; Title (“Project”) is true, correct and accurate to the best of my knowledge and belief. I further certify that on behalf of the Consultant that (i) the Consultant has not taken any action which is or constitutes a corrupt, fraudulent, collusive or coercive practice and is not subject to any conflict of interest as defined in para. 1.6 and 1.7 of the Instructions to Consultants; and (ii) the Consultant agrees to allow the Employer, at its option, to inspect and audit all accounts, related documents, and records relating to the Proposals and, if the Consultant is engaged, to the ensuing contract.

B. I certify that neither the Consultant nor any Sub-Consultant or Joint Venture Partner, or expert nominated by the Consultant in these Proposals has been sanctioned for corrupt practice by the Government of the Republic of Timor Leste.

C. I further certify on behalf of the Consultant that, if selected to undertake consulting services, we shall carry out such services in continuing compliance with the terms and conditions of the Contract.

AUTHORIZED SIGNATORY

For and on behalf of the Consultant

Date: _____

⁶ Failure to complete this form will result in disqualification of the Financial Proposal.

Section 5. Terms of Reference



GOVERNO

**República Democrática de Timor-Leste
Secretaria de Estado dos Recursos Naturais
GABINETE DO SECRETÁRIO DE ESTADO**

TERMS OF REFERENCE (TOR)

**Environmental Impact Assessment/Study of Proposed
Development Area
In
Southern Coast of Timor Leste**

1. Background Information

1.1 Introduction

The exploration and production of petroleum resources from the Timor Sea has contributed a significant income to the Government of Timor-Leste (GTL) of which if strategically managed, it will bring long term revenue and opportunities to its people. Therefore, it is anticipated that the petroleum sector, including oil and gas production and downstream industries, will provide a significant industrial base to the economy. This strategic vision of GTL will drive new economic activities that can facilitate long term and sustainable social and economic growth to the country.

In this regard, the GTL has committed to build a full modern infrastructures and facilities at the south of the country to support the growing activities of the petroleum sector. The proposed development will be undertaken with great attention and protection of the natural environment, so that the development does not compromise the natural beauty or the ecosystem functions of the country.

1.2 Implementation Arrangement

The Government of Timor Leste (GTL), through the Secretary of State for Natural Resource, hereinafter referred to as the “Employer” has made available funds in order to finance the EIA Study for South Cost of Timor Leste.

The EIA study shall be conducted based on the GTL Decree Law no.5/2011 on ‘Environmental Licensing’.

2. The Objectives

The EIA study and consultancy works for the Proposed Development of Suai Supply Base, Betano Refinery and Petrochemical Industries and Beaco LNG Plant to be undertaken by Consultant, aims to achieve the following global objectives:

- To determine the baseline conditions of the physical, biological and human environment around the vicinity of the site of the proposed project
- To identify the nature and extent of major environmental impacts that is likely to result from the proposed project
- To assess significant environmental impacts resulting from construction, installation and operation of the project based on predictions using appropriate modeling work
- To identify social and economic impacts that is likely to result from the proposed project
- To assess the environmental significance of potential residual impacts due to the installation of the proposed project
- To identify the qualitative environmental costs and benefits of the proposed project to the affected communities, and
- To recommend mitigating and ameliorating measures that will eliminate or minimize deleterious impacts of the proposed project as well as to propose plans for surveillance and monitoring of environmental effects.
- To train local staff related to experience, skill and knowledge transference.

3. Area of Study

The Area of EIA study works will encompass, but not limited to, the following:

- Suai:
 - Supply base area
 - Industrial estates
 - Nova Suai
 - Suai Airport
 - Crocodile farm
- Betano:
 - Refinery and Petrochemical complex
 - Petroleum city (Nova Betano)
- Beaco:
 - LNG Plant complex (up to 20 Million Tons per Annum / MTPA)
 - Nova Beaco
 - Nova Viqueque
 - Viqueque airport



Figure 1 – Proposed three centers for the Southern Coast Development

The above study is pertinent to ensure that the proposed development protects and preserves as much as possible the natural environment, maintain the functionality of the eco-system and embrace the concept of sustainable development.

4. Scope of Study

The Consultant is expected to undertake the scope of the EIA study for each of the three (3) sites. We anticipated that each site will need to be assessed separately, as they are distinct from each other and being separated by a distance of 50 to 90km.

4.5 Mitigation and Control Measures

To propose mitigating measures so as to minimize the negative impacts to the environment. Recommendations for environmental pollution control and management of environmental impacts will be made based on professional judgment of known applications of technology for the control of pollutants into the environment. Environmental pollution control technologies that are proposed will be reviewed for their performance and track record of use in similar operations to the extent possible, based on information that is supplied by the technology supplier and/or secondary information about such technologies.

4.6 Environmental Management Planning

Development of an outline Environmental Management Plan (EMP) for the project will be made with emphasis on the following:

- Environmental audit and monitoring requirements that would help enhance the development of the project and minimize environmental impacts
- Administrative arrangements for environmental management of the project
- Safety and emergency response procedures to avoid and respond to accidents and emergency situations

The findings of the EIA study will lead to the conclusion as to acceptability of the environmental impacts and the measures that can be taken to minimize effects on the environment. The need and benefits of the project should outweigh the adverse impacts, where the plant is deemed to have incorporated all relevant considerations in terms of the plant design, control systems and mitigation measures.

5. Environmental Baseline

The existing environment characteristics of areas within the Proposed Project site and the surrounding vicinity shall be described based on primary data and reviews of available published information or on data sourced from public and private organizations. The EIA Consultant shall carry out appropriate reconnaissance surveys during the tenure of the EIA study to supplement and/or update available information.

6. Prediction and Assessment of Environmental Impacts

The EIA Consultant shall predict the potential impacts to the environment based on results of existing environment studies and the effects that the project will impose to the environment.

7. Minimum Staff Numbers and Qualification Requirement

The following Table considers minimal qualification for staff/personnel to undertake this project. Staff with less than the minimum qualifications will score zero under the staff assessments in technical evaluation.

The number of experience years required in the table below shall reflect the experiences directly and/or closely related to EIA projects.

Minimum Qualification

International Experts requirement			
No.	International Experts	Qualifications	Experience (years)
1	Project Manager/Team Leader	Master of Chemical Engineering	15
2	Hydrologist	Master of Hydrology	10
3	Geotechnical Engineer	B.Sc. for Geoscience	10
4	Ecologist/Zoologist	B.Sc. of Ecology	10
5	Environmentalist	Master of Environment	10
6	Socio Economy	B.Sc. of Environment	10
7	Mineralogists	B.Sc. for Mineralogy	10
8	Health Environmentalist	B.Sc. for Environment	10
9	Mechanical Engineer	B. Engineering	5
Domestic Staffs requirement			
No.	National Experts	Qualifications	Experience (years)
	Environmentalist	Environmental graduated	2
	Geoscientist	B.Sc for Geoscience	2

Important Note:

The Consultant must submit its proposal on the basis of the above staff requirements and the estimated **man-months** as specified in Article 8 below. If the Consultant deems it appropriate, proposed changes must be specified in RFP Section 3 – Form TECH 3 and this will be discussed during the contract negotiations.

8. Person Months Requirement

It is estimated that **36 man-months** of Staff services are required for the EIA study.

9. Work Program

The required services for the EIA study shall be completed in **four (4) months**.

10. Reports

The Consultant shall submit the following reports all in English:

- (i) Draft report
- (ii) Finalization of the Completion Report, two (2) weeks after receiving comments from Employer.
- (iii) Any other reports needed/requested from time-to-time by Employer.

11. Facilities to be provided by the Consultant

The Consultant will make his own arrangements for the following facilities and include the cost in his financial proposal

- i) Transportation — transportation of equipment and personnel
- ii) Testing Services.

12. Facilities to be provided by the Employer

The Employer will make available copies of all relevant reports, maps and other relevant reference material and will provide liaison with other government agencies, as required to carry out the consulting assignment. The Employer will also allow the Consultant any reasonable use of equipment apparatus/facilities required to execute the investigations for which provision is not already made under the contract. Employer will facilitate the issue of visas, work permits and other documents required for carrying out the assignments under contract as appropriate.

13. Payment Milestone

No.	Milestone	Payment
1	Upon Contract Award	20%
2	Upon submission of draft report to SERN	50 %
3	Upon acceptance of final report	30 %
	Total	100%

14. Expected Output

The deliverables of this project shall include, but not limited to, the following:

No.	Component study	Expected Output
01	Topography and land use	Land use compatibility assessment
02	Geology	1.Characteristic of study area 2.Geotechnical assessment for the surface condition 3.Assessment of soil erosion
03	Climate and meteorology	1.Seasonal and annual wind speeds and directions in the form of wind rose 2. Climate parameters 3. Rainfall patterns
04	Air Quality	Air quality of study area
05	Noise	Noise quality levels in comparison with the limits as per WHO environmental guidelines
06	Hydrology and Drainage	Rainfall – runoff relationship Estimation of Q (m ³ /s) during dry and wet season Flooding scenario
07	Marine and River water quality	Existing water quality data for freshwater and marine water at the selected sampling stations will be established
08	Land Transport	Future traffic condition from or to the project area
09	Terrestrial flora and fauna	Description of species found within and outside the proposed project area whose habitats will be affected by the development A list of fauna species found within and outside the proposed project area.

No.	Component study	Expected Output
10	Marine ecology and Fisheries	<p>Checklist and diversity of marine communities around the proposed project site</p> <p>The existing freshwater ecosystem quality estimation using diversity indices</p>
11	Population distribution	<p>Present a description demographic profile of the local population according to size, age, sex, and ethnic group encountered during the survey.</p>
12	Socio - Economic	<p>To present a description of socio-economic profile of the local people</p> <p>To present general view and opinions of local people on the implementation of the project</p> <p>To solicit the degree of acceptance and opposition, as well as the condition set by the public on the proposed project</p>

STANDARD FORM OF CONTRACT

Consultants' Services
Lump-Sum

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CONTRACT FOR CONSULTANTS' SERVICES
Lump-Sum

between

[name of the Employer]

and

[name of the Consultant]

Dated: _____

I. Form of Contract

LUMP-SUM

This CONTRACT (hereinafter called the “Contract”) is made the *[day]* day of the month of *[month]*, *[year]*, between, on the one hand, **Ministry of Natural Resources on behalf of the Government of the Democratic Republic of Timor Leste** (hereinafter called the “Employer”) and, on the other hand, *[name of Consultant]* (hereinafter called the “Consultant”).

*[Note: If the Consultant consist of more than one entity, the above should be partially amended to read as follows: “(hereinafter called the “Employer”) and, on the other hand, a Joint Venture consisting of the following entities, each of which will be jointly and severally liable to the Employer for all the Consultant’s obligations under this Contract, namely, *[name of Consultant]* and *[name of Consultant]* (hereinafter called the “Consultant”).]*

WHEREAS

- (a) the Employer has requested the Consultant to provide certain consulting services as defined in this Contract (hereinafter called the “Services”);
- (b) the Consultant, having represented to the Employer that it has the required professional skills, and personnel 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) The following Appendices:
 - Appendix A: Description of Services
 - Appendix B: Reporting Requirements
 - Appendix C: Personnel Schedule
 - Appendix D: Cost Estimates
 - Appendix E: Services, Facilities and Equipment to be Provided by the Employer
 - Appendix F: Form of Advance Payment Security
 - Appendix G: Dispute Notification Form
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;
- (b) the Employer shall make payments to the Consultant in accordance with the provisions of the Contract;
- (c) Subject to subparagraph (d) hereunder, and notwithstanding any other provisions of this Contract, payments under this Contract shall not exceed the Cost Estimates. .
- (d) The maximum amount specified in subparagraph (c) above has been fixed on the understanding that the Employer will make available free of charge to the Consultant the exemptions, assistance, services and facilities provided for under Clause 5 of the General Conditions of Contract and in Appendix E as required for the purposes of the Services. If any such exemptions, assistance, services and facilities are not supplied, the parties shall consult regarding what additional allowance (if any) should be made to the Consultant as a result thereof to cover necessary additional expenditures not envisaged in the cost estimates in Appendix D.

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 *[name of Employer]*

[Authorized Representative]

For and on behalf of *[name of Consultant]*

[Authorized Representative]

[Note: *If the Consultant consists of more than one entity, all these entities should appear as signatories, e.g., in the following manner.]*

For and on behalf of the Consultant

[name of Joint Venture Partner]

[Authorized Representative]

[name of Joint Venture Partner]

[Authorized Representative]

II. General Conditions of Contract

1. GENERAL PROVISIONS

1.1 Definitions

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 (SC), as they may be issued and in force from time to time.
- (b) “Employer” means the agency with which the selected Consultant signs the Contract for the Services.
- (c) “Employer’s Country” means the Democratic Republic of Timor Lester.
- (d) “Consultant” means any private or public entity including a Joint Venture that will provide the Services to the Employer under the Contract.
- (e) “Contract” means the Contract signed by the Parties and all the attached documents listed in its Clause 1, that is these General Conditions (GC), the Special Conditions by which the GC may be amended or supplemented (SC), and the Appendices.
- (f) “Contract Price” means the price to be paid for the performance of the Services, in accordance with Clause 6;
- (g) “Day” means calendar day.
- (h) “Effective Date” means the date on which this Contract comes into force and effect pursuant to Clause GC 2.1.
- (i) “Government” means the Government of the Employer’s country.
- (j) “Joint Venture” means a Consultant which comprises of two or more Partners each of which will be jointly and severally liable to the Employer for all the Consultant’s obligations under the Contract.
- (k) “Local Currency” means the currency of the Employer’s country.

- (l) “Partner” means any of the entities that make up the Joint Venture, and “Partners” means all these entities.
- (m) “Party” means the Employer or the Consultant, as the case may be, and “Parties” means both of them.
- (n) “Personnel” means qualified persons provided by the Consultant and assigned to perform the Services or any part thereof; “International Personnel” means such qualified persons who are not citizens of the Employer’s Country; “National Personnel” means such qualified persons who are citizens of the Employer’s Country.
- (o) “Services” means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A hereto.
- (p) “Sub-Consultant” means any person or entity to whom/which the Consultant subcontracts any part of the Services and for whom/which the Consultant is fully responsible.
- (q) “Third Party” means any person or entity other than the Government, the Employer, the Consultant or a Sub-Consultant.
- (r) “In writing” means communicated in written form with proof of receipt.

1.2 Law Governing Contract

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

1.3 Language

This Contract has been executed in the English language, which shall be the binding, and controlling language for all matters relating to the meaning or interpretation of this Contract. Furthermore, all reports and correspondence required during implementation of the Services shall be in English.

1.4 Notices

- 1.4.1 Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. 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 SC.
- 1.4.2 A Party may change its address for notice hereunder by giving the other Party notice in writing of such change to the address specified in the SC.

- 1.5 Location** 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 Employer's Country or elsewhere, as the Employer may approve.
- 1.6 Authority of Lead Partner** In case the Consultant consists of a Joint Venture of more than one entity, the Partners hereby authorize the Lead Partner specified in the SC 1.6 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.
- 1.7 Authorized Representatives** 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 SC.
- 1.8 Taxes and Duties** Unless otherwise specified in the SC, the Consultant, Sub-Consultants, and their Personnel shall pay such taxes, duties, fees, and other impositions as may be levied under the Applicable Law, the amount of which is deemed to have been included in the Contract Price.
- 1.9 Anticorruption Policy**
- 1.9.1 Definitions** 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;
- 1.9.2 Measures to be Taken** (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;
- (iii) 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.
- 1.9.3 Fees, gratuities, rebates, gifts and commissions** (iii) The Consultant will disclose any fees, gratuities, rebates, gifts, commissions or other payments or benefits that may have been paid or are to be paid or provided or to be provided to agents and/or representatives (which include person(s) employed by the Employer), 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 and/or representative, the amount and currency, and the purpose of the fee, gratuity, rebate, gift, commission or other payment.
- 1.10 Relationship between the Parties** Nothing contained herein shall be construed as establishing a relation 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 Personnel and Sub-Consultants, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.
- 1.11 Headings** The headings shall not limit, alter or affect the meaning of this Contract.
- 1.12 Eligibility** The Consultant represents and warrants that it is a citizen or legal entity of, or legally established in, an eligible country and that the Services will be wholly and substantially supplied from an eligible country. The Consultant further confirms that any professionals, experts, and entities to which the Consultant subcontracts work relating to the Services pursuant to Clause GC 3.7 hereof shall be citizens or legal entity of, or legally established in an eligible country.
- 1.13 Sanctions** The Consultant represents and warrants that it, and any Sub-Consultants, as well as any of the Personnel of the Consultant or Sub-Consultant, are not sanctioned by the Employer.

- 1.14 High Standard of Conduct** The Employer requires that the Consultant and its Personnel maintain a high standard of conduct when carrying out their functions under this Contract. Accordingly, the Consultant and its Personnel are expected to recognize the contribution of others, regardless of their nationality, gender, religion, seniority or contractual status. The Consultant and its Personnel shall also comply with the Employer's policy on sexual harassment. The Employer will take prompt action to address incidents involving conduct that does not live up to these standards, which may result in replacement of any individual expert, consultant, or contractual staff involved in such incidents pursuant to Clause GC 4.2(b).

2. COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT

- 2.1 Effectiveness of Contract** 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.
- 2.2 Termination of Contract for Failure to Become Effective** If this Contract has not become effective within such time period after the date of the Contract signed by the Parties as specified in the SC, the Consultant or the Employer may, by not less than twenty one (21) 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.
- 2.3 Commencement of Services** The Consultant shall begin carrying out the Services not later than the number of days after the Effective Date specified in the SC.
- 2.4 Expiration of Contract** Subject to sub-Clause GC 2.7.3(c) and unless terminated earlier pursuant to Clause GC 2.9 hereof, this Contract shall expire at the end of such time period after the Effective Date as specified in the SC.
- 2.5 Entire Agreement** 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.
- 2.6 Modifications or Variations** 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.
- 2.7 Force Majeure**

- 2.7.1 Definition**
- (a) 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 which makes a Party’s performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and 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 (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by Government agencies.
 - (b) Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party’s Sub-Consultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected both to take into account at the time of the conclusion of this Contract, and avoid or overcome in the carrying out of its obligations hereunder.
 - (c) Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.
- 2.7.2 No Breach of Contract**
- The failure of a Party to fulfill any of its obligations under the contract shall not be considered to be a breach of this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) 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.
- 2.7.3 Measures to be Taken**
- (a) 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.
 - (b) 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) 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.
 - (c) 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.

- (d) 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:
 - (i) demobilize, in which case the Consultant shall be reimbursed for costs they reasonably and necessarily incurred, and, if required by the Employer, in reactivating the Services; or
 - (ii) continue with the Services to the extent 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.
- (e) In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clause GC 8.

2.8 Suspension

The Employer may, by written notice to the Consultant, suspend in whole or part, the Services if the Consultant fails to perform any of its obligations under this Contract, including the carrying out of the Services.

2.9 Termination

2.9.1 By the Employer

The Employer may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (i) of this Clause GC 2.9.1. In such an occurrence the Employer shall (except in the case of paragraph (i) below) give not less than thirty (30) days' written notice of termination to the Consultant.

- (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 GC 2.8 hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as the Employer may have subsequently approved in writing.
- (b) If the Consultant becomes (or, if the Consultant consists of more than one entity, if any of its Partners 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 GC 8 hereof.
- (d) If the Consultant submits to the Employer a false statement

which has a material effect on the rights, obligations or interests of the Employer.

- (e) If the Consultant is held by the Employer to have a conflict of interest in performance of the Contract, or any portion thereof.
- (f) 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) days.
- (g) If the Employer, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.
- (h) If the Consultant, in the judgment of the Employer is in breach of the Employer's Anticorruption Policy i.e. has engaged in corrupt, fraudulent, collusive or coercive practices in competing for or in executing this Contract in such a case the Contract shall be terminated on the date Consultant is notified of such breach.

2.9.2 By the Consultant

The Consultants may terminate this Contract, by not less than thirty (30) days' written notice to the Employer, such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (c) of this Clause GC 2.9.2:

- (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 GC 8 hereof within forty-five (45) 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) days.
- (c) If the Employer fails to comply with any final decision reached as a result of arbitration pursuant to Clause GC 8 hereof.

2.9.3 Payment upon Termination

Upon termination of this Contract pursuant to Clauses GC 2.9.1 or GC 2.9.2, the Employer shall make the following payments to the Consultant:

- (a) payment pursuant to Clause GC 6 for Services satisfactorily performed prior to the effective date of termination;
- (b) except in the case of termination pursuant to paragraphs (a), (b), (e), through to (f) and (i) of Clause GC 2.9.1, reimbursement of any reasonable cost incidental to the prompt and orderly termination of the Contract, including the cost of the return travel of the Personnel and their eligible dependents;

and

- (c) in the event that the Consultant is found to be in breach of the Employer's Anticorruption Policy there shall be no payment or reimbursement in respect of any fraudulent, corrupt, collusive or coercive practices performed by the Consultant under the Contract.

- 2.9.4 Cessation of Rights and Obligations** Upon termination of this Contract pursuant to Clause GC 2.9, or upon expiration of this Contract pursuant to Clause GC 2.4 hereof, 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 GC 3.3 hereof, (iii) the Consultant's obligation to permit inspection, copying and auditing of their accounts and records set forth in Clause GC 3.8 hereof, and (iv) any right which a Party may have under the Applicable Law.
- 2.9.5 Cessation of Services** Upon termination of this Contract by notice of either Party to the other pursuant to Clauses GC 2.9.1 or GC 2.9.2 hereof, 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 GC 3.7 or GC 3.10 hereof.
- 2.9.6 Disputes about Events of Termination** If either Party disputes whether an event specified in paragraphs (a) through (d), and paragraphs (f) and (g) of Clause GC 2.9.1 or in Clause GC 2.9.2 hereof has occurred, such Party may, within forty-five (45) days after receipt of notice of termination from the other Party, refer the matter as provided in Clause GC 8 hereof, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

3. OBLIGATIONS OF THE CONSULTANT

3.1 General

- 3.1.1 Standard of Performance** The Consultant shall perform the Services and carry out their obligations hereunder 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 faithful advisers to the Employer, and shall at all times support and safeguard the Employer's legitimate

interests in any dealings with Sub-Consultants or third Parties.

3.1.2 Law Governing Services

The Consultant shall perform the Services in accordance with the Applicable Law and shall take all practicable steps to ensure that any Sub-Consultants, as well as the Personnel of the Consultant and any Sub-Consultants, comply with the Applicable Law. The Employer shall notify the Consultant in writing of relevant local customs, and the Consultant shall, after such notification, respect such customs.

3.2 Conflict of Interest

The Employer considers a conflict of interest to be a situation in which a party has interests that could improperly influence that party's performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations. In pursuance of the Employer's Anticorruption Policy, consultant must observe the highest standard of ethics and the Employer will take appropriate actions to manage such conflicts of interest if it determines that a conflict of interest has flawed the integrity of the consultant selection, consultant engagement or performance of Services under the Contract.

3.2.1 Consultant Not to Benefit from Discounts

(a) The remuneration of the Consultant pursuant to Clause GC 6 hereof shall constitute the Consultant's remuneration in connection with this Contract and, subject to Clause GC 3.2.2 hereof, the Consultant shall not accept for its own benefit any 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 their best efforts to ensure that any Sub-Consultants, as well as the Personnel and agents of either of them, similarly shall not receive any such additional remuneration.

(b) 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 at all times exercise such responsibility in the best interest of the Employer. Any discounts obtained by the Consultant in the exercise of such procurement responsibility shall be for the benefit of the Employer and shall be credited to the account of the Employer.

3.2.2 Consultant and Sub-Consultants Not to Engage in Certain Activities

The Consultant agrees that, during the term of this Contract and after its termination, the Consultant as well as any Sub-Consultant shall be disqualified from providing goods, works or services (other than consulting services) for any project resulting from the Services.

3.2.3 Prohibition

(a) The Consultant shall not engage, and shall cause their Personnel

- of Conflicting Activities including pursuit of a Political Agenda** as well as their Sub-Consultants and their Personnel not to engage, either directly or indirectly, in any personal, business or professional activities which would conflict with the activities assigned to them under this Contract including but not limited to the pursuit of a political agenda in the Employer's Country by way of writing, publication or circulation of propaganda, participation in protests or rallies or involvement in media broadcasts; (b) The Consultant shall notify the Employer of all assignments or commitments, if any, that the Consultant has or proposes to undertake for another party concurrently with the carrying out of this Contract and shall have obtained or shall obtain the prior written approval of the Employer to undertake or complete the same in the absence of which the Consultant shall terminate any such assignment(s) or commitment(s) for such other party.
- 3.3 Confidentiality** Except with the prior written consent of the Employer, neither the Consultant, the Sub-Consultant nor their Personnel 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 Personnel make public the re-recommendations formulated in the course of, or as a result of, the Services.
- 3.4 Insurance to be Taken Out by the Consultant** The Consultant (a) shall take out and maintain, and shall cause any Sub-Consultants to take out and maintain, at their (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, as shall be specified in the SC; and (b) 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 have been paid.
- 3.5 Consultant's Actions Requiring Employer's Prior Approval** The Consultant shall obtain the Employer's prior approval in writing before taking any of the following actions:
- (a) entering into a subcontract for the performance of any part of the Services,
 - (b) appointing such members of the Personnel not listed by name in Appendix C, and
 - (c) any other action that may be specified in the SC.
- 3.6 Reporting Obligations**
- (a) The Consultant shall submit to the Employer the reports and documents specified in Appendix B hereto, in the form, in the numbers and within the time periods set forth in the said Appendix.
 - (b) Final reports shall be delivered in CD ROM in addition to the hard copies specified in said Appendix.

- (c) The Consultant shall on a monthly basis, submit to the Employer, in a format acceptable to the Employer, a report stating personnel movements and inputs in the previous month compared to those specified in Appendix C. In the event the forecast of progress as anticipated in Appendix C is substantially changed due to variations pursuant to GC Clause 2.6, the Consultant may request the Employer to revise the Payment Schedule specified in Appendices D & E, to reflect such change.
- 3.7 Documents Prepared by the Consultant to be the Property of the Employer**
- (a) All plans, drawings, specifications, designs, reports, other documents and software submitted by the Consultant under this Contract shall become and remain the property of the Employer, and 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 Employer in its sole discretion may make such documents available to the public.
- (b) The Consultant may retain a copy of such documents and software, and use such software for their own use with prior written approval of the Employer. If license agreements are necessary or appropriate between the Consultant and third parties for purposes of development of any such computer programs, 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.
- 3.8 Accounting, Inspection and Auditing**
- (a) The Consultant (i) shall keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time changes and costs, and the bases thereof, and (ii) shall periodically permit the Employer or its designated representative, and up to five years from the expiration or termination of this Contract, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the Employer, if so required by the Employer.
- (b) The Consultant shall cooperate with and assist the Employer or its authorized representatives in making such an audit. Out of pocket expenditures covered by fixed sums, however, shall not be subject to audit pursuant to this Clause. In the event the audit discloses that the Consultant has overcharged the Employer, the Consultant shall immediately reimburse the Employer the amount equivalent to the amount overpaid. If overpayment is a result of the Consultant having been engaged in what the Employer

determines to constitute corrupt, fraudulent, collusive or coercive practices, the Employer may terminate the Contract pursuant to GC 2.9.1(j).

3.9 Liability of the Consultant

- (a) The Consultant shall be responsible for, and shall indemnify the Employer, in respect of loss of or damage to equipment and materials furnished by the Employer, or purchased by the Consultant in whole or in part with funds provided by the Employer.
- (b) The Consultant undertakes full responsibility in respect of life, health, and accidents for the Personnel and for the dependents of any such Personnel.
- (c) The Consultant shall indemnify the Employer from and against any and all claims, liabilities, obligations, losses, damages, penalties, actions, judgment, suits, proceedings, demands, costs, expenses and disbursements of whatsoever nature that may be imposed on, incurred by or asserted against the Employer during or in connection in the Services by reason of:
 - (i) infringement or alleged infringement by the Consultant of any patent or other protected right; or
 - (ii) plagiarism or alleged plagiarism by the Consultant.
- (d) The Consultant shall ensure that all goods and services (including without limitation all computer hardware, software and systems) procured by the Consultant out of funds provided or reimbursed by the Employer or used by the Consultant in the carrying out of the Services do not violate or infringe any industrial property or intellectual property right or claim of any third party.
- (e) Subject to Clause GC 5.4, the Consultant shall indemnify, protect and defend at their own expense the Employer, and its agents and employees from and against any and all actions, claims, losses or damages arising out of Consultant's failure to exercise the skill and care required under Clause GC 3.1.1 provided, however:
 - (i) that Consultant is notified of such actions, claims, losses or damages not later than the number of months after conclusion of the Services indicated in the SC;
 - (ii) that the ceiling on Consultant's liability under Clause GC 3.1.1 shall be limited to the amount indicated in the SC, except that such ceiling shall not apply to actions, claims, losses or damages caused by Consultant's gross negligence or reckless conduct;
 - (iii) that Consultant's liability under Clause GC 3.1.1 shall be

limited to actions, claims, losses or damages directly caused by such failure to exercise the said skill and care, and shall not include liability for any actions, claims, losses or damages arising out of occurrences incidental or indirectly consequential to such failure.

- (f) Upon request of the Employer, the Consultant shall, at its own cost and expense, re-perform the Services in the event of Consultant's failure to exercise the skill and care required under Clause GC 3.1.1.
- (g) Notwithstanding the provisions of paragraph (a) of this Clause GC 3.9, the Consultant shall have no liability whatsoever for actions, claims, losses or damages occasioned by: (i) Employer's overriding a decision or recommendation of the Consultant or requiring the Consultant to implement a decision or recommendation with which the Consultant does not agree; or (ii) the improper execution of Consultant's instructions by agents, employees or independent contractors of the Employer.

3.10 Equipment, Vehicles and Materials Furnished by the Employer

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 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.

3.11 Equipment and Materials Provided by the Consultant

Equipment or materials brought into the Employer's Country by the Consultant and the Personnel and used either for the Project or personal use shall remain the property of the Consultant or the Personnel concerned, as applicable.

3.12 Specifications and Designs

- (a) The Consultant shall prepare all specifications and designs that may be required under the Contract using the metric system and so as to embody the latest design criteria and the Consultant shall specify standards that are accepted and well known among industrial nations.
- (b) The Consultant shall ensure that the specifications and designs and all documentation relating to procurement of goods and services provided under the Services are prepared on an impartial basis.

4. CONSULTANT'S PERSONNEL

- 4.1 General** The Services shall be carried out by the Personnel specified in Appendix C for the respective periods of time indicated therein.
- 4.2 Replacement of Personnel**
- (a) In the event that any of the Personnel is found by the Employer to be incompetent, guilty of misbehavior or incapable in discharging the assigned responsibilities, the Employer may request the Consultant, at the expense of the Consultant, to forthwith provide a replacement with suitable qualifications and experience acceptable to the Employer and the Consultant shall provide such replacement.
 - (b) Except as the Employer may otherwise agree, no changes shall be made in the Personnel. If, for any reason beyond the reasonable control of the Consultant, it becomes necessary to replace any of the Personnel, the Consultant shall provide as a replacement a person of equivalent or better qualifications.
 - (c) The Consultant shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.
- 4.3 Resident Project Manager** When the Services are carried out in the Employer's country, the Consultant shall, at all times, ensure that there is a Project Manager acceptable to the Employer to supervise and coordinate the operations of the Personnel in the field and to be responsible for liaison between the Consultant and the Employer.

5. OBLIGATIONS OF THE EMPLOYER

- 5.1 Assistance and Exemptions** Unless otherwise specified in the SC, the Employer shall use its best efforts to ensure that the Government shall:
- (a) Provide the Consultant, Sub-Consultants and Personnel with work permits and such other documents as shall be necessary to enable the Consultant, Sub-Consultants or Personnel to perform the Services.
 - (b) Arrange for the Personnel and, if appropriate, their eligible dependents to be provided promptly with all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in the Employer's Country.
 - (c) Facilitate prompt clearance through customs of any property

required for the Services and of the personal effects of the Personnel and their eligible dependents.

- (d) Issue to officials, agents and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services.
- (e) Exempt the Consultant and the Personnel and any Sub-Consultants employed by the Consultant for the Services from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity according to the Applicable Law.
- (f) Grant to the Consultant, any Sub-Consultants and the Personnel of either of them the privilege, pursuant to the Applicable Law, 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 Personnel and their dependents and of withdrawing any such amounts as may be earned therein by the Personnel in the execution of the Services.
- (g) Provide to the Consultant, Sub-Consultants and Personnel any such other assistance as may be specified in the SC.

5.2 Change in the Applicable Law Related to Taxes and Duties

If, after the date of this Contract, there is any change in the Applicable Law 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 otherwise payable to the Consultant under this Contract shall be increased or decreased accordingly by agreement between the Parties, and corresponding adjustments shall be made to the amounts referred to in Clauses GC 6.2 (a) or (b), as the case may be.

5.3 Services and Facilities

The Employer shall make available free of charge to the Consultant the Services and Facilities listed under Appendix E.

5.4 Access to Land

The Employer warrants that the Consultant shall have, free of charge, unimpeded access to all land in the Employer's Country in respect of which access is required for the performance of the Services. The Employer will be responsible for any damage to such land or any property thereon resulting from such access and will indemnify the Consultant and each of the Personnel in respect of liability for any such damage, unless such damage is caused by the default or negligence of the Consultant or any Sub-Consultants or the Personnel of either of them.

5.5 Counterpart

- (a) The Employer shall make available to the Consultant free of

- Personnel** charge such professional and support counterpart personnel, to be nominated by the Employer with the Consultant's advice, if specified in Appendix E.
- (b) If counterpart personnel are not provided by the Employer to the Consultant as and when specified in Appendix E, the Employer and the Consultant shall agree on (i) how the affected part of the Services shall be carried out, and (ii) the additional payments, if any, to be made by the Employer to the Consultant as a result thereof pursuant to Clause 6.1 of the GC.
- (c) 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.

6. PAYMENTS TO THE CONSULTANT

- 6.1 Lump-Sum Payment** The total payment due to the Consultant shall not exceed the Contract Price which is an all inclusive fixed lump-sum covering all costs required to carry out the Services described in Appendix A. Except as provided in Clause 5.2, the Contract Price may only be increased above the amounts stated in Clause 6.2 if the Parties have agreed to additional payments in accordance with Clause 2.6.
- 6.2 Contract Price** The price payable is set forth in the SC.
- 6.3 Currency of Payment** Payments shall be made in the currency or currencies specified in the SC.
- 6.4 Payment for Additional Services** For the purpose of determining the remuneration due for additional services as may be agreed under Clause 2.6, a breakdown of the lump-sum price is provided in Appendices D and E.
- 6.5 Terms and Conditions of Payment** Payments will be made to the account of the Consultant and according to the payment schedule stated in the SC. Unless otherwise stated in the SC, the first payment shall be made against the provision by the Consultant of an advance payment security for the same amount, and shall be valid for the period stated in the SC. Such security shall be in the form set forth in Appendix F hereto, or in such other form, as the Employer shall have approved in writing. Any other payment shall be made after the conditions listed in the SC for

such payment have been met, and the Consultant has submitted an invoice to the Employer specifying the amount due.

6.6 Interest on Delayed Payments

If the Employer has delayed payments beyond fifteen (15) days after the due date stated in the Clause SC 6.5, interest shall be paid to the Consultant for each day of delay at the rate stated in the SC.

6.7 Payments to Government Agencies

If required to make any payments to any governmental agency in connection with implementation of the Services the Consultant shall make such payments only by means of check, or through official bank remittance addressed to the account of the relevant agency. Where payments to such agency account cannot be made, payments to any employee of such agency, (whether for a permanent, part-time or contractual staff), shall only be made with prior written endorsement of the Employer and only by check or through official bank remittance addressed to the relevant account of the employee. In the event that a non-cash payment cannot be effected in a timely manner, cash payment up to \$300, or such amount as may be allowed under the relevant laws applicable to the government agency or employee as the case may be, whichever is less, may be made by the Consultant to the government agency or employee against receipt for such payment, provided that such payment is reported to the Employer within 3 working days after such payment is made and a written explanation of the circumstances that necessitated such payment is submitted by the Consultant to the Employer.

7. FAIRNESS AND GOOD FAITH

7.1 Good Faith

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.

8. SETTLEMENT OF DISPUTES

8.1 General

The Parties agree that the avoidance or early resolution of disputes is crucial for a smooth execution of the Contract and the success of the assignment. The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.

8.2 Dispute Resolution

(a) Level One: the dispute is notified by one Party to the other according to GC Clause 1.4.1. The dispute is examined by the Authorized Representatives of the Employer and the Consultant. In case the dispute is not settled within the period after its notification as specified in the SC, the Authorized

Representatives shall fill in and sign the relevant section of the Dispute Notification Form attached as Appendix G, and deliver such Form to the Employer's and the Consultant's officials specified in the SC, responsible for the Level Two of the settlement procedure.

- (b) Level Two: the dispute is examined by the Employer's and the Consultant's officials specified in the SC. In case the dispute is not settled within the period after the delivery of the Dispute Notification Form to Level Two as specified in the SC, the Employer's and the Consultant's officials responsible for Level Two shall fill in and sign the relevant section of the Dispute Notification Form, and Clause GC 8.3 shall apply.

8.3 Dispute Settlement

Any dispute or difference arising out of this Contract or in connection therewith which cannot be amicably settled according to Clause GC 8.2 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 SC. The resulting award shall be final and binding on the parties and shall be in lieu of any other remedy.

III. Special Conditions of Contract

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
1.1(a)	The words “in the Employer’s Country” are amended to read “in the Democratic Republic of Timor Leste”
1.4	<p>The addresses are:</p> <p>Employer: _____</p> <p>Attention: _____</p> <p>Facsimile: _____</p> <p>E-mail: _____</p> <p>Consultant: _____</p> <p>Attention: _____</p> <p>Facsimile: _____</p> <p>E-mail: _____</p>
{1.6}	<p>{The Lead Partner is <i>[insert name of partner]</i>}</p> <p>Note: <i>If the Consultant consists of a Joint Venture of more than one entity, the name of the entity whose address is specified in Clause SC 1.6 should be inserted here. If the Consultant consists only of one entity, this Clause SC 1.8 should be deleted from the SC.</i></p>
1.7	<p>The Authorized Representatives are:</p> <p>For the Employer: _____</p> <p>For the Consultant: _____</p>
2.2	The time period shall be: Two Months
2.3	The time period shall be: Fourteen Days
2.4	The time period shall be: Four Months
3.4	<p>The risks and the coverage shall be as follows:</p> <p>(a) Third Party motor vehicle liability insurance in respect of motor vehicles operated in the Employer’s Country by the Consultant or its Personnel or any Sub-Consultants or their Personnel, with</p>

	<p>a minimum coverage of FIVE HUNDRED THOUSAND US DOLLARS (\$500,000);</p> <p>(b) Third Party liability insurance, with a minimum coverage of FIVE HUNDRED THOUSAND US DOLLARS (\$500,000); and</p> <p>(c) professional liability insurance, with a minimum coverage of ONE MILLION US DOLLARS (\$1,000,000).</p>
3.9 (e) (i)	The number of months shall be: Twelve
3.9 (e) (ii)	The ceiling on Consultant's liability shall be limited to: ONE MILLION US DOLLARS (\$1,000,000)
6.2	The amount is <i>[insert amount in US Dollars]</i>
6.3	All payments shall be in US Dollar (USD)
6.5	<p>The account is:</p> <p><i>[insert account]</i></p> <p>Payments shall be made according to the following schedule:</p> <p>(a) Twenty (20) percent of the Contract Price shall be paid on the commencement date against the submission of a Bank Guarantee demand guarantee for the same.</p> <p>(b) Fifty (50) percent of the Contract Price shall be paid upon submission of the interim report.</p> <p>(c) Thirty (30) percent of the Contract Price shall be paid upon approval of the final report.</p> <p>(d) The demand guarantee shall be released upon submission of the interim report.</p>
6.6	The interest rate is: NIL
8.2(a)	<p>Level One: The period for settling the dispute is <i>[insert period, e.g.: three days]</i></p> <p>The Employer's official responsible for Level Two is: _____</p> <p>_____</p> <p>The Consultant's official responsible for Level Two is: _____</p> <p>_____</p>

8.2(b)	Level Two: The period for settling the dispute is <i>[insert period, e.g.: three days]</i>
8.3	The location is: <i>[insert location]</i> .

IV. Appendices

APPENDIX A - DESCRIPTION OF SERVICES

Note: Give detailed descriptions of the Services to be provided, various tasks, place of performance for various tasks, and deliverables to be provided to the Employer.

APPENDIX B - REPORTING REQUIREMENTS

Note: List frequency, and contents of reports. If no reports are to be submitted, state here "Not applicable."

APPENDIX C - PERSONNEL SCHEDULE

APPENDIX D - COST ESTIMATES

APPENDIX E - SERVICES, FACILITIES AND EQUIPMENT TO BE PROVIDED BY THE EMPLOYER

APPENDIX F - FORM OF ADVANCE PAYMENT GUARANTEE

Note: See Clause GC 6.5 and Clause SC 6.5. The Employer should insert here an acceptable form of an advance payment security. An example is set forth below.

APPENDIX G – DISPUTE NOTIFICATION FORM

**APPENDIX F - FORM OF ADVANCE PAYMENT GUARANTEE
BANK GUARANTEE FOR ADVANCE PAYMENT**

_____ *[Bank's Name and Address of Issuing Branch or Office]*

Beneficiary: _____ *[Name and Address of Employer]*

Date: _____

ADVANCE PAYMENT GUARANTEE No.: _____

We have been informed that *[name of Consulting Firm]* (hereinafter called "the Consultants") has entered into Contract No. *[reference number of the contract]* dated with you, for the provision of *[brief description of Services]* (hereinafter called "the Contract").

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

At the request of the Consultants, we *[name of Bank]* hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[amount in figures]* (*[amount in words]*)¹ upon receipt by us of your first demand in writing accompanied by a written statement stating that the Consultants are in breach of their obligation under the Contract because the Consultants have used the advance payment for purposes other than toward providing the Services under the Contract.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Consultants on their account number _____ at *[name and address of Bank]*.

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Consultants as indicated in copies of your certified statements to such effect which shall be presented to us by the Consultant. This guarantee shall expire, at the latest, upon our receipt of the certified payment certificate issued by you indicating that the Consultants have made full repayment of the amount of the advance payment, or on the

_____ ¹ The Guarantor shall insert an amount representing the amount of the advance payment.

____ day of [month] [year]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, ICC Publication No. 458.

[signature(s)]

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

² Insert the expected expiration date. 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 Employer's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

Appendix G - Dispute Notification Form

Dispute No.
Dispute notified at Level One on: _____ [insert date] at: _____ [insert time]
Description of Dispute: _____ _____ _____ _____ (Attach additional sheets if needed)
Result of discussion at Level One: resolved <input type="checkbox"/> escalated to Level Two <input type="checkbox"/> [check the relevant box]
If resolved, give a brief description of resolution: _____ _____ _____ _____ (Attach additional sheets if needed)
Sent to Level Two on: _____ [insert date] at: _____ [insert time]
Employer's Authorized Representative: _____ [insert name and signature] Consultant's Authorized Representative: _____ [insert name and signature] Date: _____ [insert date]
Dispute notified at Level Two on: _____ [insert date] at: _____ [insert time]
Result of discussion at Level Two: resolved <input type="checkbox"/> not resolved <input type="checkbox"/> [check the relevant box]
If resolved, give a brief description of resolution: _____ _____ _____ _____ (Attach additional sheets if needed)
Employer's official responsible: _____ [insert name and signature] Consultants' official responsible: _____ [insert name and signature] Date: _____ [insert date]