STANDARD PROCUREMENT DOCUMENT

**Bidding Documents for**

**Procurement of Works (Design, Build and Operate)**

**Agence Française de Développement**



**FEBRUARY 2024**

**Foreword**

This Standard Procurement Document for Procurement of Works (Design, Build and Operate ‑ DBO) (SPD DBO) has been prepared by *Agence Française de Développement* ("**AFD**"). Employers are encouraged to use it for the Procurement of Works (Design, Build and Operate). Employers are invited to seek advice from local competent sources to ascertain its suitability regarding the applicable law, as well as its comprehensiveness. AFD will not be liable for the use of these documents by Employers in part or full.

*The text shown in Italics and highlighted in yellow* constitutes "Notes to the Employer". It provides guidance to the entity in charge of preparing the specific Bidding Documents. "Notes to the Employer" should be deleted from the final Bidding Documents sent to the shortlisted Bidders. Similarly, this section "User's Guide" should not be part of the final Bidding Documents sent to the shortlisted Bidders.

Sections I ‑ Instructions to Bidders", and VIII ‑ General Conditions of Contract (GCC), shall not be modified. Any required modification shall be respectively specified in Sections II ‑ Bid Data Sheet, and IX ‑ Particular Conditions of Contract (PCC).

This SPD is based on the Standard Procurement Document "Request for Proposals Works and Operation Service (Design, Build and Operation of *[water treatment plant (WTP)/wastewater treatment plant (WWTP)]*)" developed by the World Bank, and on the "Standard Bidding Document for Design-Build-Operate Contracts for Water and Wastewater Greenfield Infrastructure Projects" developed by the Asian Development Bank. The SPD DBO shall be used when initial selection has taken place before bidding. The process of initial selection shall follow the procedure specified in *Standard Procurement Document*: *Initial Selection for the Procurement of Works (Design, Build and Operate)*, issued by AFD. A single stage approach has been specified with two separate envelopes for the Technical Bid and the Financial Bid.

The SPD DBO documents are intended to be used for the procurement of DBO Contracts through international competitive bidding when:

* the contract involves the Design, Build and Operation of water treatment and/or wastewater treatment plant greenfield infrastructure; and
* **the Employer wants the Works to reach the purpose and the performance requirements defined under the Contract**, and to have a Contractor contractually committed to deliver and operate a fit-for-purpose facility under a long-term performance-based contractual arrangement where **the Employer’s primary concern lies with the achievement of performance objectives by the Contractor.**

The General Conditions of Contract (GCC) are the FIDIC's Conditions of Contract for Design, Build and Operate Project (FIDIC Gold), first edition 2008. However, these SPD aim to address short Operation Service Periods. Therefore, the Particular conditions of Contract (PCC) include the necessary adjustments and simplification to limit the operation financed under the Contract to 2 to 5 years (in particular the Asset Replacement Fund and the Auditing Body have been taken out of the Contract).

The Bids evaluation (see Section III for more details) shall comprise additional features to the standard evaluation procedure for Works contract:

* a technical scoring for the Technical Bid and contract award to the highest combined technical and financial scored bid, and
* a financial evaluation which takes into account the cost of the Works over their life span expectancy (life cycle cost evaluation). Performance damages are specified if the Works don't meet the Contractor's guaranteed values of Performance Guarantees in order to avoid a bias in competition.

AFD welcomes any feedback from users on these documents. Those wishing to submit comments or questions on these SPD DBO should do so by writing to the following address:

Email: [\_Passation\_Marche@afd.fr](mailto:_Passation_Marche@afd.fr)

<http://www.afd.fr>

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| --- |
| **Revision dated February 2024 :**  This revision dated February 2024 replaces the previous one (October 2019) by introducing two options to adjust the content of :   * The Statement of Integrity, Eligibility and Environmental and Social Responsibility; * Section V – Eligibility Criteria; * Section VI – AFD Policy – Corrupt and Fraudulent Practices - Environmental and Social Responsibility.   The implementation of these options follows the release in February 2024 of a new version of the Procurement Guidelines for AFD-Financed Contracts in Foreign Countries. This revision modifies the expectations regarding the content of these three sections. As a result:   * For all contracts financed by AFD through a Financing Agreement signed before the 1st of February 2024, Option A should be selected in these three sections (maintaining the provisions of October 2019 version); * For all contracts financed by AFD through a Financing Agreement signed on or after the 1st of February 2024, Option B should be chosen in these three sections (implementing new provisions). |

**User's Guide**

**Table of Contents**

Why Initial Selection? iv

What are the key features of DBO Contracts? v

DBO Water & Wastewater infrastructure project typology vi

Terms of Reference for DBO Bid Evaluation Committee ix

User's Guide on Environmental, Social, Health and Safety (ESHS) Criteria in the Bidding Documents for Procurement of Works (Design, Build and Operate) xi

Guidance note on Security Criteria xx

Standard Format for Invitation for Bids – Following Initial Selection xxi

Why Initial Selection?

International practice shows that initial selection is largely used for DBO Contracts, owing to the following features:

* Applicants know the range of competition they are faced with the shortlist – they can appraise their success chances accordingly, and make a better informed decision (than if no initial selection occurred) as to whether it is worth committing resources to develop a DBO Contract Bid,
* Absence of initial selection tends to discourage the most competent DBO Applicants to bid, as it is seen as reflecting a lack of experience and seriousness from the Employer, and those Applicants consider that they will not be facing a competition level playing field. Hence that their reasonable success chances are so slim that it is not worth investing resources in developing a Bid.

Note that there is no need to wait for the Bidding Documents to be finalized before initiating Initial Selection. Initial Selection can be made as soon as the object of the DBO contract is sufficiently advance for the qualification criteria to be set. Accordingly, Initial Selection can run in parallel with the Bidding Documents completion, and the overall procurement process is then not delayed thanks to this overlapping of activities.

What are the key features of DBO Contracts?

Design, Build and Operate (DBO) contracts are **long-term contractual performance-based arrangements** in between an Employer and a Contractor, where the Contractor is to design, build, operate and maintain a facility, meet performance requirements and carries out asset replacement over its life cycle, or most of it, and hands back the facility to the Employer upon the contract completion.

DBO arrangements are often confused with other forms of Public-Private-Partnership (PPP) projects, such as BOT or concessions, but, as a main difference with the latter, **DBO projects do not require the Contractor to finance the project nor to bear its commercial risk. Financing rests with the Employer**, hence contractual arrangements are shorter and simpler than with BOT or concessions.

As a difference with more traditional contracting methods, such as Build-only or Design-Build, a DBO contract removes the usual interfaces encountered in the construction industry, in between the D, B and O phases of a facility: the DBO Contractor acts as a **single point of responsibility over all or part of the life cycle of a facility**. Accordingly, where an Employer, many years after a Design-Build contract ended, has generally no other easily available recourse than to assume the financial consequences of an asset becoming obsolete earlier than the design life span announced by the Design-Build Contractor, or of Operating Expenditure (OPEX) becoming much higher than defined at design stage, a DBO arrangement makes the Contractor directly assumes such shortcomings – by contract he commits to Operation Service fees and to an Asset Replacement Schedule and associated Fund. Any higher actual OPEX than committed, or earlier than planned asset replacement, is then his full risk.

As a result, the Employer benefits from a **higher and earlier certainty as to the life cycle costs of a facility, and as to its performance** – the DBO Contractor is contractually bound to meet performance requirements, and sanctioned by the payment of performance damages if those are not met. DBO arrangements are also appraised for allowing **faster delivery schedules**, due to the absence of D, B and O interfaces, a **higher long-term operational viability**, and **better value for money and lower life cycle costs** than with traditional sequential contracting over the life span of a facility. Indeed recent economic research studies tend to demonstrate that DBO is efficient and sustainable in economic terms, and with higher economic value potential than Design-Build or BOT arrangements.

As a "single responsibility contract", the essence of a DBO Contract is that the Contractor designs a solution that meets the Employer’s Requirements and delivers Works which are fit-for-purpose. The Employer wants warranties on outputs and performance, and shall not be bothered by detailing the means/inputs for reaching those.

Employer's Requirements under a DBO Contract shall answer the question: "what are the outputs and performance expected from the facility to be designed, built and operated by the Contractor under the Contract?”

However drafters of Employer’s Requirements should be careful and slow in attempting to answer the question "how to reach those specified outputs and performance levels?" That is for the Contractor to answer that question, by means of his Bid and then throughout the Contract implementation.

DBO Water & Wastewater infrastructure project typology

1. The following simple and straightforward project classification can be draw up for Water and Wastewater infrastructure:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Class 1** | **Greenfield** | | **Brownfield** | |
| Class 2 | Treatment plant | Pumping station  (electro-mechanical works) | | Civil works  (networks, reservoirs) |
| **Class 3** | Water supply | | Wastewater | |

1. **Greenfield vs Brownfield**
2. Under Class 1:
3. "Greenfield projects" are those related to a new build facility or infrastructure. For example, a new WTP or WWTP, a new water transmission main or pumping stations, etc.
4. "Brownfield projects" are those where part or all of the facilities are existing facilities to be rehabilitated. Those are for instance frequently required for water supply networks, with rehabilitation works performed on an existing network with the underlying objective to reduce the level of Non-Revenue Water (NRW) hence to improve the distribution efficiency.
5. **This SPD is suitable for greenfield projects, but is not directly applicable for brownfield projects**, for the following reasons:
6. The SPD is based on the FIDIC Conditions of Contract for Design, Build and Operate Projects, 2008 Edition, also-called the FIDIC "Gold Book", which assumes a greenfield project and not a brownfield project.
7. Brownfield projects require specific provisions to deal with existing facilities/assets which are handed over by the Employer to the Contractor at contract inception. Under those, the Contractor will perform an initial operation service period in a first phase of the Contract, during which he will undertake a diagnostic assessment of the infrastructure he has received, and will define a rehabilitation scope of works in order to achieve the performance requirements set in the Contract. Under a second phase of the Contract, he will then implement such rehabilitation works and will continue operating the infrastructure. Such kind of projects requires specific contractual provisions and arrangements so as to deal with matters such as, inter alia: defects liability on existing assets (especially latent defects) and relation with performance requirements, classification of existing assets (in between those accessible and those which are not), replacement/repair liability on those, and operation of existing assets from the outset of the contract execution.
8. In the meantime, users of this SPD should be warned that using it for brownfield project purposes would require amendments to various parts of the Bidding Documents, and in particular under Section IX – Particular Conditions of Contract, Section VII ‑ Employer’s Requirements, and Section IV – Bidding Forms (in particular for Price Schedules and Schedule of Performance Guarantees).
9. Users should also note that it is generally neither practical nor realistic to expect a Contractor to perform a due diligence of existing infrastructure within a short bidding period, and to then contractually commit to reach performance requirements and provide for the necessary rehabilitation of such infrastructure that he never got to design, build or operate. Status of existing assets is consequently a large uncertainty for the Contractor, hence a prominent risk, and it is not a couple of weeks of bidding period which are sufficient to overcome this matter and reduce the uncertainty down to commercially reasonable levels. Experience shows that competent Contractors would tend to walk away from projects where they are not given a reasonable opportunity to inspect and investigate the infrastructure they are meant to take over, and to endorse the rehabilitation and performance risk. Employers are accordingly encouraged to develop realistic expectations, in terms of procurement process, bid submission period, and allocation of risks. This would contribute to avoid situations where competent Contractors either walk away or bid at high level so as to financially cover their risk exposure, and where the Employer might only be left with the other Contractors and end up selecting not the most competent and cost-effective one, but the most reckless gambler, to the detriment of the project.
10. Contract solutions exist to handle the inherent specificities of brownfield projects, typically in the form of conditional contracts, or two-stage contracts with partnering arrangements in between the Employer and the Contractor so as to align their respective objectives along one common goal – optimizing the scope of rehabilitation works, within a set budget, in order to meet achievable performance requirements.
11. **Greenfield projects typology**
12. Development of the Bidding Document, based on this SPD, for DBO/greenfield projects will then be based on classes 2 & 3 features above, since those affect what is at the root of such kind of DBO Contracts, i.e.:
13. the performance requirements defined in Section VII (Employer’s Requirements),
14. the values of the Key Performance Indicators of the Schedule of Performance Guarantees given by the Contractor under Section IV (Bidding Forms)
15. the payment mechanism for the Design-Build Period and for the Operation Service Period, as given under Appendix 1 to the Contract Agreement.
16. It appears that the type of treatment (conventional technologies, new technologies, etc.) at stake for a process plant does not affect the definition of performance requirements. Indeed, experience shows that focus is given, for process plants, **on defining performance requirements** **based on OPEX features and on compliance with quality standards for the water product**, whatever the type of treatment. This is found rather normal since the DBO contracts are performance-based forms of contract; hence the Employer’s focus is on the quality of the product, and on the costs of producing it. The Employer is generally not concerned with intermediary production stages, or the way to reach the performance requirements set in the contract. What matters are the ultimate results reached by the plant, not the means to deliver.
17. Typical performance requirements can be defined as follows:
18. For WTP

* Water quality – treated water compliance with quality standards (pH, chlorine, bacteriological contents, etc.)
* Minimum water production outputs (in m3/day, with daily and/or seasonal peak demands to be met, etc.)
* Power consumption (per m3 of treated water) / efficiency
* Chemical consumption (per m3 of treated water) / efficiency
* Etc.

1. For WWTP

* Wastewater effluent to the recipient water – compliance with discharge standards (BOD5, COD, SS, etc.)
* Wastewater treatment capacity (in m3/day, with daily and/or seasonal peak demands to be met, etc.)
* Power consumption (per m3 of treated water) / efficiency
* Chemical consumption (per m3 of treated water) / efficiency
* By-products – sludge quantity, sludge dryness contents, etc.
* Noise and smell/odour nuisance levels
* Etc.

1. For pipeline networks (water and wastewater)

* Continuity of water supply (24x7)
* Pressure in the water network
* Decrease of Non-Revenue Water (NRW)
* Residual chlorine contents in the water network
* Management of customers complaints
* Leak repair performance
* Level of silts in wastewater networks
* Odour management
* Etc.

Terms of Reference for DBO Bid Evaluation Committee

All terms and expressions used below shall have the same meaning as assigned to them under the bidding document (hereinafter referred to as the "**Bidding Documents**") for the *[state name of DBO Contract for which Bids are invited].*

1. **Objectives of the services of the DBO Bid Evaluation Committee**

The DBO Bid Evaluation Committee shall:

1. Assist the Employer in all pre-Bid steps laid down under ITB 7 and 8;
2. Assist the Employer in all the Bids evaluation and comparison work process, as laid down under ITB 27 to 40;
3. Upon completion of the Bids evaluation and comparison process, issue recommendations to the Employer for Contract award, based on the lowest substantially responsive evaluated Bid, and draft a final Bid evaluation report;
4. Assist the Employer in all dealings and communications with the Bidders, from the launch of the Invitation for Bids until the Contract Agreement execution as per ITB 43 and the supply by the awarded Bidder of the Performance Security required under ITB 44;
5. Warrant his independence from and absence of any conflict of interest with any Bidder participating in the bidding process, and his neutrality when delivering his duties under this services agreement.
6. **Detailed tasks to be performed by the DBO Bid Evaluation Committee**

In order to fulfil the objectives of his services as stated above, the DBO Bid Evaluation Committee shall perform as a minimum the following tasks to the extent deemed required by the Employer:

1. Assist the Employer in managing the Bid submission period, including but not necessarily being limited to:

* Prepare responses to Bidders’ requests for clarifications, in accordance with ITB 7.1;
* Prepare, and participate to, site visit and pre-Bid meeting, if any in accordance with ITB 7. Prepare responses to Bidders’ queries and minutes of the pre-Bid meeting;
* Suggest and prepare the issue of Bidding Document Addenda, as and when required, in accordance with ITB 8.

1. Determine Bidders eligibility qualification based on ITB 34.
2. Perform the Technical Evaluation of Bids, including but not necessarily being limited to:

* Prepare requests for clarifications to Bidders in accordance with ITB 28, and assist the Employer in handling Bidders’ responses;
* Identify any Deviation, Reservation and/or Omission in the Bids, and assess whether those are material or not, all in accordance with ITB 29 and 31;
* Determine the substantial responsiveness of Bids, as per ITB 30;
* Perform a detailed Technical Evaluation of Bids as per ITB 33.

1. Evaluate Bid Price as per ITB 37;
2. Determine the Most advantageous Bid in accordance with ITB 39 and ITB 41 and issue an award recommendation to the Employer;
3. Draft the final Bid evaluation report, summarizing all services performed by the Consultant under this assignment, and the detailed reasons of the award recommendation of the Consultant, and of the final award made by the Employer;
4. *[state any additional task as required to meet the bidding process specific features – for example assistance for the preparation and delivery of Technical Bids hearings]*;
5. Any other task deemed necessary for the Consultant to meet the services objectives detailed under Section 1 above.
6. **Deliverables**

The deliverables of the DBO Bid Evaluation Committee shall include, but not necessarily be limited to the following items as detailed under Section 2 above:

1. Responses to Bidders' requests for clarification;
2. Minutes of pre-Bid meeting;
3. Requests for clarification to Bidders;
4. Bid award recommendation;
5. Final Bid evaluation report;
6. *[State any additional deliverable required to meet the bidding process specific features]*.
7. **Timing of the Services**

The DBO Bid Evaluation Committee shall commence its services upon the date of issue of the Invitation for Bids *[or state any alternative subsequent timing]*, and shall end those when the Contract Agreement is executed as per ITB 43 and the Performance Security and has been submitted by the awarded Bidder as per ITB 44.

The estimated duration of the services shall be XX *[amend]* days from the date of issue of the Invitation for Bids *[or state any alternative subsequent timing].*

1. **Selection criteria for the composition of the DBO Bid Evaluation Committee**

The DBO Bid Evaluation Committee should be composed of members clubbing together skills on:

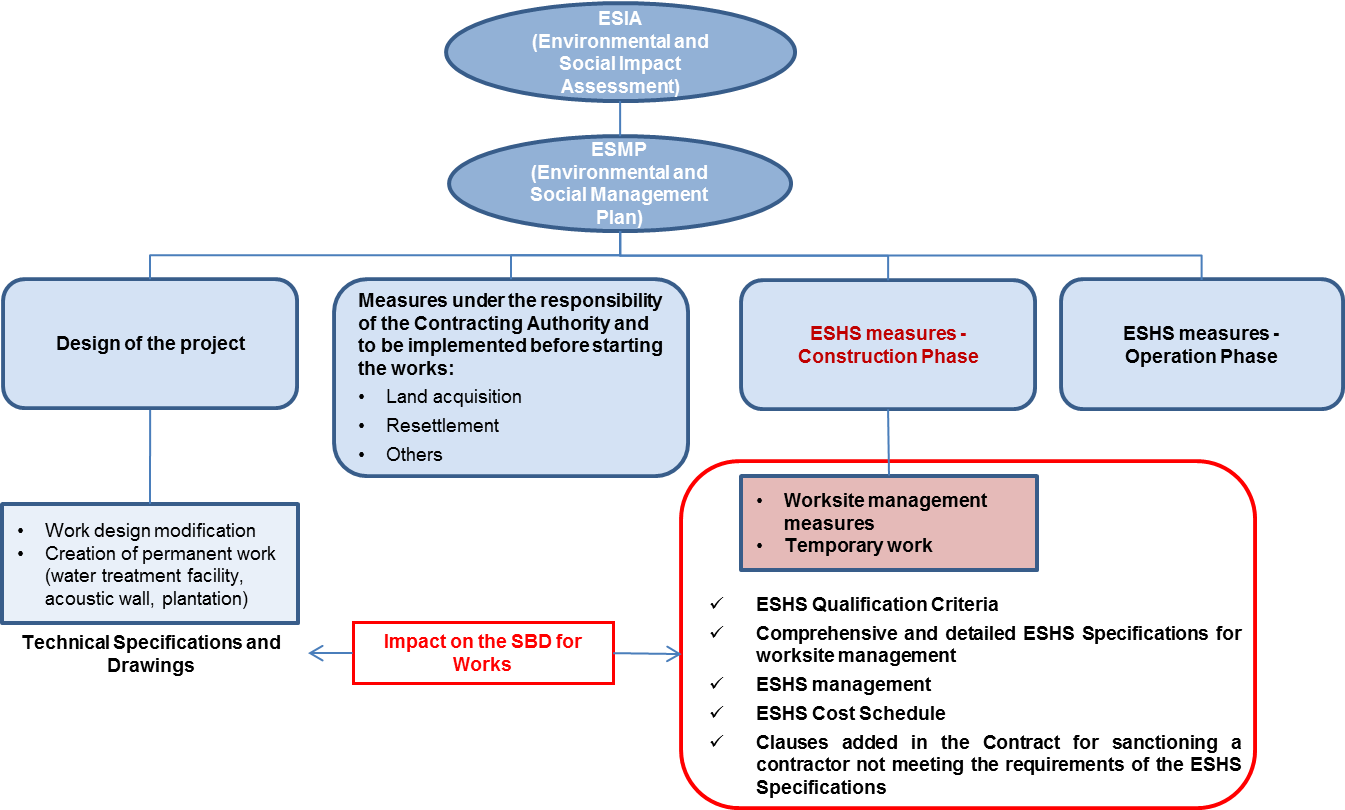
1. WTP or WWTP processes (as the case may be)
2. Water supply and/or wastewater networks design and construction
3. Operation of WTP or WWTP, or water or wastewater networks (as the case may be)
4. Financial & economic evaluation of infrastructure projects
5. *Agence Française de Développement* or other Multilateral Development Banks (MDBs) procurement procedures
6. Construction contracts drafting, negotiations and management, in particular along FIDIC Conditions of Contract
7. Long-term contractual arrangements (DBO, BOT, Concessions, etc.)

**Note:**

Any Bid Evaluation Committee member should have at least one of the aforementioned skills.

User's Guide on Environmental, Social, Health and Safety (ESHS) Criteria in the Bidding Documents for Procurement of Works (Design, Build and Operate)

When the Environment and Social (E&S) impact of the project are evaluated as significant, in most cases, an E&S impact assessment study (ESIA) has been carried out and an E&S Management Plan (ESMP) has been developed. The ESMP highlights the major E&S risks and impacts and lists mitigation measures to be implemented. Some of those measures, but not all, are directly related to the construction works of the project (see diagram below). Two kinds of measures may be implemented in the Works: firstly, mitigation measures leading to a modification of the design of the permanent construction works and therefore inducing changes in the technical specifications and drawings; secondly, measures and precautions to be implemented in the frame of temporary worksites management. The present Environmental, Social, Health & Safety (ESHS) Specifications in this SPD address the latter measures, regardless of the existence of an ESMP.



These Bidding Documents must be adjusted by taking into account the available ESHS documents (ESHS impact study, ESMP, Resettlement Action Plan (RAP), Environmental and Social Commitment Plan (ESCP), etc.) and the regulations applicable to the Employer.

The table below indicates the elements to be adjusted and the points for verification at the different procurement stages and during the Contract execution.

1. **PREPARATION OF THE BIDDING DOCUMENTS**

| **Criteria** | **Additional Information** |
| --- | --- |
| **SECTION III – EVALUATION AND QUALIFICATION CRITERIA** | |
| **Evaluation Criteria:** | |
| * **Paragraph 1.5 – Personnel:** | |
| The Bidder must demonstrate that it has the personnel for the key positions that meet the following requirements:   | **No.** | **Position** | **Total work experience (Years)** | **In similar works experience (Years)** | | --- | --- | --- | --- | | 1 | Environmental and Social Expert  *[If the E&S risks and impacts of the Works are assessed as high, and/or significant, a specialized expertise is required on the E&S issues]* | 5 | 2 | | 2 | Health and Safety Expert  *[If the Health & Safety risks and impacts of the Works being assessed as high, and/or significant, a specialized expertise is required on the Health & Safety issues]* | 5 | 2 | | 3 | *[Etc.]* |  |  | | The evaluation criteria for the personnel in charge of ESHS subjects on the worksite must be adjusted: profile(s) required, number of years for general and specific experience that is expected for this(ese) profile(s). |
| **SECTION IV – BIDDING FORMS** | |
| **ESHS Cost Schedules:** | Ensure that this specific cost schedule has been retained. |
| **Technical Proposal – ESHS Methodology:** | Ensure that this form has been retained. |
| **SECTION VII – EMPLOYERS REQUIREMENTS** | |
| **ESHS Specifications:** | |
| * 1. **Essential ESHS issues of worksite management** | |
| The ESHS topics identified during the Environmental and Social Impact Assessment study of the project, which present a major risk for the worksite management are:   |  |  | | --- | --- | | 1. ESHS resources and facilities and ESHS monitoring organization | *[select:]* YES / NO | | 1. Project Areas management (base camps, quarries, borrow pits, storage areas) | *[select:]* YES / NO | | 1. Health & Safety on worksites | *[select:]* YES / NO | | 1. Local recruitment and ESHS trainings of local staff (capacity building), ESHS trainings of Subcontractors and local partners (transfer of knowledge) | *[select:]* YES / NO | | 1. Relations with stakeholders, information and consultation of local communities and authorities | *[select:]* YES / NO | | 1. Traffic management | *[select:]* YES / NO | | 1. Hazardous products | *[select:]* YES / NO | | 1. Wastewater (effluents) | *[select:]* YES / NO | | 1. Protection of water resources | *[select:]* YES / NO | | It is necessary to select the most relevant ESHS topics that were identified according to the most important issues and impacts. The Bidder will need to produce a detailed ESHS Methodology in the Technical Bid, explaining how ESHS requirements will be achieved on these various points.  Normally the list should be reduced to about 3 to 5 topics. This list should be similar to the one indicated in qualification criterion 5.2. The choice of these items must come from the ESHS worksite management issues identified in the ESHS impact study and in the ESMP.  A list that is too long risks resulting in generic methodologies by companies, without adapting them to the characteristics of the worksite. |
|  |  |
|  |  |
| |  |  | | --- | --- | | 1. Atmospheric emissions, noise and vibrations | *[select:]* YES / NO | | 1. Waste management | *[select:]* YES / NO | | 1. Biodiversity: protection of fauna and flora | *[select:]* YES / NO | | 1. Site rehabilitation and revegetation | *[select:]* YES / NO | | 1. Erosion and sedimentation; | *[select:]* YES / NO | | 1. Control of infectious and communicable diseases (HIV/AIDS, malaria, etc.) | *[select:]* YES / NO" | |  |
| * 1. **ESHS requirements not applicable under the Contract** | |
| |  | | --- | | **The ESHS norms, standards and discharge limit values recommended by the specialised international organisations affiliated to the United Nations shall apply to the Contract:**  **Yes ❑ / No ❑**  ***[In the case of a project rated B[[1]](#footnote-1) by AFD, check "No". Only the country's regulations are applicable. The table below should then be completed as per the example provided below, stating that Clauses 9.2 and 9.3 are not applicable.***  ***In the case of a project rated A or B+ by AFD, check "Yes".]*** | | Select "yes" or "no" according to AFD's classification of the project regarding the environmental and social risks. |
| *[The Employer shall specify in the following table the Clauses of the ESHS Specifications that shall not apply to this Contract as not being relevant in the context of the Works:]"*  The following Clauses of the ESHS Specifications shall not apply to this Contract and shall not be priced by the Bidder under the specific ESHS Cost Schedule:   |  |  | | --- | --- | | **Number of the non-applicable Clause** | **Description** | | *Clause [insert Clause number]* | *[insert description]* | | *[Etc.]* | *[Etc.]* | | If necessary (according to the table of contents), adjustment of the ESHS standard specifications according to the issues and impacts identified and according to the applicable regulations (if they are more demanding).  This may include identifying specific topics that are not covered by the standard specifications (e.g. protection of coral reefs or protective measures when using explosives).  Also, specifications that are not relevant to the type of works and to the context of the worksite should be made non-applicable (see table to fill‑in).  An example is given for information. |
| **SECTION IX – PARTICULAR CONDITIONS OF CONTRACT (PCC)** | |
| **Part A – Contract Data**  **Sub‑Clause 1.1.88 – ESHS Specifications:** | |
| **ESHS Specifications are applicable:**  **Yes 🗹** / No 🞏  *[An AFD agreement is required to check "No".*  *ESHS Specifications are not applicable for works with minor environmental, social, health and safety impact and risk.]* | This Sub‑Clause is to be modified only when the ESHS Specifications are not applicable.  There are 3 cases which may exclude ESHS Specifications:   * Small works budget (≤ 3 M EUR) ; * Light ESHS impacts and risks of the worksite (drilling worksite, equipment installation, in case of a weak civil engineering component, etc.); * Co‑financing.   If the specifications are made non-applicable, consequently, the ESHS Methodology, the ESHS Cost Schedule and the ESHS Clauses of the Particular Conditions of Contract shall not apply. |

1. **EVALUATION OF BIDS**

| **Evaluation** | **Additional Information** |
| --- | --- |
| **EVALUATION OF THE TECHNICAL BID** | |
| **Evaluation of the ESHS Methodology proposed by the Bidder:** | It should be evaluated whether the methodology provided by the Bidders contains discrepancies, omissions, major reservations and therefore if it is substantially compliant with the ESHS Specifications provided in the Bidding Documents (See part E – Evaluation and Comparison of Bids of Section I – Instructions to Bidders).  In cases where (1) the methodology is inconsistent (only a few pages), or (2) the methodology does not meet one of the detailed information requirements listed in the first page of the ESHS Specifications (see above), the Technical Bid will be declared non-compliant and rejected. |
| **EVALUATION OF THE FINANCIAL BID** | |
| **Analysis of the ESHS Cost Schedule completed by the Bidder:** | If the total Bid Price is considered abnormally low as per ITB 38, verification of the consistency of the cost submitted for the ESHS aspect compared to the ESHS methodology (mobilised resources, schedule, etc.) and the ESHS Specifications, and verification that the ESHS cost is not abnormally low. In such a case, a breakdown of the ESHS costs may be required (if necessary) in accordance with the ITB 28 before concluding the rejection of the Bid under ITB 38 (See part E – Evaluation and Comparison of Bids of Section I – Instructions to Bidders). |

1. **CONTRACT PREPARATION**

Specific contractual clauses to ESHS subjects are included in Section IX ‑ Particular Conditions of the Contract: according to the ESHS Specifications, clauses have been added for the suspension of payments, suspension of Works and conditional start of an activity to the approval by the Employer's Representative of the information provided by the Contractor to demonstrate compliance with ESHS requirements.

| **Clause** | **Additional Information** |
| --- | --- |
| **SECTION IX – PARTICULAR CONDITIONS OF THE CONTRACT (PCC)** | |
| **Part A – Contract Data**  **Sub‑Clause 1.1.88 – ESHS Specifications:** | |
| **ESHS Specifications are applicable:**  **Yes 🗹** / No 🞏  *[An AFD agreement is required to check "No".*  *ESHS Specifications are not applicable for works with minor environmental, social, health and safety impact and risk.]* | Check that the ESHS Specifications are correctly marked as applicable. |
| **Part B – Specific Provisions** | |
| **Other sub-clauses referring to ESHS Specifications:** | If the ESHS Specifications are applicable, ensure that these sub-clauses have not been deleted (for example no-deletion of Sub-Clause 1.1.87 – Environmental Protection Plan, 1.1.94 – Project Area, or 1.1.97 – Worksite ‑ ESMP) or modified (e.g. no deletion of reference to ESHS Specifications in Sub-Clause 4.8 – Safety procedures, 4.18 – Protection of the Environment, 4.21 – Progress reports, 6.7 – Health and Safety, 9.7 – Suspension of Work, 14.8 – Payment, or 15.2 – Termination for Contractor's Default). |

1. **MONITORING CONTRACT EXECUTION**

During the performance of the Works, ESHS specific contractual clauses allow for sanctioning a contractor not meeting the requirements of the ESHS Specifications. A follow-up of non‑conformities to the ESHS Specifications is carried out by the Employer's Representative, as specified in the ESHS Specifications. A level 3 major non-compliance (maximum level) will incur suspension of interim payments until the non-compliance is resolved, and, in some cases, suspension of work can be imposed. In addition, starting operations on a temporary worksite will require prior approval by the Employer's Representative of the documentation provided by the Contractor to demonstrate compliance with ESHS Specifications at that worksite. Finally, identification of specific ESHS Costs shall enable the decision to be made to not remunerate the Contractor for ESHS measures not properly implemented.

| **Reporting Criteria** | **Additional Information** |
| --- | --- |
| **ESHS REPORTING** | |
| "The ESHS Specifications detail the frequency and content of the ESHS reports to be provided by the works company. These monthly reports should contain the following information:   * List of ESHS personnel present at the Site at the end of the month; * Construction works activity conducted during the month; * Inspections carried out (location and intervals); * Non-conformities detected during the month with descriptions of the root cause analysis and corrective actions taken; * Description of activities conducted and measures taken during the month to remedy non-conformities and to manage environmental, social, health and safety risks and impacts; * Description of stakeholder engagement activities undertaken with neighbouring populations, local authorities, governmental agencies; * Monitoring results for the following indicators: effluents, waste production, atmospheric emissions, etc.; * Recruitment, number of positions and hours worked by local Contractor's Personnel; * Health & safety statistics: number of fatal accidents, lost-time accidents, number of accidents without lost-time, serious illness, frequency of accidents, and serious misconduct by Contractor’s Personnel, including root cause analysis and corrective actions taken * Where applicable, description of the formal or informal objections related to environmental, social, health and safety risks and impacts of the Works; including root cause analysis and corrective actions taken; * Report on training activities (topic, number and duration of sessions, number of participants); * Provisional environmental, social, health and safety actions for the coming months.   These specifications also indicate how the non-conformities in the ESHS management of the worksite must be managed (Clause 3 of the ESHS Specifications and Sub‑Clauses 9.7 and 14.8 of the Particular Conditions) and the sanctions that may apply to the company.  In addition, the terms of reference for the supervision assignment must also specify the tasks to be carried out for ESHS subjects and the expected deliverables." | Ensure that the ESHS Specifications are met, in particular through the reports on works supervision; frequency of inspections, management of non-conformities, sanctions applied where appropriate, Contractor's training programme, quality of Contractor's reporting, etc. |

Guidance note on Security Criteria

For Works in areas of conflicts where security is an issue, the AFD and the Employer must ensure that the Bidders correctly assess this risk and take appropriate measures.

In accordance with *Article 1.5.2 – Security* of the Procurement Guidelines for AFD-Financed Contracts in Foreign Countries, if the Works to be performed are located in an area labelled as orange or red by the French Ministry of European and Foreign Affairs[[2]](#footnote-2), the Employer shall include in the Bidding Documents requirements relating to security. Such requirements shall, among others, take into account the possibility that security conditions deteriorate during the performance of the Contract.

In order to do this, AFD has included in its Bidding Documents specific requirements, which aim to (i) protect lives on the worksites, (ii) preserve its reputation and that of the Employer, and (iii) encourage virtuous companies to submit responsible bids.

As a result, these Bidding Documents for Procurement of Works (Design, Build and Operate) contain the following additional requirements:

* Security methodology to be provided by the Bidder (According to Articles ITB 11.2(l) and ITB 11.3(c) of the Bid Data Sheet);
* Security Cost Schedule identifying the security price items paid under the Contract (Schedules ‑ Section IV);
* Security specifications (Section VII);
* New Sub‑Clause 18.7 relating to suspension or termination on the grounds of the security of the Contractor's Personnel (Section IX).

The Employer will have to adjust the security specifications according to the nature of the security risk by completing the required information, in particular on the security measures that it assumes, and by selecting the relevant options in the text.

The evaluation of the security methodology will consist of determining whether each admissibility requirement specified in the security specifications is met. Otherwise, the Bid will be rejected.

During the execution of the Contract, a specific clause of the particular conditions was added, in order to address a possible deterioration of the security conditions that would lead to the demobilization of the Contractor.

Standard Format for Invitation for Bids – Following Initial Selection

*[The Invitation for Bids for contracts, subject to initial selection, is sent only to firms determined by the Employer to be qualified in accordance with the Employer’s initial selection procedure. This initial selection procedure must be reviewed by AFD if the potential contract is to be eligible for AFD financing.*

*Ideally, the Invitation for Bids is sent to the qualified Bidders at the time that the initial selection results are announced.]*

Date: *[date of issuance of IFB]*

Project Name:

IFB No:

1. The *[name of Employer]* has received[[3]](#footnote-3) funds from the *Agence Française de Développement* ("**AFD**") towards the cost of *[insert name of Project]*. It is intended that part of the proceeds of these funds will be applied to eligible payments under the contract[[4]](#footnote-4) *for [insert title of contract]*.
2. The *[name of the Employer]* now invites sealed Bids from the following initially selected eligible Bidders for the design, build and operation of *[insert brief description of the Works]* ("**the Works**").

*[Insert names of initially selected Bidders]*

1. Initially selected eligible Bidders may obtain further information from and inspect the Bidding Documents at the office of *[insert name of appropriate procurement unit][[5]](#footnote-5)* *[insert mailing address of appropriate office for inquiry and issuance of Bidding Documents:]*

*[Insert name of Office]*

*[Insert name of officer and title]*

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

*[Insert telephone number, country and city codes]*

*[Insert facsimile number, country and city codes]*

*[Insert email address]*

*[Insert website address]*

1. A complete set of Bidding Documents may be purchased by interested initially selected Bidders on the submission of a written application to the above and upon payment of a non-refundable fee of *[insert amount in Employer’s currency or in a convertible currency][[6]](#footnote-6)*. The method of payment will be *[insert method of payment]*. The document will be sent by *[insert delivery procedure]*.
2. Bids must be delivered to the above office[[7]](#footnote-7) on or before *[insert time]* on *[insert date]* and must be accompanied by a Bid security of *[insert fixed sum]* *[replace by "a Bid-securing declaration" if no Bid security is required]*.
3. Bids will be opened in the presence of Bidders’ representatives who choose to attend at *[insert time and date]* at the offices of *[insert address of appropriate office]*.
4. Please confirm receipt of this letter immediately in writing by electronic mail or fax. If you do not intend to submit Bid, we would appreciate being so notified in writing at your earliest opportunity.

**Bidding Documents for Procurement of Woks**

**(Design, Build and Operate)**

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*[insert identification of the Works – Design, Build and Operate]***

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

**Project:** *[insert name of Project]*

**Country:** *[insert Country]*

**International Procurement Competition (IPC) No:** *[insert IPC number]*

**Issued on:** *[insert date]*

**Table of Contents**

PART 1 – Bidding Procedures 3

Section I ‑ Instructions to Bidders 4

Section II – Bid Data Sheet 26

Section III – Evaluation and Qualification Criteria 30

Section IV – Bidding Forms 35

Section V – Eligibility Criteria 78

Section VI – AFD Policy - Prohibited Practices – environmental and social responsibility 80

PART 2 – Employer's Requirements 82

Section VII – Employer's Requirements 83

PART 3 – Conditions of Contract and Contract Forms 142

Section VIII – General Conditions of Contract (GCC) 143

Section IX – Particular Conditions of Contract (PCC) 155

Section X – Contract Forms 191

PART 1 – Bidding Procedures

Section I ‑ Instructions to Bidders

**Table of Clauses**

A. General 6

1 Scope of Bid 6

2 Source of Funds 6

3 Prohibited Practices 6

4 Eligible Bidders 6

5 Eligible Materials, Equipment and Services 7

B. Contents of Bidding Documents 8

6 Sections of Bidding Documents 8

7 Clarification of Bidding Documents, Site Visit, Pre‑Bid Meeting 8

8 Amendment of Bidding Documents 9

C. Preparation of Bids 9

9 Cost of Bidding 9

10 Language of Bid 9

11 Documents Comprising the Bid 10

12 Bid Submission Forms, Statement of Integrity, Bidding Forms and Schedules 10

13 Alternative Bids, Alternative Technical Solutions and Alternative Times for Completion 11

14 Documents Establishing the Qualifications of the Bidder 11

15 Documents Establishing Conformity of the Works 12

16 Technical proposal 12

17 Bid Prices and Discounts 12

18 Currencies of Bid and Payment 14

19 Period of Validity of Bids 15

20 Bid Security/Bid Securing Declaration 15

21 Format and Signing of Bid (Technical and Price) 16

D. Submission and Opening of Bids 17

22 Sealing and Marking of Bids 17

23 Deadline for Submission of Bids 17

24 Late Bids 17

25 Withdrawal, Substitution and Modification of Bids 17

26 Bids Opening 18

E. Evaluation and Comparison of Bids 19

27 Confidentiality 19

28 Clarification of Bids 19

29 Deviations, Reservations and Omissions 20

30 Determination of Responsiveness 20

31 Non‑material Non‑conformities 20

32 Subcontractors 21

33 Technical Bids Evaluation 21

34 Eligibility and Qualification of the Bidders 22

35 Correction of Arithmetical Errors 22

36 Conversion to Single Currency 22

37 Financial Bid Evaluation 22

38 Abnormally low Bid 23

39 Evaluation of Combined Technical and Financial Bids 23

40 Employer's Right to Reject all Bids 24

F. Award of Contract 24

41 Most Advantageous Bid 24

42 Notification of Award 24

43 Signing of Contract 24

44 Performance Security 25

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|  | 1. General |
| Scope of Bid | In connection with the Invitation for Bids specified in the Bid Data Sheet (BDS), the Employer, **as specified in the BDS**, issues these Bidding Documents for the procurement of Works (design, build and operate) as specified in Section VII, Employer’s Requirements. The name and identification of this International Procurement Competition (IPC) process are **specified** **in the BDS**.Throughout these Bidding Documents:  1. The term "in writing" means communicated in written form (including electronic transmission) and delivered against receipt; 2. Except where the context requires otherwise, words indicating the singular also include the plural and words indicating the plural also include the singular; and 3. "Day" means calendar day, unless otherwise specified as "Business Day". A Business Day is any day that is an official working day of the Employer. It excludes the Employer’s official public holidays. |
| Source of Funds | The Employer **specified in the BDS** has received or has applied for financing (hereinafter called "funds") from *Agence Française de Développement* (hereinafter called "**AFD**") toward the project **named in the BDS**. The Employer intends to apply a portion of the funds to eligible payments under the contract(s) for which these Bidding Documents are issued. |
| Prohibited Practices | AFD requires compliance with its policy regarding corrupt and fraudulent practices as set forth in Section VI, AFD Policy - Prohibited Practices - environmental and social responsibility.In further pursuance of this policy, Bidders shall permit and shall cause its Subcontractors and subconsultants, to permit AFD to inspect all accounts, records and other documents relating to any Initial Selection process, Bid submission, and contract performance (in the case of award), and to have them audited by auditors appointed by AFD. |
| Eligible Bidders | A Bidder may be a firm that is a private entity, a State-owned entity - subject to ITB 4.3 - or any combination of such entities in the form of a joint venture (JV) under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the bidding process and, in the event the JV is awarded the Contract, during contract execution. **Unless specified in the BDS**, there is no limit on the number of members in a JV.A Bidder shall not have a conflict of interest. Any Bidder found to have a conflict of interest shall be disqualified. A Bidder may be considered to have a conflict of interest for the purpose of this procurement process, if the Bidder:  1. Directly or indirectly controls, is controlled by or is under common control with another Bidder; or 2. Receives or has received any direct or indirect subsidy from another Bidder; or 3. Has the same legal representative as another Bidder; or 4. Has a relationship with another Bidder, directly or through common third parties, that puts it in a position to influence the bid of another Bidder, or influence the decisions of the Employer regarding this bidding process; or 5. Participates, except for alternatives permitted under ITB 13, in more than one bid in this bidding process. Participation by a Bidder (either individually or as a JV member) in more than one Bid will result in the disqualification of all Bids in which such Bidder is involved. However, this does not limit the inclusion of the same Subcontractor in more than one bid; or 6. Any of its affiliates participated as a consultant in the preparation of the Employer's Requirements or performance requirements of the Works that are the subject of the Bid; or 7. Any of its affiliates has been hired (or is proposed to be hired) by the Employer as Employer’s Representative for the Contract implementation; or 8. Has a close business or family relationship with a professional staff of the Employer (or of the project implementing agency, or of a recipient of a part of the funds) who: (i) are directly or indirectly involved in the preparation of the bidding documents or specifications of the contract, and/or the bid evaluation process of such contract; or (ii) would be involved in the implementation or supervision of such contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to AFD throughout the procurement process and execution of the contract.  AFD's eligibility criteria for AFD financing are described in Section V, Eligibility Criteria.A Bidder shall not be under suspension from bidding by the Employer as the result of the execution of a Bid–Securing Declaration.This bidding is open only to initially selected Bidders.A Bidder shall provide such evidence of eligibility satisfactory to the Employer, as the Employer shall reasonably request.A firm that is under a sanction of debarment by the Employer from being awarded a contract is eligible to participate in this procurement, unless AFD, at the Employer’s request, is satisfied that the debarment; (a) relates to fraud or corruption, and (b) followed a judicial or administrative proceeding that afforded the firm adequate due process. |
| Eligible Materials, Equipment and Services | The materials, equipment and services to be supplied under the Contract and financed by AFD may have their origin in any country subject to the restrictions specified in Section V, Eligibility Criteria, and all expenditures under the Contract will not contravene such restrictions. At the Employer’s request, Bidders may be required to provide evidence of the origin of materials, equipment and services.For purposes of ITB 5.1 above, "origin" means the place where the equipment, parts or components, materials and services thereof are mined, grown, produced or manufactured, and from where the services are provided. |
|  | 1. Contents of Bidding Documents |
| Sections of Bidding Documents | The Bidding Documents consist of Parts 1, 2, and 3, which include all the Sections specified below, and which should be read in conjunction with any Addenda issued in accordance with ITB 8. **PART 1: Bidding Procedures**   1. Section I ‑ Instructions to Bidders (ITB) 2. Section II – Bid Data Sheet (BDS) 3. Section III ‑ Evaluation and Qualification Criteria 4. Section IV – Bidding Forms 5. Section V – Eligibility Criteria 6. Section VI ‑ AFD Policy – Prohibited Practices –environmental and social responsibility   **PART 2: Employer's Requirements**   1. Section VII – Employer's Requirements   **PART 3: Conditions of Contract and Contract Forms**   1. Section VIII – General Conditions of Contract (GCC) 2. Section IX – Particular Conditions of Contract (PCC) 3. Section X – Contract Forms  The Invitation for Bids issued by the Employer is not part of the Bidding Documents.Unless obtained directly from the Employer, the Employer is not responsible for the completeness of the Bidding Documents, responses to requests for clarification, the minutes of the pre-Bid meeting (if any), or amendments to the Bidding Documents in accordance with ITB 8. In case of any contradiction, documents obtained directly from the Employer shall prevail.The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Documents and to furnish with its bid all information and documentation as is required by the Bidding Documents. |
| Clarification of Bidding Documents, Site Visit, Pre‑Bid Meeting | A Bidder requiring any clarification of the Bidding Documents shall contact the Employer in writing at the Employer’s address **specified in the BDS** or raise its enquiries during the pre-bid meeting if provided for in accordance with ITB 7.4. The Employer will respond in writing to any request for clarification including a description of the inquiry but without identifying its source, provided that such request is received no later than fourteen (14) days prior to the deadline for submission of bids. The Employer shall forward copies of its response to all Bidders who have acquired the Bidding Documents in accordance with ITB 6.3. **If so specified in the BDS**, the Employer shall also promptly publish its response at the web page **identified in the BDS**. Should the clarification result in changes to the essential elements of the Bidding Documents, the Employer shall amend the Bidding Documents following the procedure under ITB 8 and ITB 23.2.The Bidder is advised to visit and examine the Site of Works and its surroundings and obtain for itself on its own responsibility all information that may be necessary for preparing the bid and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the Bidder’s own expense.The Bidder and any of its personnel or agents will be granted permission by the Employer to enter upon its premises and lands for the purpose of such visit, but only upon the express condition that the Bidder, its personnel, and agents will release and indemnify the Employer and its personnel and agents from and against all liability in respect thereof, and will be responsible for death or personal injury, loss of or damage to property, and any other loss, damage, costs, and expenses incurred as a result of the inspection.**If so specified in the BDS**, the Bidder’s designated representative is invited to attend a pre-bid meeting. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage. Unless otherwise stated in the Bidding Documents, non-attendance at the pre-bid meeting will not be a cause for disqualification of a Bidder.The Bidder is requested to submit any questions in writing, to reach the Employer not later than seven (7) days before the meeting.Minutes of the pre-bid meeting, if applicable, including the text of the questions asked by Bidders, without identifying the source, and the responses given, together with any responses prepared after the meeting, will be communicated promptly in writing to all Bidders who have acquired the Bidding Documents in accordance with ITB 6.3. Any modification to the Bidding Documents that may become necessary as a result of the pre-bid meeting shall be made by the Employer exclusively through the issue of an Addendum pursuant to ITB 8 and not through the minutes of the pre-bid meeting. |
| Amendment of Bidding Documents | At any time prior to the deadline for submission of bids, the Employer may amend the Bidding Documents by issuing amendments.Any amendment issued shall be part of the Bidding Documents and shall be communicated in writing to all who have obtained the Bidding Documents from the Employer in accordance with ITB 6.3. The Employer shall also promptly publish the amendment on the Employer’s web page in accordance with ITB 7.1.To give Bidders reasonable time in which to take an amendment into account in preparing their bids, the Employer may, at its discretion, extend the deadline for the submission of bids, pursuant to ITB 23.2. |
|  | 1. Preparation of Bids |
| Cost of Bidding | The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the Employer shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process. |
| Language of Bid | The Bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Employer, shall be written in the language **specified in the BDS**. Supporting documents and printed literature that are part of the Bid may be in another language provided that the relevant passages are accompanied by an accurate translation in the language **specified in the BDS**, in which case, for purposes of interpretation of the Bid, such translation shall govern. |
| Documents Comprising the Bid | The Bid shall comprise two envelopes submitted simultaneously, one containing the Technical Bid and the other the Financial Bid.The Technical Bid shall comprise the following:  1. Bid Submission Form – Technical Bid; 2. Written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB 21.2; 3. In case of a JV, the JV agreement or the letter of intent to form a JV signed by all intended members of the future JV, in accordance with ITB 11.4; 4. Alternatives, if permissible in accordance with ITB 13; 5. Bid Security of Bid‑Securing Declaration, in accordance with ITB 20.1; 6. Statement of Integrity, Eligibility and Social and Environmental Responsibility duly signed, in accordance with ITB 12; 7. Completed Bidding Forms ‑ Technical Bid as required, in accordance with ITB 12; 8. Documentary evidence in accordance with ITB 14 establishing the Bidder’s continued qualified status; 9. Documentary evidence in accordance with ITB 15 that the Works offered by the Bidder conform to the Bidding Documents; 10. Technical proposal and the Schedule of Performance Guarantees in accordance with ITB 16; 11. List of Subcontractors, in accordance with ITB 16.2; 12. Any other technical documents **required** **in the BDS**.  The Financial Bid (whether base or alternative) shall comprise the following:  1. Bid Submission Form – Bid Price; 2. Completed Bidding Forms –Bid Price as required, in accordance with ITB 12; 3. Any other documents **required** **in the BDS**.  In accordance with the requirements under ITB 11.2, bids submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all members. Alternatively, a letter of intent to execute a Joint Venture Agreement in the event of a successful bid shall be signed by all members and submitted with the bid, together with a copy of the proposed Agreement.The Bidder shall furnish information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Bid. |
| Bid Submission Forms, Statement of Integrity, Bidding Forms and Schedules | The Technical Bid and the Financial Bid should be prepared using the Bid Submission Forms (both Technical and Price) and the Statement of Integrity must be completed without any alterations to the text, and no substitutes shall be accepted except as provided under ITB 21.4. All blank spaces shall be filled in with the information requested. |
| Alternative Bids, Alternative Technical Solutions and Alternative Times for Completion | **Unless otherwise specified in the BDS**, alternative bids shall not be considered. If permitted, the method for their evaluation shall be described in Section III, Evaluation and Qualification Criteria.**Unless otherwise specified in the BDS**, alternative technical solutions shall not be considered. If Bidders are permitted to submit alternative technical solutions and only for specified parts of the Works, such parts shall be identified in Section VII, Employer’s Requirements. The methods for their evaluation shall be described in Section III, Evaluation and Qualification Criteria.Bidders wishing to submit alternative bids and/or alternative technical solutions, substantially compliant with the requirements of the Bidding Documents, if permitted under ITB 13.1 and/or ITB 13.2 shall provide all information necessary for a complete evaluation by the Employer of the alternative bid and/or alternative technical solutions, including but not limited to, drawings, design calculations, technical specifications, breakdown of prices, proposed construction methodology, and other relevant details.Only one (1) alternative bid per Bidder may be submitted and only one (1) alternative technical solution for each permitted part of the Works may be submitted.**Unless otherwise specified in the BDS**, alternative times for completion of the Works shall not be considered. If permitted the method for their evaluation shall be described in Section III, Evaluation and Qualification Criteria |
| Documents Establishing the Qualifications of the Bidder | In accordance with Section III, Evaluation and Qualification Criteria, to establish that the Bidder continues to meet the criteria used at the time of Initial Selection, the Bidder shall provide in the corresponding information sheets included in Section IV, Bidding Forms, updated information on any assessed aspect that changed from that time.Any change in the structure or formation of a Bidder after being initially selected and invited to Bid (including, in the case of a JV, any change in the structure or formation of any member thereto) shall be subject to the written approval of the Employer prior to the deadline for submission of Bids. Such approval shall be denied if (i) as a consequence of the change, the Bidder no longer meets the qualification criteria set forth in the Initial Selection Documents; or (ii) in the opinion of the Employer, the change may result in a substantial reduction in competition; or (iii) a Bidder proposes to associate with a disqualified Bidder or in case of a disqualified joint venture, any of its members; or (iv) as a consequence of the change, the Bidder no longer continues to be on the list of Initially Selected Bidders as a result of the Employer’s re-evaluation of the Application in accordance with criteria specified in the Initial Selection Documents. Any such change should be submitted to the Employer not later than fourteen (14) days after the date of the Invitation for Bids.The Bidder shall be responsible for ensuring that any proposed Subcontractor complies with the requirements of ITB 4 and ITB 5. Bidders shall submit an undertaking from each proposed Subcontractor to confirm that they have read, understand and will comply with the ESHS obligations. The Bidder shall provide information in accordance with the requirements in Section III. |
| Documents Establishing Conformity of the Works | The documentary evidence of the conformity of the Works to the Bidding Documents may be in the form of literature, drawings and data, and shall furnish:  1. a detailed description of the essential technical and performance characteristics of the Works, including the Contractor's Performance Guarantees under the Schedule of Performance Guarantees of the proposed Works, in response to the Employer’s Requirements; 2. a list giving full particulars, including available sources, of all spare parts and special tools necessary for the proper and continuing operation of the Works during the Operation Service Period; and 3. a commentary on the Employer’s Requirements and adequate evidence demonstrating the substantial responsiveness of the Works, to those Employer’s Requirements. Bidders shall note that standards for workmanship, materials and equipment designated by the Employer in the Bidding Documents are intended to be descriptive (establishing standards of quality) only and not restrictive. The Bidder may substitute alternative standards, brand names and/or catalogue numbers in its Bid, provided that it demonstrates to the Employer’s satisfaction that the substitutions are substantially equivalent or superior to the standards designated in the Employer’s Requirements. |
| Technical proposal | The Bidder shall furnish a technical proposal including method statements for the Design, Build and Operation of the Works, work methods, key activities listing any Subcontractor that will do the work, Key Contractor’s equipment, Key Contractor’s Personnel, Contractor's Performance Guarantees under the Schedule of Performance Guarantees and any other information as stipulated in Section IV, Bidding Forms, in sufficient detail to demonstrate the adequacy of the Bidder's technical proposal to meet the requirements of Section VII, Employer’s Requirements and Section III, Evaluation and Qualification Criteria.For key activities of the Works which the Bidder intends to subcontract, Bidders shall complete the information requested in Criterion 2.1 of Section III, Evaluation and Qualification Criteria. The Bidder shall provide the information requested in Section IV, Bidding Forms for each of the proposed Subcontractors, including manufacturers of key equipment or materials. Bidders are free to list more than one Subcontractor or manufacturer against each key activities of the Works. Quoted prices will be deemed to apply to whichever Subcontractor or manufacturer is appointed, and no adjustment of the prices will be permitted in case of a change of a Subcontractor or manufacturer.The Bidder shall be responsible for ensuring that any Subcontractor or manufacturer proposed complies with the requirements of ITB 4, and that any material or services to be provided by the Subcontractor or manufacturer comply with the requirements of ITB 5 and Sub‑Clause 2.1 of Section III, Evaluation and Qualification Criteria. |
| Bid Prices and Discounts | **Unless otherwise specified in the BDS**, Bidders shall quote for the entire Works on a "single responsibility" basis such that the total lump sum Bid Price, subject to any adjustments in accordance with the Contract, covers all the Contractor’s obligations mentioned in or to be reasonably inferred from the Bidding Documents in respect of the design, build (construction and installation), and operation and maintenance of the Works, as required in Section VII, Employer’s Requirements. Items against which no price is entered by the Bidder will not be paid for by the Employer when executed and shall be deemed to be covered by the Prices for other items.Bidders shall give a breakdown of the Prices in the manner and detail called for in the Price Schedules included in Section IV, Bidding Forms.Where no different Price Schedules are included in the Bidding Documents, Bidders shall present their Prices in the following manner: Separately numbered Schedules included in Section IV, Bidding Forms, shall be used for each of the following elements listed below. The total amount from each Schedule (Nos. 1 to 5) shall be summarized in a Grand Summary (Schedule No. 6) giving the total Bid Price to be entered in the Bid Submission Form ‑ Bid Price. Absence of the total Bid Price in the Bid Submission Form ‑ Bid Price may result in the rejection of the Bid.  * Schedule No. 1: Design Services; * Schedule No. 2: Equipment, Materials, Tools and mandatory Spare Parts supplied from abroad; * Schedule No. 3: Equipment, Materials, Tools and mandatory Spare Parts supplied from within the Employer's country; * Schedule No. 4: Construction Works and Installation Services; * Schedule No. 5: Operation Service; * Schedule No. 6: Grand Summary; and * Schedule No. 7: Recommended Spare Parts.  Bidders shall note that the equipment and mandatory Spare Parts included in Schedule Nos. 2 and 3 above exclude materials used for civil, building, and other construction works. All such materials shall be included and priced under Schedule No. 4, Construction Works and Installation Services.In the Schedules, Bidders shall give the required details and a breakdown of their Prices as follows:  1. Schedule No. 1: Design Services:    1. Prices shall include all taxes, duties, levies and Charges payable in the Employer’s country up to twenty-eight (28) days prior to the deadline for Bid submission except for VAT which will be quoted separately. 2. Schedules No. 2 and 3: Equipment, Materials and Tools to be supplied from abroad and from within the Employer’s country:    1. The Price of the equipment, materials and tools shall be quoted using the Incoterm CIP; and    2. All customs duties and VAT paid or payable in the Employer’s country, up to twenty‑eight (28) days prior to the deadline for Bid submission shall be quoted separately. 3. Schedule No. 4: Construction Works and Installation Services:    1. Prices shall include prices for transportation, insurance and other services incidental to the installation of the Works, all labour, Contractor’s equipment, construction works, materials, consumables and all matters and things of whatsoever nature, training, etc., where identified in the Bidding Documents, as necessary for the proper execution of the installation and other services, including all taxes, duties, levies and charges payable in the Employer’s country as of twenty‑eight (28) days prior to the deadline for submission of bids to the exception of VAT which will be quoted separately. 4. Schedules No. 5: Operation Service:    1. Prices shall include operation, maintenance & knowledge transfer, as well as all taxes, duties, levies and other charges payable in the Employer’s country as of twenty‑eight (28) days prior to the deadline for submission of bids to the exception of VAT which will quoted separately. 5. Schedule No. 7: Recommended Spare Parts:    1. Prices shall be quoted using the Incoterm CIP;    2. All customs duties and VAT paid or payable in the Employer’s country, up to twenty-eight (28) days prior to the deadline for Bid submission shall be quoted separately.  The latest edition of Incoterms, published by the International Chamber of Commerce shall govern.  1. Under "CIP" Incoterms defines "delivery" as the place and date where risk transfers from the seller to the buyer. 2. In these Bidding Documents, when using "CIP" and not referring to the transfer of risk, the term "delivery" shall be interpreted as the date and place where the equipment, materials and services arrive at the named place of destination, and this date shall be reflected in the Delivery and Completion Schedules.  The price to be quoted in the Bid Submission Form – Bid Price shall be the total price of the Bid, excluding any discounts offered.The Bidder shall quote separately any discounts and the methodology for their application in the Bid Submission Form – Bid Price.**Unless otherwise specified in the BDS**, the Prices quoted by the Bidder are subject to adjustment during the performance of the Contract in accordance with the provisions of Appendix 1 to the Contract Agreement. In such a case, the Bidder shall furnish the indices and weightings for the price adjustment formulae in the Schedule of Cost Indexation, Appendix to Financial Bid, Section IV, and the Employer may require the Bidder to justify its proposed indices and weightings.**Unless otherwise specified in the BDS**, all duties, taxes, and other levies payable by the Contractor under the Contract, as of the date twenty-eight (28) days prior to the deadline for submission of bids, shall be included in the rates and prices and the total Bid Price submitted by the Bidder, in accordance to ITB 17.5. |
| Currencies of Bid and Payment | The currency(ies) of the Bid and the currency(ies) of payments shall be **as specified in the BDS**.Bidders may be required by the Employer to justify, to the Employer’s satisfaction, their local and foreign currency requirements, and to substantiate that the amounts included in the prices shown in the Schedule of Cost Indexation in the Appendix 1 to Financial Bid are reasonable, in which case a detailed breakdown of the foreign currency requirements shall be provided by Bidders. |
| Period of Validity of Bids | Bids shall remain valid for the period **specified in the BDS** after the Bid submission deadline date prescribed by the Employer in accordance with ITB 23.1. A Bid valid for a shorter period shall be rejected by the Employer as non-responsive.In exceptional circumstances, prior to the expiration of the Bid validity period, the Employer may request Bidders to extend the period of validity of their bids for a specific additional period. The request and the responses shall be made in writing. A Bidder may refuse the request without forfeiting its bid security or without risking execution of the bid-securing declaration. Except as provided in ITB 19.3, a Bidder agreeing to the request shall not be required or permitted to modify its bid, but will be required to ensure that the bid security is extended for twenty eight (28) days beyond the deadline of the extended validity period.If the award is delayed by a period exceeding fifty six (56) days beyond the expiry of the initial bid validity, the Contract price shall be determined as follows:  1. In the case of fixed price contracts, the Contract price shall be the Bid Price adjusted by the factor **specified in the BDS**; 2. In the case of adjustable price contracts, no adjustment shall be made; 3. In any case, bid evaluation shall be based on the Bid Price without taking into consideration the applicable correction from those indicated above. |
| Bid Security/Bid Securing Declaration | The Bidder shall furnish as part of its bid, either a Bid-Securing Declaration or a Bid Security **as specified in the BDS**, in original form and, in the case of a Bid Security, in the amount and currency **specified in the BDS**.A Bid-Securing Declaration shall use the form included in Section IV, Bidding Forms.If a Bid Security is specified pursuant to ITB 20.1, the Bid Security shall be a demand guarantee in any of the following forms at the Bidder’s option:  1. An unconditional guarantee issued by a bank or financial institution (such as an insurance, bonding or surety company); 2. An irrevocable letter of credit; 3. A cashier’s or certified check; or 4. Another security **specified in the BDS**;   from a reputable source from an eligible country as specified in Section V, Eligibility Criteria. If the unconditional guarantee is issued by a financial institution located outside the Employer’s Country, the issuing financial institution shall have a correspondent financial institution located in the Employer’s Country to make it enforceable unless the Employer has agreed in writing, prior to Bid submission, that a correspondent financial institution is not required. In the case of a bank guarantee, the Bid Security shall be submitted either using the Bid Security Form included in Section IV, Bidding Forms, or in another substantially similar format approved by the Employer prior to bid submission. In either case, the form must include the complete name of the Bidder. The Bid Security shall be valid for twenty‑eight (28) days beyond the original validity period of the bid, or beyond any period of extension if requested under ITB 19.2.Any bid not accompanied by a substantially responsive Bid Security or Bid-Securing Declaration shall be rejected by the Employer as non-responsive.The Bid Security of unsuccessful Bidders as well as of the successful Bidder shall be returned as promptly as possible upon the successful Bidder’s signing the Contract and furnishing the Performance Security pursuant to 44.The Bid Security may be forfeited or the Bid-Securing Declaration executed:  1. If a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Letter of Bid, or any extension thereto provided by the Bidder; or 2. If the successful Bidder fails to: 3. Sign the Contract in accordance with ITB 43; or 4. Furnish a Performance Security in accordance with ITB 44.  The Bid Security or the Bid-Securing Declaration of a JV shall be in the name of the JV that submits the bid. If the JV has not been legally constituted into a legally enforceable JV at the time of bidding, the Bid Security or the Bid-Securing Declaration shall be in the names of all future members as named in the letter of intent referred to in ITB 4.1 and ITB 11.4.If a Bid Security is not **required** **in the BDS** pursuant to ITB 20.1, and:  1. If a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Letter of Bid or any extension thereto provided by the Bidder, or 2. If the successful Bidder fails to sign the Contract in accordance with ITB 43; or furnish a Performance Security in accordance with ITB 44;   the Employer may, **if provided for in the BDS**, declare the Bidder ineligible to be awarded a contract by the Employer for a period of time **as stated in the BDS**. |
| Format and Signing of Bid (Technical and Price) | The Bidder shall prepare one original of the documents comprising the Bid as described in ITB 11 and clearly mark it "ORIGINAL". Alternative Bids, if permitted in accordance with ITB 13, shall be clearly marked "ALTERNATIVE". In addition, the Bidder shall submit copies of the bid, in the number **specified in the BDS** and clearly mark them "COPY". In the event of any discrepancy between the original and the copies, the original shall prevail.The original and all copies of the bid shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder. This authorization shall consist of a written confirmation **as specified in the BDS** and shall be attached to the bid. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the bid where entries or amendments have been made shall be signed or initialled by the person signing the bid.In case the Bidder is a JV, the Bid shall be signed by an authorized representative of the JV on behalf of the JV, and so as to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized representatives.Any inter-lineation, erasures, or overwriting shall be valid only if they are signed or initialled by the person signing the bid. |
|  | 1. Submission and Opening of Bids |
| Sealing and Marking of Bids | The Bidder shall enclose the original and all copies of the Bid, including alternative bids, if permitted in accordance with ITB 13, in separate sealed envelopes marked "Technical Bids" and "Financial Bids", duly marking the envelopes as "ORIGINAL", "ALTERNATIVE" and "COPY". These envelopes containing the original and the copies shall then be enclosed in one single envelope.The inner and outer envelopes shall:  1. Bear the name and address of the Bidder; 2. Be addressed to the Employer in accordance with ITB 21.1; 3. Bear the specific identification of this bidding process **specified in the BDS**; and 4. Bear a warning not to open before the time and date for bid opening.  If all envelopes are not sealed and marked as required, the Employer will assume no responsibility for the misplacement or premature opening of the bid. **When so specified in the BDS**, bidders shall have the option of submitting their bids electronically. Bidders submitting bids electronically shall follow the electronic bid submission procedures **specified in the BDS**. |
| Deadline for Submission of Bids | Bids must be received by the Employer at the address and no later than the date and time **specified in the BDS**.The Employer may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Documents in accordance with ITB 8, in which case all rights and obligations of the Employer and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended. |
| Late Bids | The Employer shall not consider any bid that arrives after the deadline for submission of bids, in accordance with ITB 24. Any bid received by the Employer after the deadline for submission of bids shall be declared late, rejected, and returned unopened to the Bidder. |
| Withdrawal, Substitution and Modification of Bids | A Bidder may withdraw, substitute, or modify its Bid after it has been submitted, and before the deadline for submission of Bids, by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITB 21.2. The corresponding substitution or modification of the bid must accompany the respective written notice. All notices must be:  1. Prepared and submitted in accordance with ITB 21 and ITB 22 (except that withdrawals notices do not require copies), and in addition, the respective envelopes shall be clearly marked "WITHDRAWAL", "SUBSTITUTION", "MODIFICATION"; and 2. Received by the Employer prior to the deadline prescribed for submission of bids, in accordance with ITB 23.  Bids requested to be withdrawn in accordance with ITB 25.1 shall be returned unopened to the Bidders.No bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Letter of Bid or any extension thereof. |
| Bids Opening | The Employer shall open the Technical Bids in public at the address, on the date, and time **specified in the BDS** in the presence of Bidder’s designated representatives and anyone who chooses to attend. Any specific electronic bid opening procedures required if electronic bidding is permitted in accordance with ITB 22.3, shall be **as** **specified in the BDS**. The Financial Bids will remain unopened and will be held in custody of the Employer until the specified time of their opening. If the Technical Bid and the Financial Bid are submitted together in one envelope, the Employer may reject the entire Bid.First, envelopes marked "WITHDRAWAL" shall be opened and read out and the envelope with the corresponding bid shall not be opened, but returned to the Bidder. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at bid opening. Next, envelopes marked "SUBSTITUTION" shall be opened and read out and exchanged with the corresponding bid being substituted, and the substituted bid shall not be opened, but returned to the Bidder. No bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at bid opening. Envelopes marked "MODIFICATION" shall be opened and read out with the corresponding bid. No bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at bid opening.All other envelopes holding the Technical Bid shall be opened one at a time, reading out: the name of the Bidder and whether there is a modification; the presence or absence of a bid security or bid-securing declaration, if required; and any other details as the Employer may consider appropriate. Only Technical Bids and alternative Technical Bids read out at bid opening shall be considered for evaluation. At Technical Bid opening, the Employer shall neither discuss the merits of any Bid nor reject any Bid (except for late bids, in accordance with ITB 24.1).The Employer shall prepare a record of the bid opening that shall include, as a minimum: the name of the Bidder and whether there is a withdrawal, substitution, or modification; alternative bids; and the presence or absence of a bid security or bid-securing declaration, if one was required. The Bidders’ representatives who are present shall be requested to sign the record. The omission of a Bidder’s signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Bidders.At the end of the evaluation of the Technical Bids, the Employer will invite Bidders who have submitted substantially responsive Technical Bids and who have been determined as being qualified for award to attend the opening of the Financial Bids. The date, time, and location of the public opening of Financial Bids will be advised in writing by the Employer and published at the Employer’s web page **identified** **in the BDS**. Bidders shall be given reasonable notice of the opening of Financial Bids.The Employer will notify Bidders in writing who have been rejected on the grounds of their Technical Bids being substantially nonresponsive to the requirements of the Bidding Documents, and return their Financial Bids unopened.The Employer shall conduct the opening of Financial Bids of all Bidders who submitted substantially responsive Technical Bids, in public one at a time and in the presence of Bidders' representatives who choose to attend at the address, on the date, and time specified by the Employer in accordance with ITB 26.5, and the following read out and recorded: the name of the Bidder and whether there is a withdrawal, substitution, or modification; the Bid Price including any discounts and alternative Bids and any other details as the Employer may consider appropriate. Only Financial Bids, discounts and alternative Bids read out and recorded during the opening of Financial Bids shall be considered for evaluation. **Unless otherwise specified in the BDS**, the Bid Submission Forms – Bid Price are to be initialled by a minimum of three representatives of the Employer attending Financial Bid opening. At Financial Bid opening, the Employer shall neither discuss the merits of any Bid nor reject any Bid.The Employer shall prepare a record of the opening of Financial Bids that shall include, as a minimum: the name of the Bidder, the Price, any discounts, and alternative Bids. The Bidders’ representatives who are present shall be requested to sign the record. The omission of a Bidder’s signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Bidders who submitted Bids on time, and posted online when electronic bidding is permitted. |
|  | 1. Evaluation and Comparison of Bids |
| Confidentiality | Information relating to the examination, evaluation, and comparison of the Bids, and qualification of the Bidders and recommendation of Contract award shall not be disclosed to Bidders or any other persons not officially concerned with the bidding process until information on Contract award is communicated to all Bidders in accordance with ITB 42.Any attempt by a Bidder to influence the Employer in the examination, evaluation, and comparison of the Bids, and qualification of the Bidders, or Contract award decisions may result in the rejection of its Bid.Notwithstanding ITB 26.2, from the time of Bid opening to the time of Contract award, if a Bidder wishes to contact the Employer on any matter related to the bidding process, it shall do so in writing. |
| Clarification of Bids | To assist in the examination, evaluation, and comparison of the bids, and qualification of the Bidders, the Employer may, at its discretion, ask any Bidder for a clarification of its Bid, given a reasonable time for a response. Any clarification submitted by a Bidder that is not in response to a request by the Employer shall not be considered. The Employer’s request for clarification and the response shall be in writing. No change, including any voluntary increase or decrease, in the prices or substance of the Bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the Bids, in accordance with ITB 35.If a Bidder does not provide clarifications of its Bid by the date and time set in the Employer’s request for clarification, its Bid may be rejected. |
| Deviations, Reservations and Omissions | During the evaluation of Bids, the following definitions apply:  1. "Deviation" is a departure from the requirements specified in the Bidding Documents; 2. "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Documents; and 3. "Omission" is the failure to submit part or all of the information or documentation required in the Bidding Documents. |
| Determination of Responsiveness | The Employer’s determination of a Bid’s responsiveness is to be based on the contents of the Bid itself, as defined in ITB 11.A substantially responsive Bid is one that meets the requirements of the Bidding Documents without material Deviation, Reservation, or Omission. A material Deviation, Reservation, or Omission is one that,  1. If accepted, would: 2. Affect in any substantial way the scope, quality, or performance of the Works specified in the Contract; or 3. Limit in any substantial way, inconsistent with the Bidding Documents, the Employer's rights or the Bidder's obligations under the proposed Contract; or 4. If rectified, would unfairly affect the competitive position of other Bidders presenting substantially responsive Bids.  The Employer shall examine all aspects of the Technical Bid submitted in accordance with ITB 15 and 16, in particular, to confirm that all requirements of Section VII, Employer’s Requirements have been met without any material Deviation, Reservation or Omission.If a Technical Bid is not substantially responsive to the requirements of the Bidding Documents, it shall be rejected by the Employer and may not subsequently be made responsive by correction of the material Deviation, Reservation, or Omission. |
| Non‑material Non‑conformities | Provided that a bid is substantially responsive, the Employer may waive any non‑material non‑conformities (a non‑conformity being a Deviation, Reservation or Omission) in the Bid. The Employer shall rectify quantifiable non‑material non‑conformities related to the Bid Price. To this effect, the Bid Price shall be adjusted by adding the highest price of the item or component as quoted in other substantially responsive bids. If the price of the item or component cannot be derived from the price of other substantially responsive bids, the Employer shall use its best estimate.Provided that a Bid is substantially responsive, the Employer may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify non‑material non‑conformities in the Bid related to documentation requirements. Requesting information or documentation on such non‑conformities shall not be related to any aspect of the price of the Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid. |
| Subcontractors | **Unless otherwise stated in the BDS**, the Employer does not intend to execute any specific elements of the Works by Subcontractors selected in advance by the Employer (nominated Subcontractors).A "specialized Subcontractor" is a Subcontractor hired for specialized work as defined by the Employer in Section VII. The Bidder’s Bid shall name the same specialized Subcontractor as submitted in the initial selection application and approved by the Employer, or may name another specialized Subcontractor meeting the requirements specified in the initial selection phase.If the Bidder proposes to engage any Subcontractors additional to or different from those named in its Initial Selection for major items of the Works, the Bidder shall give details of the name and nationality of the proposed Subcontractors for each of those items. In addition, the bidder shall include in its bid information establishing compliance with the requirements specified by the Employer for these items in the Initial Selection Documents or in Clause 2.1 of Section III. |
| Technical Bids Evaluation | The Employer shall use the criteria and methodologies listed in this Clause and those indicated in Section III, Evaluation and Qualification Criteria. No other evaluation criteria or methodologies shall be permitted.The Employer will carry out a detailed evaluation of the Technical Bids in accordance with ITB 30 to determine whether the technical aspects are in compliance with the Bidding Documents. The Bid that does not meet minimum acceptable standards of completeness, consistency and detail, and the specified minimum (or maximum, as the case may be) requirements for specified performance requirements, will be rejected for non-responsiveness. In order to reach its determination, the Employer will examine and compare the technical aspects of the Bids on the basis of the information supplied by the Bidders, taking into account the following:  1. overall completeness and compliance with Section VII, Employer’s Requirements; conformity of the Works offered with values specified in the Table of performance requirements, including conformity with the specified minimum (or maximum, as the case may be) requirement corresponding to each functional guarantee, as indicated in the Employer's Requirements, suitability of the Works offered in relation to the environmental and climatic conditions prevailing at the Site, and quality, function and operation of any process control concept included in the Bid; 2. compliance with the time schedule called for by the Implementation Schedule and any alternative time schedules offered by Bidders, as evidenced by a milestone schedule provided in the Technical Bid; 3. type, quantity and long-term availability of mandatory and recommended spare parts and maintenance services; and 4. other relevant factors, if any, listed in Section III, Evaluation and Qualification Criteria.  If a Technical Bid is declared not substantially compliant with the requirements of the Bidding Documents, the Bid shall be rejected and shall not be further evaluated. Substantially responsive Technical Bids shall be further evaluated and scored. The scores to be given to technical factors and sub‑factors are specified in Section III, Evaluation and Qualification Criteria.Where alternative offers or alternative technical solutions have been allowed in accordance with ITB 13, and offered by the Bidder, the Employer shall make a similar evaluation of the alternatives. Where alternatives have not been allowed but have been offered, they shall be ignored. |
| Eligibility and Qualification of the Bidders | The Employer shall determine to its satisfaction during the evaluation of Technical Bids whether a Bidder continues to meet the eligibility and qualifications criteria specified in ITB 3 and 4, and Section III, Evaluation and Qualification Criteria of the Initial Selection Documents.An affirmative determination shall be a prerequisite for the opening and evaluation of a Bidder’s Financial Bid. A negative determination shall result into the disqualification of the Bid, in which event the Employer shall return the unopened Financial Bid to the Bidder. |
| Correction of Arithmetical Errors | Provided that the Bid is substantially responsive, the Employer shall correct arithmetical errors on the following basis:  1. Where there are errors between the total of the amounts given under the column for the price breakdown and the amount given under the Total Price, the amounts given under the column for the price breakdown shall prevail and the Total Price shall be corrected accordingly; 2. Where there are errors between the total of the amounts given in Price Schedules and the amount given in Grand Summary Price Schedule, the total of the amounts of Price Schedules shall prevail and the Grand Summary Price Schedule shall be corrected accordingly; 3. If there is a discrepancy between the grand total price amount given in Grand Summary Price Schedule and the Bid Price of the Bid Submission Form, the grand total price given in Grand Summary Price Schedule shall prevail and the Bid Price of the Bid Submission Form shall be corrected; and 4. If there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a), (b) and (c) above.  Bidders shall be requested to accept correction of arithmetical errors. Failure to accept the correction in accordance with ITB 35.1 shall result in the rejection of the Bid and the Bid Security may be executed. |
| Conversion to Single Currency | For evaluation and comparison purposes, the currency(ies) of the Bid shall be converted into a single currency **as specified in the BDS.** |
| Financial Bid Evaluation | The Employer shall use the criteria and methodologies listed in this Clause and those indicated in Section III, Evaluation and Qualification Criteria. No other evaluation criteria or methodologies shall be permitted.To evaluate the Financial Bid, the Employer shall consider the following:  1. The Bid price, excluding Provisional Sums unless priced competitively and the provision, if any, for contingencies in the Schedules, but including Daywork items, where priced competitively; 2. Price adjustment for correction of arithmetic errors in accordance with ITB 35.1; 3. Price adjustment due to discounts offered in accordance with ITB 17.7; 4. Price adjustment due to quantifiable non‑material non‑conformities in accordance with ITB 31; 5. Converting the amount resulting from applying (a) to (d) above, if relevant, to a single currency in accordance with ITB 36; and 6. The discounted operation and maintenance costs over the life cycle of the Works as specified in Section III, Evaluation and Qualification Criteria.  The Employer’s evaluation of the Financial Bid shall exclude and not take into account:  1. In the case of equipment, materials and mandatory spare parts (Schedule No. 2 and 3) supplied from abroad and from the Employer’s country, all taxes and duties, applicable in the Employer’s country and payable on the equipment and mandatory spare parts if the Contract is awarded to the Bidder; and 2. The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract.  If the Bid is seriously unbalanced or front loaded in the opinion of the Employer and after evaluation of the price analyses, taking into consideration the schedule of estimated Contract payments, the Employer may require that the amount of the Performance Security be increased at the expense of the Bidder to a level sufficient to protect the Employer against financial loss in the event of default of the successful Bidder under the Contract. |
| Abnormally low Bid | If the Most Advantageous Bid, as defined under Clause 41, is twenty per cent (20%) or more lower than the Employer's estimate, and unless the Employer provides justification that the estimate is inaccurate, the Employer shall require the Bidder to produce detailed price analyses for any or all items of the Schedules, to demonstrate the internal consistency of those prices and priced quantities with the construction methods, resources and schedule proposed as well as with the Employer's Requirements. Notwithstanding the provisions of ITB 31 which shall not be applicable, if one or several inconsistencies are evidenced, the Bid shall be declared non‑compliant and rejected. |
| Evaluation of Combined Technical and Financial Bids | The Employer’s evaluation of responsive Bids will take into account technical factors, in addition to cost factors in accordance with Section III, Evaluation and Qualification Criteria. The weights to be assigned for the Technical factors and cost are specified in Section III, Evaluation and Qualification Criteria. The Employer will rank the bids based on the combined weighted technical and price scores. |
| Employer's Right to Reject all Bids | The Employer reserves the right to annul the bidding process and reject all bids at any time prior to contract award, without thereby incurring any liability to Bidders. In case of annulment, all bids submitted and specifically, Bid Securities, shall be promptly returned to the Bidders. |
|  | 1. Award of Contract |
| Most Advantageous Bid | The Employer shall award the Contract to the Bidder with the Most Advantageous Bid, provided further that the Bidder is determined to be eligible and qualified to perform the Contract satisfactorily.The Most Advantageous Bid is the Bid of the Bidder that meets the Qualification Criteria, and whose Bid has been determined to be:  1. substantially responsive to the Bidding Documents; 2. the best evaluated Bid i.e. the highest scoring bid in the combined technical and financial evaluation, in accordance with ITB 39. |
| Notification of Award | Prior to the expiration of the Period of Validity of Bids or any extension thereof, the Employer shall notify the successful Bidder, in writing, that its Bid has been accepted. The notification letter (hereinafter and in the Conditions of Contract and Contract Forms called the "Letter of Acceptance") shall specify the price that the Employer will pay the Contractor in consideration of the execution, completion, and operation of the Works, and the requirement for the Contractor to remedy any defects therein (hereinafter and in the Conditions of Contract and Contract Forms called the "Accepted Contract Amount"). At the same time, the Employer shall also notify all other Bidders of the results of the bidding.The Employer will publish in an English language newspaper or well-known freely accessible website the results of the bidding process identifying the Bid, and the following information: (i) name of each Bidder who submitted a Bid; (ii) Bid prices as read out at bid opening; (iii) name and evaluated prices of each Bid.Until a formal Contract Agreement is prepared and executed, the Letter of Acceptance shall constitute a binding Contract.The Employer shall promptly respond in writing to any unsuccessful Bidder who, after notification of award in accordance with ITB 42.1, requests in writing the grounds on which its Bid was not selected.In exceptional circumstances, a contract negotiation may be needed. In such case, the Employer shall send to the successful Bidder a letter of invitation to negotiate which should not be mistaken as a Letter of Acceptance which, under FIDIC Conditions of Contract, triggers contractual obligations from both Parties. The Letter of Acceptance shall be sent once the contract negotiation ends successfully. Minutes of negotiation meetings, and agreements reached therein, shall be attached to the Letter of Acceptance. |
| Signing of Contract | Promptly upon issuing the Letter of Acceptance, the Employer shall send the successful Bidder the Contract Agreement.Within twenty-eight (28) days of receipt of the Contract Agreement, the successful Bidder shall sign, date, and return it to the Employer. |
| Performance Security | Within twenty-eight (28) days of the receipt of the Letter of Acceptance from the Employer, the successful Bidder shall furnish the Performance Security in accordance with the General Conditions of Contract, using for that purpose the Performance Security Form included in Section X, Contract Forms, or another form acceptable to the Employer.Failure of the successful Bidder to submit the above-mentioned Performance Security or sign the Contract Agreement shall constitute sufficient grounds for the annulment of the award, the Contract termination in accordance with GCC Sub‑Clause 15.2 and forfeiture of the Bid security or execution of the Bid-Securing Declaration. In that event, the Employer may award the Contract to the next Most Advantageous Bid. |

Section II – Bid Data Sheet

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| 1. Introduction | |
| **ITB 1.1** | The number of the Invitation for Bids is: |
| **ITB 1.1 & ITB 2.1** | The Employer is: |
| **ITB 1.1** | The name of the IPC is:  The identification number of the IPC is: |
| **ITB 2.1** | The name of the Project is: |
| **ITB 4.1** | Maximum number of members in the JV shall be: *[insert a maximum number, e.g. three, or state "not applicable"]* |
| 1. Bidding Documents | |
| **ITB 7.1** | For **clarification purposes** only, the Employer's address is:  Attention:  Address:  Telephone:  Electronic mail address:  Web page: |
| **ITB 7.4** | A Pre‑Bid meeting *[shall / shall not]* take place at the following date, time and place: *[select as appropriate]*  Date: *[preferably at mid Bid Submission period of time]*  Time:  Place:  A Site visit conducted by the Employer *[shall / shall not]* be organized *[select as appropriate]* |
| 1. Preparation of Bids | |
| **ITB 10.1** | The language of the Bid is: English  All correspondence exchange shall be in the English language. Language for translation of supporting documents and printed literature is English. |
| **ITB 11.2(l) & ITB 11.3(c)** | The Bidder shall submit with its Bid the following additional documents:  *[insert the list of additional documents, if any]*  In the case of Works in an area labelled as orange or red by the French Ministry of Europe and Foreign Affairs[[8]](#footnote-8), the Bidder shall provide with its Bid a security methodology that meets the requirements of the security specifications. |
| **ITB 13.1 & ITB 13.2** | Alternative bids and alternative technical solutions shall notbe permitted.  As a "single responsibility contract", the essence of a DBO Contract is that the Contractor designs a solution that meets the Employer’s Requirements and delivers Works which are fit-for-purpose.  Consequently, pursuant to ITB 33.2, Bidders' design solutions which deviate from any base design solution provided in the Bidding Documents, but which (i) comply with the quality and performance of Works specified in the Employer's Requirements, and (ii) do not change the Employer's rights and Contractor's obligations under the proposed Contract, are not considered as alternative bids and are then allowed. |
| **ITB 13.5**  **Alternative Times for Completion** | Alternative times for completion shall notbepermitted. |
| **ITB 17.9** | Sub‑Clause 13.8 of the PCC-Table A specify whether price adjustment is applicable to the Contracts.  *[Where prices shall be subject to adjustment during the performance of the Contract, the Bidder is required to furnish the indices and coefficients for the Price Adjustment Formula (Sample) furnished in Section IV ‑ Bidding Forms.]* |
| **ITB 17.10** | Taxes, duties and fees exemptions, to which payments under the Contract are entitled, are specified in clause 14.1 of the Particular Conditions of Contract. |
| **ITB 18.1** | The currency(ies) of the bid and the payment currency(ies) shall be in accordance with Option \_\_\_\_\_\_\_ as described below:  *[The Employer shall select the option which is the most suitable. Option B better meets (in terms of schedule) the Contractor’s needs for various currencies. The Employer must keep only one of the following optional texts.]*  **Option A (Bidders to quote entirely in local currency):**   1. The unit rates and the prices shall be quoted by the Bidder in the Schedules, entirely in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the name of the currency of the Employer’s country, and further referred to as "the local currency". A Bidder expecting to incur expenditures in other currencies for inputs to the Works supplied from outside the Employer’s country (referred to as "the foreign currency") shall indicate in the Appendix to Bid, the percentage(s) of the Bid Price (excluding Provisional Sums), needed by the Bidder for the payment of such foreign currency requirements, limited to Euros (€) or US Dollars (US$); 2. The rates of exchange to be used by the Bidder in arriving at the local currency equivalent and the percentage(s) mentioned in (a) above shall be specified by the Bidder in the Appendix to Bid, and shall apply for all payments under the Contract so that no exchange risk will be borne by the successful Bidder.   *[Preferable option]*  **Option B (Bidders allowed to quote in local and foreign currencies):**  The unit rates and prices shall be quoted by the Bidder in the Schedules separately in the following currencies:   1. for those inputs to the Works that the Bidder expects to supply from within the Employer’s country, in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the name of the currency of the Employer’s country, and further referred to as "the local currency"; and 2. For those inputs to the Works that the Bidder expects to supply from outside the Employer’s country (referred to as "the foreign currency"), in Euros (€) or US Dollars (US$). |
| **ITB 19.1** | The Bid Validity Period shall be \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *[insert number of days between 90 and 120]* days. |
| **ITB 19.3(a)** | The Bid Price shall be adjusted as follows *[insert a price adjustment formula, or state "as will be indicated in the request for bid validity extension"]*. |
| **ITB 20.1** | A Bid Security *[shall / shall not]* be required. *[select as appropriate]*  A Bid-Securing Declaration *[shall / shall not]* be required. *[select as appropriate]*  If a bid security is required, the amount and currency of the bid security shall be*: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [insert US$ equivalent amount between 1 and 3 per cent of the Employer’s contract estimate, and specify currency].*  *[If a Bid Security is required, a Bid-Securing Declaration shall not be required and vice versa.]* |
| **ITB 20.3(d)** | Other types of acceptable securities: *[insert "None" if not applicable]* |
| **ITB 20.9** | If the Bidder incurs any of the actions prescribed in subparagraphs (a) or (b) of this provision, the Employer will declare the Bidder ineligible to be awarded contracts by the Employer for a period of \_\_\_\_\_\_\_\_\_\_ years.  *[To be deleted if a Bid Security is required]* |
| **ITB 21.1** | In addition to the original of the bid, the number of copies is: *[insert number]* paper copies and one (1) digital copy (CD or flashdisk). |
| **ITB 21.2** | The written confirmation of authorization to sign on behalf of the Bidder shall consist of: *[insert for instance "a power of attorney established in the name of the signatory of the bid"]* |
| 1. Submission and Opening of Bids | |
| **ITB 22.3 & ITB 23.1** | For **Bid submission purposes** only, the Employer's address is:  Attention:  Address:    **The deadline for bid submission is:**  Date:  Time:  Bidders *shall not* have the option of submitting their bids electronically.  *[Electronic option requires prior approval from AFD. If approved, insert:*  *If Bidders have the option of submitting their bids electronically, the electronic bidding submission procedures shall be: ]* |
| **ITB 26.1** | The Bid opening shall take place at:  Address:  Date:  Time:  No minimum number of bids is required in order to proceed to bid opening.  *[If Bidders have the option of submitting their bids electronically, the electronic bid opening procedure shall be: ]* |
| **ITB 26.3 & ITB 26.7** | *[Insert the number of representatives if different from three (3), otherwise delete]* |
| 1. Evaluation and Comparison of Bids | |
| **ITB 32.1** | At this time the Employer *[insert "intends" or "does not intend"]* to execute certain specific parts of the Works by Subcontractors selected in advance (nominated Subcontractors). The details (specific parts and Subcontractors' names) are provided in Sub‑Clause 4.5 of the PCC-Table A.  *[If the above states "intends" list the specific parts of the Works and the respective Subcontractors in Sub‑Clause 4.5 of the PCC-Table A]* |
| **ITB 36.1** | The currency that shall be used for bid evaluation and comparison purposes to convert all bid price(s) expressed in various currencies into a single currency is: *[insert name of currency, generally the local currency]*  The source of exchange rate shall be: *[Insert name of the source of exchange rates (e.g., the Central Bank in the Employer’s Country)]*  The date for the exchange rate shall be seven (7) days prior to the date of deadline for bid submission.  The currency(ies) of the Bid shall be converted into a single currency in accordance with the procedure under Option \_\_\_\_\_ that follows:  **Option A: Bidders quote entirely in local currency**  For comparison of bids, the Bid Price, corrected pursuant to Clause 31, shall first be broken down into the respective amounts payable in various currencies by using the exchange rates specified by the Bidder in accordance with Sub‑Clause 15.1.  In the second step, the Employer will convert the amounts in various currencies in which the Bid Price is payable (excluding Provisional Sums but including Daywork where priced competitively) to the single currency identified above at the selling rates established for similar transactions by the authority specified and on the date stipulated above.  **OR**  **Option B: Bidders quote in local and foreign currencies**  The Employer will convert the amounts in various currencies in which the Bid Price, corrected pursuant to Clause 31, is payable (excluding Provisional Sums but including Daywork where priced competitively) to the single currency identified above at the selling rates established for similar transactions by the authority specified and on the date stipulated above. |

Section III – Evaluation and Qualification Criteria

# EVALUATION

The evaluation of the Bids shall be conducted following the steps as described below:

## **Assessment of compliance of technical proposal with requirements:**

Determination of responsiveness shall be carried out in accordance with ITB 30 and ITB 33.2. In particular, conformity of the Works offered with values specified in the Table of performance requirements in the Employer's Requirements, including conformity with the specified minimum (or maximum, as the case may be) requirement corresponding to each functional guarantee shall be thoroughly verified. If a technical proposal is declared not substantially compliant with the requirements of the Bidding Documents, the Bid shall be rejected and shall not be further evaluated.

If the environmental and social risks are evaluated as high and/or impacts as significant, and therefore, the Bidding Documents include ESHS Specifications, then the technical proposal shall comprise an ESHS Methodology. The ESHS Methodology submitted by the Bidder shall be evaluated to determine whether it is substantially responsive (i.e. without material deviation, reservation or omission) to the requirements specified in Section VII, Employer's Requirements - ESHS Specifications. The Bidder shall use the ESHS Methodology Form provided for this purpose in Section IV, Bidding Forms - Technical Proposal. A Bid not comprising an ESHS Methodology or a Bid for which the ESHS Methodology is not substantially responsive (i.e. with material deviation, reservation or omission) shall be rejected.

## **Acceptability of the security methodology**

## When the security risks are assessed as high, and therefore, the Bidding Documents include security specifications in Section VII – Employer's Requirements, then the technical proposal must include a security methodology, in accordance with ITB 11.2(l) and ITB 11.3(c) of the Bid Data Sheet.

## The security methodology shall be evaluated to determine whether each admissibility requirement specified in the security specifications is met. Otherwise, the Bid will be rejected.

## **Scoring of the Technical Bid:**

Substantially responsive Technical Bids shall be scored in accordance with ITB 33.3. The technical factors and sub-factors, and the corresponding weights are:

| **The technical factors (sub‑factors) and the corresponding weight out of 100% are:** | |
| --- | --- |
| **Technical Factors** | **Weight in percentage  (insert weight in %)** |
| 1. **Approach and Methodology:** |  |
| 1. Design Methodology and work programme (including quality of the drawings, calculation notes, explanations of the technology proposed) | *[20 – 30]* |
| 1. Construction Management strategy and method statement for key construction activities | *[10 – 15]* |
| 1. Operation Maintenance Plan, including work programme | *[10 – 15]* |
| 1. **Key Personnel qualifications and resource schedule** |  |
| 1. CV of Design Build Personnel | *[20 – 30]* |
| 1. CV of Construction Chief Site Manager | *[10 – 20]* |
| 1. CV of Operation Service Personnel | *[10 – 20]* |
| 1. **Any other additional factors *[add any other factors as appropriate]*** |  |

*[The weights should be allocated in terms of the relative significance of the technical factors. Insert specific appropriate technical sub-factors, as appropriate.]*

**Evaluation of the technical factor N°1 (Approach and Methodology):**

The number of points to be assigned for each sub‑factors mentioned above shall be broken down as follows:

|  |  |
| --- | --- |
| 1. The methodology is clear and complete: supporting documentation provided, organization described, resources mobilized, list of activities, risks and assumptions | *[30]%* |
| 1. The methodology is relevant, fully meets the Employer's Requirements and contains innovations | *[30]%* |
| 1. The work plan is detailed, realistic and in line with the Employer's Requirements and proposed methodology | *[20]%* |
| 1. The number of experts and the expected number of working days for each expert are adequate to satisfactorily perform each activity. | *[20]%* |
| **TOTAL** | **100%** |

**Evaluation of the technical factor N°2 (Key Personnel qualifications and resource schedule):**

The number of points to be assigned for each Key Personnel mentioned above shall be broken down as follows:

|  |  |
| --- | --- |
| 1. General qualifications (general education, training, and experience) | *[10]*% |
| 1. Adequacy for the services (relevant education, training, experience in the sector/similar services) | *[60]*% |
| 1. Relevant experience in the region (working level fluency in local language(s)/knowledge of local culture or administrative system, government organization, etc.) | *[10]*% |
| 1. Number of years of experience of the Key Personnel with the Employer | *[20]*% |
| **Total Weight** | **100%** |

## **Evaluation of Bid Price:**

1. Net Present Value Evaluation

The Design Build Bid Price shall not be discounted.

Taking into account the Net Present Value Evaluation of the Operation Service Bid Price, the annual amounts in the Operation Service Price Schedules, as adjusted in accordance with ITB 37.2 (a) to (e), shall be discounted using a discount rate *I* of \_\_\_\_\_\_ % *[insert rate, between 3 and 5%]*.

1. Operation and/or Maintenance Costs

An adjustment to take into account the extended operating and/or maintenance costs of the Works will be added to the Bid Price, for evaluation purposes only. The adjustment will be calculated by determining the total Operation & Maintenance Evaluated Price (OMEP) using the following formula:

Where:

|  |  |  |
| --- | --- | --- |
| N | = | Number of years of Operation Service already included in the Contract (Sub‑Clause 8.2 of PCC); |
| M | = | The life span expectancy of the facility specified in the Table of performance requirements of Section VII, Employer's Requirements; |
| x | = | An index number 1, 2, 3, ... M representing the total number of years to be taken into account in the bid evaluation with regards to operation and/or maintenance costs; |
| OM(\*) | = | Operation Service cost for year "x," as provided by the Bidder in the specific Operation Service Price Schedule (Schedule 5) of Price Schedules of Section IV, Bidding Forms. The rate for the last year priced under the Contract shall be applied for each subsequent year; |
| *I* | = | Discount rate to be used for the Net Present Value calculation. |
|  | (\*) | This cost includes electricity cost even if the electricity payments are made by the Employer. |

Asset Replacement (AR) is calculated as follows:

AR = EM + EL + IT

Where:

|  |  |  |
| --- | --- | --- |
| EM | = | Cost of replacement of Electromechanical Equipment, as listed and priced by the Bidder in Schedules 2 and 3, for a replacement period set at ten (10) years during the life span expectancy of the facility specified in the Table of performance requirements of Section VII, Employer's Requirements; |
| EL | = | Cost of replacement of Electrical Equipment, as listed and priced by the Bidder in Schedules 2 and 3, for a replacement period set at fifteen (15) years during the life span expectancy of the facility specified in the Table of performance requirements of Section VII, Employer's Requirements; |
| IT | = | Cost of replacement of IT and automatic devices, as listed and priced by the Bidder in Schedules 2 and 3, for a replacement period set at five (5) years during the life span expectancy of the facility specified in the Table of performance requirements of Section VII, Employer's Requirements. |

***NB: Evaluated Bid Price = Design-Build Price + OMEP + AR***

## **Combined Evaluation:**

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

The weight to be given for cost is: \_\_\_\_\_\_\_\_ *[indicate weight for cost (minimum 70%) such that weight for cost plus weight for total technical score is 1(one).]*

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

Where:

|  |  |  |
| --- | --- | --- |
| *P* | = | Evaluated Bid Price; |
| *Plow* | = | The lowest of all Evaluated Bid Price among responsive Bids; |
| *T* | = | The total Technical Score awarded to the Bid; |
| *Thigh* | = | The Technical Score achieved by the Bid that was scored best among all responsive Bids; |
| *X* | = | Weight for Cost. |

The Bid with the highest evaluated Bid Score (B) among responsive Bids shall be the Most Advantageous Bid provided the Bidder is qualified to perform the Contract.

## **Personnel:**

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

| **No.** | **Position** | **Total work experience (years)** | **In similar works experience (years)** |
| --- | --- | --- | --- |
| 1 | Environmental and Social Expert  *[If the Environmental and Social risks and impacts of the works are assessed as high, and/or significant, a specialized expertise is required on the Environmental and Social issues]* | 5 | 2 |
| 2 | Health and Safety Expert  *[If the Health & Safety risks and impacts of the works being assessed as high, and/or significant, a specialized expertise is required on the Health & Safety issues]* | 5 | 2 |
| 3 | Design Build Expert |  |  |
| 4 | Construction Chief Site Manager |  |  |
| 5 | Operation Service Expert |  |  |
| 6 | *[Etc.]* |  |  |

*[Insert in the table (i) the list of Key Personnel, for instance, the project or contract manager and those superintendents working under the project manager who will be responsible for major components (e.g., superintendents specialized in dredging, piling, or earthworks, as required for each particular project) (ii) a minimum number of years of experience (5 to 10 years), and (iii) a minimum number of years of experience of comparable projects (2 to 5 years)]*

The Bidder shall provide details of the proposed personnel and their experience records using Forms PER-1 and PER-2 included in Section IV ‑ Bidding Forms.

## **Equipment:**

The Bidder must demonstrate that it can obtain (purchase, lease or rent) the key equipment listed hereafter:

|  |  |  |
| --- | --- | --- |
| **No.** | **Equipment Type and Characteristics** | **Minimum Number Required** |
| 1 |  |  |
| 2 |  |  |
| 3 |  |  |
| 4 |  |  |
| 5 |  |  |
| … |  |  |

*[Insert in the table (i) the list of the critical equipment required for project implementation and (ii) the minimum number of each of those equipment]*

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

# QUALIFICATION

## **Subcontractors:**

Any specialized Subcontractor identified at the time of Initial Selection shall continue to meet the applicable requirements.

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

|  |  |  |
| --- | --- | --- |
| ***[Activity/Sub-activity No.]*** | **Description of *[List Activity/Sub-activity]*** | **Minimum Criteria to be met** |
| 1 |  |  |
| 2 |  |  |
| 3 |  |  |
| Etc. |  |  |

As stated in ITB 14.3, Bidders shall submit an undertaking from each proposed Subcontractor to confirm that they have read, understand and will comply with the ESHS obligations, using for that purpose the form provided in Section IV, Bidding Forms.

Failure to comply with this requirement may result in rejection of the Subcontractor.

## **Update of Information in case of Initial Selection:**

The Bidder shall update the information provided during the corresponding initial selection exercise to demonstrate that he continues to meet the criteria used at the time of initial selection by using the relevant Forms included in Section IV, Bidding Forms. If needed, the Bidder may use any of the Initial Selection Documents forms to notify a change which occurred following the Initial Selection. The Employer reserves the right to request updated financial resources from the Bidder.

Section IV – Bidding Forms

**Table of Forms**

Bid Submission Forms 36

Bid Submission Form ‑ Technical Bid 36

Appendix to Technical Bid: Statement of Integrity, Eligibility and Environmental and Social Responsibility 37

Bid Submission Form – Bid Price 40

Appendix 1 to Financial Bid – Schedule of Cost Indexation 42

Appendix 2 to Financial Bid - Summary of Payment Currencies 45

Price Schedules 46

Schedule No. 1: Design Services 47

Schedule No. 2: Equipment, Materials, Tools and mandatory Spare Parts supplied from abroad 48

Schedule No. 3: Equipment, Materials, Tools and mandatory Spare Parts supplied from within the Employer's country 49

Schedule No. 4: Construction Works and Installation Services 50

Schedule No. 5: Operation Service 54

Schedule No. 5.1: Contractor's Annual Fixed Fee (including training and knowledge transfer) 55

Schedule No. 5.2: Contractor's Variable Fee 56

Schedule No. 5.3: Contractor's Electricity Payment 57

Schedule No. 6: Grand Summary 59

Schedule No. 7: Recommended Spare Parts 60

Technical Proposal 61

Schedule of Performance Guarantees 62

Design Proposal 63

Work Programme, Organization Chart and Construction Management Strategy for Design-Build 64

Operation Service 65

Environmental, Social, Health and Safety (ESHS) Methodology 66

List of Subcontractors 67

Proposed Subcontractors for Major Activities/Sub-Activities 67

Form of Subcontractor ESHS Undertaking 68

Personnel Proposed 69

Form PER-1: Contractor's Representative and Key Proposed Personnel 69

Form PER-2: Resume and Declaration of Contractor's Representative and Key Personnel 70

Form EQU: Equipment 72

Bidders Qualification Forms 73

Form FIN–3.3: Financial Resources 74

Form FIN–3.4: Current Contract Commitments / Works in Progress 75

Form of Bid Security 76

Form of Bid-Securing Declaration 77

Bid Submission Forms

Bid Submission Form ‑ Technical Bid

*[The Bidder shall prepare his Technical Bid on a Letterhead paper specifying his name and address.]*

Date:

IPC No.:

Invitation for Bid No.:

Alternative No.:

To:

We, the undersigned, declare that:

1. We have examined and have no reservations to the Bidding Documents, including Addenda issued in accordance with Instructions to Bidders (ITB 8)
2. We have no conflict of interest in accordance with ITB 4;
3. We have not been suspended nor declared ineligible by the Employer based on execution of a Bid Securing Declaration in the Employer’s country in accordance with ITB 4.4;
4. We offer to design, build and operate, in conformity with the Bidding Documents, the following Works:

1. Our Bid shall be valid for a period of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ days from the date fixed for the bid submission deadline in accordance with the Bidding Documents, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
2. We are not participating, as a Bidder, in more than one bid in this bidding process in accordance with ITB 4.2(e), other than alternative bids submitted in accordance with ITB 13;
3. We acknowledge and agree that the Employer reserves the right to annul the bidding process and reject all bids at any time prior to contract award without thereby incurring any liability to us; and
4. We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf will engage in any type of fraud and corruption

Name of the Bidder[[9]](#footnote-9):

Name of the person duly authorized to sign the Bid on behalf of the Bidder[[10]](#footnote-10):

Title of the person signing the Bid:

Signature of the person named above:

Date signed: day of:

Appendix to Technical Bid:  
Statement of Integrity, Eligibility and Environmental and Social Responsibility

*[The content of the Statement if Integrity, Eligibility and Environmental and Social Responsibility depends on the signing date of the AFD Financing Agreement that covers all or part of the financing of this Contract.*

* *For all contracts financed by AFD through a Financing Agreement signed before the 1st of February 2024, the Contracting Authority will select the content of OPTION A and remove the OPTION B;*
* *For all contracts financed by AFD through a Financing Agreement signed on or after the 1st of February 2024, the Contracting Authority will select the content of OPTION B and remove the OPTION A. ]*

*[****OPTION A – Version of the Statement of Integrity to be inserted for any Contract financed with an AFD Financing Agreement signed before the 1st of February 2024.***

*(Otherwise, delete this section and keep only the OPTION B below)*

Reference of the bid or proposal (the "**Contract**")

To: (the "**Contracting Authority**")

1. We recognise and accept that *Agence Française de Développement* ("**AFD**") only finances projects of the Contracting Authority subject to its own conditions which are set out in the Financing Agreement which benefits directly or indirectly to the Contracting Authority. As a matter of consequence, no legal relationship exists between AFD and our company, our joint venture or our suppliers, contractors, subcontractors, consultants or subconsultants. The Contracting Authority retains exclusive responsibility for the preparation and implementation of the procurement process and performance of the contract. The Contracting Authority means the Purchaser, the Employer, the Client, as the case may be, for the procurement of goods, works, plants, consulting services or non-consulting services.
2. We hereby certify that neither we nor any other member of our joint venture or any of our suppliers, contractors, subcontractors, consultants or subconsultants are in any of the following situations:

2.1 Being bankrupt, wound up or ceasing our activities, having our activities administered by the courts, having entered into receivership, reorganisation or being in any analogous situation arising from any similar procedure;

2.2 Having been:

1. convicted, within the past five years by a court decision, which has the force of *res judicata i*n the country where the Contract is implemented, of fraud, corruption or of any other offense committed during a procurement process or performance of a contract (in the event of such conviction, you may attach to this Statement of Integrity supporting information showing that this conviction is not relevant in the context of this Contract);
2. subject to an administrative sanction within the past five years by the European Union or by the competent authorities of the country where we are constituted, for fraud, corruption or for any other offense committed during a procurement process or performance of a contract (in the event of such sanction, you may attach to this Statement of Integrity supporting information showing that this sanction is not relevant in the context of this Contract);
3. convicted, within the past five years by a court decision, which has the force of res judicata, of fraud, corruption or of any other offense committed during the procurement process or performance of an AFD-financed contract;

2.3 Being listed for financial sanctions by the United Nations, the European Union and/or France for the purposes of fight-against-terrorist financing or threat to international peace and security;

2.4 Having been subject within the past five years to a contract termination fully settled against us for significant or persistent failure to comply with our contractual obligations during contract performance, unless this termination was challenged and dispute resolution is still pending or has not confirmed a full settlement against us;

2.5 Not having fulfilled our fiscal obligations regarding payments of taxes in accordance with the legal provisions of either the country where we are constituted or the Contracting Authority's country;

2.6 Being subject to an exclusion decision of the World Bank and being listed on the website <http://www.worldbank.org/debarr> (in the event of such exclusion, you may attach to this Statement of Integrity supporting information showing that this exclusion is not relevant in the context of this Contract);

2.7 Having created false documents or committed misrepresentation in documentation requested by the Contracting Authority as part of the procurement process of this Contract.

1. We hereby certify that neither we, nor any of the members of our joint venture or any of our suppliers, contractors, subcontractors, consultants or subconsultants are in any of the following situations of conflict of interest:

3.1 Being an affiliate controlled by the Contracting Authority or a shareholder controlling the Contracting Authority, unless the stemming conflict of interest has been brought to the attention of AFD and resolved to its satisfaction;

3.2 Having a business or family relationship with a Contracting Authority's staff involved in the procurement process or the supervision of the resulting Contract, unless the stemming conflict of interest has been brought to the attention of AFD and resolved to its satisfaction;

3.3 Being controlled by or controlling another bidder or consultant, or being under common control with another bidder or consultant, or receiving from or granting subsidies directly or indirectly to another bidder or consultant, having the same legal representative as another bidder or consultant, maintaining direct or indirect contacts with another bidder or consultant which allows us to have or give access to information contained in the respective applications, bids or proposals, influencing them or influencing decisions of the Contracting Authority;

3.4 Being engaged in a consulting services activity, which, by its nature, may be in conflict with the assignments that we would carry out for the Contracting Authority;

3.5 In the case of procurement of goods, works or plants:

1. Having prepared or having been associated with a consultant who prepared specifications, drawings, calculations and other documentation to be used in the procurement process of this Contract;
2. Having been recruited (or being proposed to be recruited) ourselves or any of our affiliates, to carry out works supervision or inspection for this Contract.
3. If we are a state-owned entity, and to compete in a procurement process, we certify that we have legal and financial autonomy and that we operate under commercial laws and regulations.
4. We undertake to bring to the attention of the Contracting Authority, which will inform AFD, any change in situation with regard to points 2 to 4 here above.
5. In the context of the procurement process and performance of the corresponding contract:

6.1 We have not and we will not engage in any dishonest conduct (act or omission) deliberately indented to deceive others, to intentionally conceal items, to violate or vitiate someone's consent, to make them circumvent legal or regulatory requirements and/or to violate their internal rules in order to obtain illegitimate profit;

6.2 We have not and we will not engage in any dishonest conduct (act or omission) contrary to our legal or regulatory obligations or our internal rules in order to obtain illegitimate profit;

6.3 We have not promised, offered or given and we will not promise, offer or give, directly or indirectly to (i) any Person who holds a legislative, executive, administrative or judicial mandate within the State of the Contracting Authority regardless of whether that Person was nominated or elected, regardless of the permanent or temporary, paid or unpaid nature of the position and regardless of the hierarchical level the Person occupies, (ii) any other Person who performs a public function, including for a State institution or a State‑owned company, or who provides a public service, or (iii) any other person defined as a Public Officer by the national laws of the Contracting Authority’s country, an undue advantage of any kind, for himself or for another Person or entity, for such Public Officer to act or refrain from acting in his official capacity;

6.4 We have not promised, offered or given and we will not promise, offer or give, directly or indirectly to any Person who occupies an executive position in a private sector entity or works for such an entity, regardless of the nature of his/her capacity, any undue advantage of any kind, for himself or another Person or entity for such Person to perform or refrain from performing any act in breach of its legal, contractual or professional obligations;

6.5 We have not and we will not engage in any practice likely to influence the contract award process to the detriment of the Contracting Authority and, in particular, in any anti‑competitive practice having for object or for effect to prevent, restrict or distort competition, namely by limiting access to the market or the free exercise of competition by other undertakings;

6.6 Neither we nor any of the members of our joint venture or any of our suppliers, contractors, subcontractors, consultants or subconsultants shall acquire or supply any equipment nor operate in any sectors under an embargo of the United Nations, the European Union or France;

6.7 We commit ourselves to comply with and ensure that all of our suppliers, contractors, subcontractors, consultants or subconsultants comply with international environmental and labour standards, consistent with laws and regulations applicable in the country of implementation of the Contract, including the fundamental conventions of the International Labour Organisation (ILO) and international environmental treaties. Moreover, we shall implement environmental and social risks mitigation measures when specified in the environmental and social commitment plan (ESCP) provided by the Contracting Authority.

1. We, as well as members of our joint venture and our suppliers, contractors, subcontractors, consultants or subconsultants authorise AFD to inspect accounts, records and other documents relating to the procurement process and performance of the contract and to have them audited by auditors appointed by AFD.

Name: In the capacity of:

Duly empowered to sign in the name and on behalf of[[11]](#footnote-11):

Signature:

Dated:

*End of OPTION A]*

*[****OPTION B – Version of the Statement of Integrity to be inserted for any Contract financed with an AFD Financing Agreement signed on or after the 1st of February 2024.***

*(Otherwise, delete this section and keep only the OPTION A above)*

Reference name of the Bid/Proposal/Contract signed[[12]](#footnote-12) (the **“Contract”**)

To: (the **“Contracting Authority”**)

1. We recognize and accept that Agence Française de Développement (“**AFD**”) only finances the projects of the Contracting Authority subject to its own conditions, as set out in the Financing Agreement that directly or indirectly binds it to the Contracting Authority. The Contracting Authority retains exclusive responsibility for the preparation and implementation of the procurement process and performance of the Contract. Consequently, no legal exists between AFD and our company, our joint venture, and our subcontractors. The Contracting Authority may also mean the Client, Employer or Purchaser, as the case may be, for the procurement of works, goods, plants, equipment, consulting services , or non-consulting services.
2. We hereby certify that neither we, nor any person acting on our behalf,[[13]](#footnote-13) nor any of the members of our joint venture, nor any of our subcontractors, are in any of the following situations:

2.1 Being bankrupt, wound up or ceasing our activities, having our activities administered by the courts, having entered into receivership, or being in any analogous situation arising from any similar procedure;

2.2 Having been, within the past five years, subject to a final administrative sanction, a final conviction issued by a competent authority, or any other non-court resolution[[14]](#footnote-14) having notably an extinctive effect on public action, either (i) in the country where we are constituted, (ii) in the country of performance of the Contract, (iii) in the context of the procurement or performance of an AFD-financed Contract, (iv) pronounced by a European Union institution, or (v) pronounced by a competent authority in France, for:

1. Prohibited Practices, as defined in Article 6.1 below, or for any other offence committed in the context of the procurement or performance of a Contract (in the event of such sanction, conviction or non-court resolution, we may attach additional information to this Statement of Integrity, such as a compliance program, showing that we (or the person acting on our behalf, the member of our joint venture, or our subcontractor) consider that this sanction, judgement or non-court resolution is not relevant in the context of the Contract, where applicable);
2. Participation in a criminal organization, terrorist offences or offences related to terrorist activities, child labor, or other offences related to human trafficking;
3. Having created an entity in a different jurisdiction (i) with the the intention of avoiding tax or social obligations, or any other legal obligation applicable in the jurisdiction of its registered office, central administration or principal place of business, or (ii) for being an entity created with the intention of avoiding such obligations;

2.3 Having been subject within the past five years to a Contract termination fully settled against us for significant or persistent breach of our contractual obligations during the performance of the Contract, unless this termination was challenged and dispute resolution is still pending or has not confirmed a full settlement against us;

2.4 Having been declared ineligible by one of the multilateral development banks signatories to the Mutual Recognition Agreement of 9 April 2010[[15]](#footnote-15) (in the event of such ineligibility, we may attach additional information to this Statement of Integrity showing that we consider that such ineligibility is not relevant in the context of the Contract, where applicable);

2.5 Not having fulfilled our fiscal obligations relating to the payments of our taxes or social contributions in accordance with the legal provisions of our country of incorporation or of the country of the Contracting Authority;

2.6 Having created falsified documents or committed misrepresentation when providing the information requested by the Contracting Authority in the context of the procurement and award process for this Contract.

1. We hereby certify that neither we, nor any party acting on our behalf[[16]](#footnote-16), nor any members of our joint venture, , , nor any of our subcontractors, nor any of our direct or indirect shareholders, nor any of our subsidiaries acting with our knowledge or consent:
   1. Are directly or indirectly subject to, controlled by a person or an entity subject to, or acting in the name or on behalf of a person or entity subject to **individual sanctions** **measures** adopted by the United Nations, the European Union and/or France;
   2. Are directly or indirectly subject to, controlled by a person or an entity subject to, or acting in the name or on behalf of a person or entity subject to **sectoral sanctions** **measures** adopted by the United Nations, the European Union and/or France;
   3. Are ineligible for the implementation of the Project owing to any other international sanctions measures pronounced by the United Nations, the European Union or France.
2. We hereby certify that neither we, nor any party acting on our behalf,2 nor any of the members of our joint venture, nor any of our subcontractors, are [nor have been *(in the case of refinancing for a Contract already awarded)*] in any of the following situations of conflict of interest:

4.1 Being a shareholder controlling the Contracting Authority or a subsidiary controlled by the Contracting Authority, unless the resulting conflict of interest has been brought to the attention of AFD and resolved to its satisfaction.

4.2 Having business or family relations with a member of the Contracting Authority’s services involved in the procurement process or the supervision of the resulting Contract, unless the resulting conflict of interest has been brought to the attention of AFD and resolved to its satisfaction;

4.3 Controlling or being controlled by another applicant, bidder or consultant, or being under common with another applicant, bidder or consultant, receiving subsidies from another applicant, bidder or consultant, or granting subsidies to another applicant, bidder or consultant, directly or indirectly, having the same legal representative as another applicant, bidder or consultant, maintaining direct or indirect contacts with another applicant, bidder or consultant allowing us to (i) have given and/or give access to information contained in our respective applications, bids or proposals likely to distort competition (ii) influence them, or (iii) influence the decisions of the Contracting Authority;

4.4 Being engaged for a consulting services mission which, by its nature, is or may be in conflict with the mission envisaged for the Contracting Authority;

4.5 Having prepared ourselves, being or having been associated with a natural or legal person who has prepared, specifications, terms of reference or other documents that have been used for the procurement process in question, and that contain provisions likely to favor an application, bid or proposal;

4.6 Having or having had access to, having prepared ourselves, being or having been associated with a natural or legal person who has or has had access to or prepared, specifications, plans, calculations, studies, or other documents that have not been communicated to all the applicants, bidders or consultants in the context of the present procurement procedure, and which thereby confer us an unfair competitive advantage;

4.7 In the case of a procurement procedure for works, plants, equipment or goods, having been selected ourselves or proposed to be selected (or any of our subsidiary companies having been or being proposed to be selected) to carry out supervision or inspection of the services in the context of this Contract.

1. If we are a state-owned entity or a public enterprise, to participate in a competitive procurement process, we certify that we have legal and financial autonomy and that we operate under commercial laws and regulations.
2. In the context of the procurement and performance of the Contract:

6.1 Neither we, nor any party acting on our behalf,2 nor any members of our joint venture, nor any of our subcontractors, have committed or shall commit a Prohibited Practice as defined in the document entitled “AFD Group’s Policy to Prevent and Combat Prohibited Practices” available on AFD’s Website.[[17]](#footnote-17)

6.2 Neither we, nor or any party acting on our behalf,2 nor any members of our joint venture, nor any of our subcontractors, shall acquire or provide [have acquired or provided *(in the case of refinancing for a Contract already awarded)*] in sectors subject to an embargo by the United Nations, the European Union or France.

1. We hereby undertake to, and we undertake to ensure that any party acting on our behalf,2 any members of our joint venture, and any of our subcontractors undertake to:

7.1 Comply with the environmental standards recognized by the international community, including the international conventions for the protection of the environment and, in particular, take all reasonable steps to avoid or limit negative effects on vegetation, biodiversity, soils, groundwater and surface water, and on persons and property resulting from pollution, noise, vibration, traffic and other effects resulting from our activities, in accordance with the laws and regulations applicable in the country of performance of the Contract.

7.2 Implement measures to mitigate environmental and social risks when they are indicated in the environmental and social management plan provided by the Contracting Authority, and ensure that the emissions, surface discharge and effluents produced by our activities respect the limits, specifications or requirements applicable to the Contract.

7.3 Respect the rights of workers related to wages, working hours, rest periods and vacations, overtime, minimum age, regular payments, compensation and benefits, in accordance with the standards recognized by the international community, including the fundamental conventions of the International Labour Organization (ILO), in accordance with the laws and regulations applicable in the country of performance of the Contract; indicate these elements in a document annexed to the employment contracts of our employees and made available to the Contracting Authority; and respect and facilitate the rights of workers to organize themselves and set up a complaints management mechanism for direct or indirect workers.

7.4 Implement practices for non-discrimination and equal opportunities, and ensure the prohibition of child labor and forced labor.

7.5 Keep a record for each member of the local staff recording the hours worked by each person, the type of work, the wages paid and the training undertaken, and ensure that these records are available at all times to be inspected by the Contracting Authority and the authorized representatives of the government, in accordance with the laws and regulations applicable to the protection of personal data in the country of performance of the Contract.

1. We, any party acting on our behalf,2 the members of our joint venture, our subcontractors, our direct or indirect shareholders, and our subsidiaries, authorize AFD to conduct investigations and, in particular, inspect the documents and accounting records relating to the procurement and performance of the Contract, including, but not limited to, our internal processes and rules related to the respect of international sanctions pronounced by the United Nations, the European Union and/or France, and to have them verified auditors appointed by AFD.
2. We declare that we have paid, or that we shall pay, the commissions, benefits, fees, gratuities or charges relating to the procurement procedure or the performance of the Contract to the following third party/parties (for example, an intermediary/agent)(\*):

|  |  |  |  |
| --- | --- | --- | --- |
| **Name of beneficiary** | **Contact details** | **Purpose** | **Amount (indicate the currency)** |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

(\*): If no amount has been paid or is to be paid, indicate “None”.

1. We undertake to promptly inform the Contracting Authority, which shall inform AFD, of any change of circumstance regarding the sections above, including in case of any sanctions or embargo measures adopted by the United Nations, the European Union and/or France, after we have signed the present Statement.

Name: In the capacity of:

Duly empowered to sign in the name and on behalf of:[[18]](#footnote-18)

Signature:

Dated:

*End of OPTION B]*

Bid Submission Form – Bid Price

*[The Bidder shall prepare his Financial Bid on a Letterhead paper specifying his name and address.]*

Date:

IPC No.:

Invitation for Bid No.:

Alternative No.:

To:

We, the undersigned, declare that:

1. We have examined the Conditions of Contract, Employer's Requirements, Schedules, Contract Data, including Addenda Nos. \_\_\_\_\_\_\_\_\_\_\_\_\_\_ issued in accordance with Instructions to Bidders (ITB) 8;
2. We have understood and checked these documents and have ascertained that they contain no errors or other defects as identified in our Bid. We accordingly offer to design, execute and complete the Works and remedy any defects therein so that they are fit for the purposes defined in the Contract, and to operate and maintain the facility under license from the Employer for the period and in conformity with the terms and conditions contained in the Contract for the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (excluding VAT) or such other amount as may be determined in accordance with the Contract;
3. This amount is made up of the following components:
4. For the Design-Build of the Works, the lump sum amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (excluding VAT);
5. For the Operation Service, the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (excluding VAT);
6. The total amount of VAT is:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
7. The discounts offered and the methodology for their application are:
8. The discounts offered are: ;
9. The exact method of calculations to determine the net price after application of discounts is shown below: .
10. We are fully aware of the onus given in this Contract to compliance with performance requirements, of our obligations accordingly, and of our liability to the Employer in case we breach such obligations. We are fully aware of the implication of the performance damages regime set out under the Contract. We understand that, when entering to the Contract, the Employer relies on our representation that we have the necessary skills and experience for complying with those obligations;
11. If our Bid is accepted, we commit to obtain a Performance Security in accordance with ITB 44 of the Bidding Documents;
12. We further undertake, together with the Employer, to jointly appoint the Dispute Board (DB) in accordance with the requirements of the Contract;
13. We understand that this Bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding Contract between us, until a formal Contract Agreement is prepared and executed;
14. We acknowledge and agree that the Employer reserves the right to annul the bidding process and reject all bids at any time prior to Contract award without thereby incurring any liability to us; and
15. We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf will engage in any type of fraud and corruption.

Name of the Bidder[[19]](#footnote-19):

Name of the person duly authorized to sign the Bid on behalf of the Bidder[[20]](#footnote-20):

Title of the person signing the Bid:

Signature of the person named above:

Date signed: day of:

Appendix 1 to Financial Bid – Schedule of Cost Indexation

***[Note: this schedule should be inserted in the Bidding Documents when prices are to be adjustable – refer to BDS ITB 17.9; it must be deleted for a fixed price Contract]***

Prices payable to the Contractor, in accordance with the Contract, shall be subject to adjustment during performance of the Contract to reflect rises and falls in the cost of labour, goods and other inputs to the design and the execution of the Works, and to the Operation Service.

To the extent that full compensation for any rise or fall in Costs is not covered by the provisions of this Schedule of Cost Indexation, the Accepted Contract Amount shall be deemed to have included amounts to cover the contingency of other rises and falls in Costs.

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

The cost indices or reference prices stated in the tables of adjustment data below shall be used.

If their source is in doubt, it shall be determined by the Employer’s Representative. For this purpose, reference shall be made to the values of the indices at stated dates for the purposes of clarification of the source; although these dates (and thus these values) may not correspond to the base cost indices.

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

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

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

The weightings (coefficients) for each of the factors of cost stated in the table(s) of adjustment data shall only be adjusted if they have been rendered unreasonable, unbalanced, or inapplicable, as a result of Variations.

*[The Employer shall specify below which Price Schedule(s) is(are) subject to adjustment, and, where price adjustment is applicable, insert the relevant formulas for the relevant Schedule(s). The Bidder will then fill in the tables of adjustment data.]*

**Price Schedule *[X]***

*[The Employer should choose one of the 2 options below for each of the Price Schedules No. 1 to 5]*

No price adjustment shall apply for this Price Schedule.

Or

The price adjustment formulas for this Price Schedule shall be as follows:

**Pn = a + b Ln/ Lo + c En/Eo + d Mn/Mo + ......**

*[Employer to complete and amend as necessary]*

where:

"**Pn**" is the adjustment multiplier to be applied to the estimated Contract value in the relevant currency of the work carried out in period “n”, this period being a month unless otherwise stated in the Contract Data;

"**a**" is a fixed coefficient, stated in the relevant table of adjustment data, representing the nonadjustable portion in contractual payments;

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

"**Ln**", "**En**", "**Mn**", … are the current cost indices or reference prices for period "**n**", expressed in the relevant currency of payment, each of which is applicable to the relevant tabulated cost element on the date 49 days prior to the last day of the period (to which the particular Payment Certificate relates); and

"**Lo**", "**Eo**", "**Mo**", … are the base cost indices or reference prices, expressed in the relevant currency of payment, each of which is applicable to the relevant tabulated cost element on the Base Date.

**Table of adjustment data - weightings**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Factor of description** | **Range of Values permitted (1)** | **Weightings for each payment currency (2)** | | **Total (3)** |
| **(national currency)** | **(foreign currency: € or US$)** |
| (a) Non Adjustable | *[A fixed value is to be entered by the Employer – generally 0.1 or 0.15]* |  |  |  |
| (b) Labour | *[To be entered by the Employer]* |  |  |  |
| (c) | *[To be entered by the Employer]* |  |  |  |
| (d) | *[To be entered by the Employer]* |  |  |  |
| etc. | *[To be entered by the Employer]* |  |  |  |
| Total |  |  |  | 1.00 |

***[The Employer shall indicate (i) the value of the fixed element (a) in the price adjustment formula in Columns (1) and (3), and (ii) acceptable ranges for the weightings (b), (c), (d) of the adjustment factors in the formula.]***

The Bidder shall indicate in Columns (2) the specific weightings for each factor and bid currency, and in Column (3) the sub-totals for each factor, which must be within the range specified by the Employer in Column (1), respectively; furthermore, the sum of the sub-totals in Column (3) must be equal to 1 (one).

A formula shall be used for each payment currency, to be derived from the above Table as follows: the weightings to be used in each formula will be derived from the values in each currency column, respectively, by dividing each individual value by the sum of the values in the given column.

**Table A: National Currency**

|  |  |  |  |
| --- | --- | --- | --- |
| **Index Code** | **Index Description/ Identification** | **Publication Source for the Index** | **Base Value in *[month][[21]](#footnote-21)*** |
| (T) |  |  |  |
| (S) |  |  |  |
| ( ) |  |  |  |

**Table B:Foreign Currency**

The Bidder shall fill a table similar to the following one for each foreign currency of payment, as appropriate.

|  |  |  |  |
| --- | --- | --- | --- |
| **Index Code** | **Index Description/ Identification** | **Publication Source for the Index** | **Base Value in *[month]***1 |
| (T) |  |  |  |
| (S) |  |  |  |
| ( ) |  |  |  |

Bidder's Signature:

**Example:**

The following example shows a table of weightings and the corresponding price adjustment formula which are derived from it, on the basis of the following assumptions:

* Three weightings/factors are shown in this example: "a" is the non-adjustable portion and two adjustment factors ("b" and "c") contribute to price adjustment through the variation of Indices T and S respectively, for which the respective ranges permitted by the Employer and values selected by the Bidder are shown in the table; these values are to be used in the price adjustment formula.
* Two payment currencies are shown in this example: the national currency (l) and a foreign currency (f), the indices T and S are the respective indices in the country of the currency.
* The data in bold are those specified by the Employer in the Bidding Documents, whereas the other data are provided either by the Bidder in its Bid or by the Contractor in the payment request.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Factor and Description** | **Range of Values permitted** | **Weightings for each payment currency** | | **Totals** |
| **n** | **f** |
| a  b  c | **0,15**  **0,30 - 0,50**  **0,25 - 0,45** | 0,05  0,15  0,20 | 0,10  0,25  0,25 | **0,15**  0,40  0,45 |
| Totals |  | 0,40 | 0,60 | 1,00 |

Formula to be used for calculation of adjustment of payments:

|  |  |
| --- | --- |
| Payment in national currency (n): |  |
| Payment in foreign currency (f): |  |

Appendix 2 to Financial Bid - Summary of Payment Currencies

**Table: Option A**

|  |
| --- |
| To be used only with Option A: "Bidders to quote entirely in local currency" **(Sub-clause BDS 18.1)** |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Name of payment currency** | **A)**  **Amount of currency** | **B)**  **Rate of exchange (local currency per unit of foreign** | **C)**  **Local currency equivalent**  **(C = A x B)** | **D)**  **Percentage of Total Bid Price**  **(100 x C /**  **TPB)** |
| Local currency:\_\_\_\_\_\_\_\_\_\_\_ |  | 1.00 |  |  |
| Foreign currency: € or US$ |  |  |  |  |
| Total Bid Price |  |  |  | 100 |
| Provisional sums expressed in local currency | *[To be entered by the Employer]* |  | *[To be entered by the Employer]* |  |
| TOTAL BID PRICE (including provisional sum) |  |  |  |  |

**Table: Option B**

|  |
| --- |
| To be used only with Option B: "Bidders allowed to quote in local and foreign currencies" **(Sub-Clause BDS 18.1)** |

|  |  |
| --- | --- |
| **Name of currencies** | **Amounts payable** |
| Local currency:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |
| Foreign currency (€ or US$):\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |
| Provisional sums expressed in local currency:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | *[To be entered by the Employer]* |

Price Schedules

* **Schedule No. 1:** Design Services;
* **Schedule No. 2:** Equipment, Materials, Tools and mandatory Spare Parts supplied from abroad;
* **Schedule No. 3:** Equipment, Materials, Tools and mandatory Spare Parts supplied from within the Employer's country;
* **Schedule No. 4:** Construction Works and Installation Services;
* **Schedule No. 5:** Operation Service;
* **Schedule No. 6:** Grand Summary; and
* **Schedule No. 7:** Recommended Spare Parts.

Schedule No. 1: Design Services

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Item** | **Description** | **Quantity** | **Unit Price[[22]](#footnote-22) (excluding VAT)** | | **Total Price1 (excluding VAT)** | | **VAT** |
| **Local Currency Portion** | **Foreign Currency Portion** | **Local Currency Portion** | **Foreign Currency Portion** | **Local Currency Portion** |
| **1** | **2** | **3** | **4** | **5** | **6 = 3 x 4** | **7 = 3 x 5** | **8** |
|  |  |  |  |  |  |  |  |
| **TOTAL Columns 6 and 7 to be also included in Schedule No.6: Grand Summary** | | | | |  |  |  |

Name of Bidder:

Signature of Bidder:

Schedule No. 2: Equipment, Materials, Tools and mandatory Spare Parts  
supplied from abroad

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Item** | **Description** | **Country of Origin** | **Quantity** | **Unit Price[[23]](#footnote-23)** | | **Total CIP Price** | **VAT and Customs Duties** | |
| **Foreign Currency** | **CIP** | **Foreign Currency** | **Local Currency** |
| **1** | **2** | **3** | **4** | **5** | **6** | **7 = 4 x 6** | **8** | **9** |
|  |  |  |  |  |  |  |  |  |
| **TOTAL Column 7 to be also included in Schedule No.6: Grand Summary** | | | | | | |  |  |

Name of Bidder:

Signature of Bidder:

Schedule No. 3: Equipment, Materials, Tools and mandatory Spare Parts  
supplied from within the Employer's country

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Item** | **Description** | **Quantity** | **Unit Price[[24]](#footnote-24)** | | **Total CIP Price** | **VAT and Customs Duties** |
| **Local Currency** | **CIP Price** |
| **1** | **2** | **3** | **4** | **5** | **6 = 3 x 5** | **7** |
|  |  |  |  |  |  |  |
| **TOTAL Column 6 to be also included in Schedule No.6: Grand Summary** | | | | |  |  |

Name of Bidder:

Signature of Bidder:

Schedule No. 4: Construction Works and Installation Services

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Item** | **Description** | **Quantity** | **Unit Price[[25]](#footnote-25) (excluding VAT)** | | **Total Price1 (excluding VAT)** | | **VAT** |
| **Local Currency Portion** | **Foreign Currency Portion** | **Local Currency Portion** | **Foreign Currency Portion** | **Local Currency Portion** |
| **1** | **2** | **3** | **4** | **5** | **6 = 3 x 4** | **7 = 3 x 5** | **8** |
| 1 | … |  |  |  |  |  |  |
| 2 | … |  |  |  |  |  |  |
| 3 | … |  |  |  |  |  |  |
| 4 | … |  |  |  |  |  |  |
| 5 | Inland transportation to the Site |  |  |  |  |  |  |
| 6 | Environmental, Social, Health and Safety (ESHS) requirements (Breakdown as per ESHS Cost Schedule provided hereafter) |  |  |  |  |  |  |
| 7 | [Security measures (Breakdown as per Security Cost Schedule provided hereafter)][[26]](#footnote-26) |  |  |  |  |  |  |
| 8 | Training |  |  |  |  |  |  |
| 9 | Provisional Sum for the Employer's share of the Dispute Board[[27]](#footnote-27) |  |  |  |  |  |  |
| 10 |  |  |  |  |  |  |  |
| Etc. |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |
| **TOTAL Columns 6 and 7 to be also included in Schedule No.6: Grand Summary** | | | | |  |  |  |

Name of Bidder:

Signature of Bidder:

**Environmental, Social, Health and Safety (ESHS) Cost Schedule**

*[If ESHS Specifications are not included in the Bidding Documents, this Cost Schedule should be deleted.]*

| **Item N°** | **Description** | **ESHS Specifications Clause N°** | **Unit** | **Amount excluded VAT *[specify currency]*** | **VAT Amount** |
| --- | --- | --- | --- | --- | --- |
| ESHS 1 | **Resources allocated to ESHS management** | Clause 4 | Lump sum |  |  |
| ESHS 2 | **Drafting and updating the ESHS documentation, reporting, inspections** | Clauses 1, 2, 3, 5, 6, 7, 9 | Lump sum | *[Cost ESHS 1 should exclude all or part of the costs of those tasks]* |  |
| ESHS 3 | **Implementation of the Health and Safety Plan:**  Meetings, health care centre, medical check‑ups, emergencies and evacuations, safety protective equipment, hygiene | Clauses 1, 9, 21 to 25, 27 to 35, 37, 38 | Lump sum | *[Cost ESHS 1 should exclude all or part of the costs of those tasks]* |  |
| ESHS 4 | **Accommodation, drinking water, meals and transportation of staff (\*)**  (\*): The Bidder shall detail the financial conditions of the supply of accommodation, meals and transport to its staff: | Clauses 36, 40, 41 |  | *[The cost for "Site mobilization" should exclude all or part of the costs of those tasks]* |  |
|  | * Accommodation |  | Lump sum |  |  |
|  | * Meals |  | Lump sum |  |  |
|  | * Transport |  | Lump sum |  |  |
| ESHS 5 | **Training and local recruitment management costs** | Clauses 8, 39 | Lump sum | *[Cost ESHS 1 should exclude all or part of the costs associated to those tasks]* |  |
| ESHS 6 | **Protection of adjacent areas, biodiversity, prevention of erosion and wastewater management** | Clauses 10, 11, 12, 17, 18 | Lump sum |  |  |
| ESHS 7 | **Traffic, noise and atmospheric emissions management, land take** | Clauses 13, 14, 42, 43, 44 | Lump sum |  |  |
| ESHS 8 | **Waste and hazardous products management** | Clauses 15, 26 | Lump sum |  |  |
| ESHS 9 | **Vegetation clearing and Site rehabilitation** | Clauses 16, 19, 20 | Lump sum | *[The cost for "Site mobilization" should exclude all or part of the costs associated to those tasks]* |  |
| **Total for Bill ESHS** | | | | *\_\_\_\_\_\_\_\_\_\_\_\_\_* | *\_\_\_\_\_\_\_\_\_\_\_\_* |
| ESHS costs are deemed to cover operations on all Sites (as defined in Clause 1.3 of ESHS Specifications).  Interim Payment Certificates shall include the portion of each ESHS cost amounting to the percentage of the actual progress achieved in executing the ESHS measures in compliance with the ESHS Specifications and approved by the Employer's Representative.  **If the ESHS specifications are not included in the Bidding Documents, this ESHS Cost Schedule is not applicable.** | | | | | |

**Security Cost Schedule**

*[If security specifications are not included in the Bidding Documents, this Security Cost Schedule should be deleted.]*

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Price N°** | **Category Title** | **Reference of Security Specifications** | **Unit Price  (currency)** | **VAT** |
| **Security Item** | | | | |
| **Security 1** | **Security organisation** | Article 4.1 |  |  |
| **Security 2** | **Travel within the country and to the relevant area** | Article 4.2 |  |  |
| **Security 3** | **Accommodation during assignments** | Article 4.3 |  |  |
| **Security 4** | **Accommodation and security on project sites and worksites** | Article 4.4 |  |  |
| **Security 5** | **Communication** | Article 4.5 |  |  |
| **Other** | **This price may remunerate all the other services described in Articles 1 to 3 of the Security Specifications.** | Articles 1 to 3, 5 to 6 |  |  |
| **TOTAL Security Item** | | | \_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_ |
| The prices include all activities and measures defined in the security specifications and correspond to additional costs compared to an environment without security risk.  A breakdown of security price items shall be included in the Bid.  **If security specifications are not included in the Bidding Documents, this Security Cost Schedule is not applicable.** | | | | |

Schedule No. 5: Operation Service

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **Currency** | **Contractor's Fixed Fee** | **Contractor's Variable Fee** | | | | **Electricity Payment** | | | | **Total Operation Service Bid Price (excluding VAT)** | | | | **VAT** | | | |
| (From Price Schedule 5.1) | (From Price Schedule 5.2) | | | | (From Price Schedule 5.3) | | | |
| (1) | (2) | | | | (3) | | | | (1) + (2) + (3) **or** (1) + (2)[[28]](#footnote-28) | | | |
|  | **Year 1** | **Year 2** | **Etc.** | **Y[[29]](#footnote-29)** | **Year 1** | **Year 2** | **Etc.** | **Y2** | **Year 1** | **Year 2** | **Etc.** | **Y2** | **Year 1** | **Year 2** | **Etc.** | **Y2** |
| **1. Bid Price in Foreign Currency** |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Foreign Currency (if any) | *[state currency]* |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| **2**. **Bid Price in local currency** | *[state currency]* |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| **TOTAL per Year** | | | | | | | | | | |  |  |  |  |  |  |  |  |
| **TOTAL to be also included in Schedule No.6: Grand Summary** | | | | | | | | | | |  | | | |  | | | |

Name of Bidder:

Signature of Bidder:

Schedule No. 5.1: Contractor's Annual Fixed Fee (including training and knowledge transfer)

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Fixed Fee Item** | **Currency** | **Annual Fixed Fee** | **No. of Years** | **Total Fixed Fees for the Operation Service Period[[30]](#footnote-30) (excluding VAT)** | **VAT** |
| **(1)** | **(2)** | **(1) x (2)** |
| **1. Fixed Price in Foreign Currency** |  |  |  |  |  |
| Foreign Currency (if any) | *[state currency]* | *[enter amount]* | Y[[31]](#footnote-31) | *[calculated value]* |  |
| 2. **Fixed Price in local currency** |  |  |  |  |  |
| Fixed Fee | *[state currency]* | *[enter amount]* | Y2 | *[calculated value]* |  |

Schedule No. 5.2: Contractor's Variable Fee

**Applicability range of this Schedule**: *[In case the variable fee fluctuates depending on the production range of the facility, or another parameter, specify the production rate of the facility / parameter within which this Schedule applies. Insert as many sets of this Schedule as are required to cover the various production ranges / parameters of the facility.]*

**Contractor's Variable Fee (CVF) Bid Price**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  |  | **Unit** | **CVF Bid Price[[32]](#footnote-32)** (Calculated values: CVF x Annual Production in Line 1) | | | | **Total Year 1 to Y** | **VAT** |
| **Year 1** | **Year 2** | **Etc.** | **Y[[33]](#footnote-33)** |
| **1** | **Annual water production (forecast)** *[The Contractor shall use the value specified by the Employer in Section VII – Employer's Requirements]* | m3 |  |  |  |  |  |  |
| **2** | **CVF Bid Price in Foreign Currency** | *[state currency]* |  |  |  |  |  |  |
|  | CVF – Foreign Currency (if any) | CVF/m3 |  |  |  |  |  |  |
| **3** | **CVF Bid Price in Local Currency** | *[state currency]* |  |  |  |  |  |  |
|  | CVF – Local Currency | CVF/m3 |  |  |  |  |  |  |

***[Note:*** *This Schedule 5.2, as well as Schedule 5.3 (and schedule 5.4, if inserted for dealing with chemicals) below is based on an applicability range which is to be filled in. Indeed various production conditions can lead to different cost structures. As a consequence, there can be several sets of Schedules 5.2 and 5.3 (and 5.4, if any) that can be used by the Bidder to reflect the specificities of this process. As an example for a WTP producing 50,000 m3/day, there can be:*

* *One set of Variable Fees per m3/produced, and of Guaranteed Maximum Energy Consumption Rate to be applied to the plant when it produces in between 0 and 10,000 m3/day*
* *Then another set in between 10,000 m3/day and 30,000 m3/day, etc.]*

Schedule No. 5.3: Contractor's Electricity Payment

**Applicability range of this Schedule**: *[In case the electricity consumption rate varies depending on the production range of the plant, or another factor, specify the production rate of the plant / factor within which this Schedule applies. Insert as many sets of this Schedule as are required to cover the various production ranges / parameters of the plant. The value to carry forward to Schedule 5 shall then be the sum of the values in each individual Schedule 5.3]*.

**Contractor's Variable Fee (CVF) Bid Price**

***[The Contractor shall use in his calculation the values of the Contractor's Performance Guarantees (i.e. guaranteed maximum energy consumption rate) indicated by the Contractor in Bid Price in the Schedule of Performance Guarantees (Section IV, Bidding Forms)]***

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  |  | **Unit** | **Electricity Annual Amount** | | | | **Total Year 1 to Y** | **VAT** |
| **Year 1** | **Year 2** | **Etc.** | **Y[[34]](#footnote-34)** |
| **1** | **Annual water production (forecast)** *[The Contractor shall use the value specified by the Employer in Section VII – Employer's Requirements]* | m3 |  |  |  |  |  |  |
| **2** | **Nominal Average Tariff in local currency per kWh** | *[Tariff in local Currency to be stated]* |  |  |  |  |  |  |
| **3** | **Annual electricity consumption (kWh)**  (Line 1 x Bidder's guaranteed Maximum Energy Consumption Rate in accordance with Schedule of Performance Guarantees) | kWh |  |  |  |  |  |  |
| **4** | **Annual Contractor's Electricity Payment in Local Currency**  (Line 2 x Line 3) | *[state currency]* |  |  |  |  |  |  |
| **TOTAL to be also included in Schedule No.5: Operation Service** | | | | | | |  |  |

It should be noted that the Employer may wish to apply the same principles for chemicals consumption, since it is another major cost item within the operating expenditure of a facility. Indeed, the Employer may then wish to:

* bear the risk of the relevant chemical tariff fluctuation but only up to the Guaranteed Maximum Chemical Consumption;
* make the Contractor liable for cost overrun in case the actual chemical consumption exceeds the Guaranteed Maximum Chemical Consumption defined by the Contractor in his/her bid; and
* share the savings made by the Employer in case the relevant chemical consumption falls below the relevant Guaranteed Maximum Consumption Rate, as an incentive for the Contractor to do better than committed in his/her Bid and in Contract.

In such case, the Employer should:

* Introduce a Schedule 5.4, in similar terms as those used under Schedule 5.3 for electricity.
* Amend Schedule 5 to accommodate for an additional column reflecting the Contractor’s Chemicals payment, which will capture price data flowing from Schedule 5.4.
* Insert Key Performance Indicators related to chemicals, if and as need be under the Employer’s Requirements and the Schedule of Performance Guarantees.
* Amend the Appendixes 1 to 3 to the Contract Agreement so as to introduce similar terms for chemicals payment and performance damages as the ones used for electricity payment and performance damages.

Schedule No. 6: Grand Summary

|  |  |  |  |
| --- | --- | --- | --- |
| **Schedule No.** | **Title** | **Total Price[[35]](#footnote-35) (excluding VAT and Customs Duties)** | |
| **Foreign** | **Local** |
| **1** | Design Services |  |  |
| **2** | Equipment, Materials, Tools and mandatory Spare Parts supplied from abroad |  |  |
| **3** | Equipment, Materials, Tools and mandatory Spare Parts supplied from within the Employer's country2 |  |  |
| **4** | Construction Works and Installation Services |  |  |
| ***Sum of (1) to (4)*** | ***Subtotal for the Design-Build of the Works, to be also included in the Letter of Bid*** |  |  |
| **5** | Works Operation Service |  |  |
| ***Total of (5)*** | ***Subtotal for the Operation Service, to be to be also included in the Letter of Bid*** |  |  |
| **GRAND TOTAL to be also included in the Letter of Bid** | |  |  |
| **TOTAL VAT and Customs Duties** | |  |  |

Name of Bidder:

Signature of Bidder:

Schedule No. 7: Recommended Spare Parts

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Item** | **Description** | **Quantity** | **Unit Price[[36]](#footnote-36)** | | **Total CIP Price** | **VAT and Customs Duties** |
| **Local Currency** | **CIP Price** |
| **1** | **2** | **3** | **4** | **5** | **6 = 3 x 5** | **7** |
|  |  |  |  |  |  |  |

Name of Bidder:

Signature of Bidder:

Technical Proposal

The technical proposal is expected in particular to include as a minimum, though not being limited to, the following contractual warranties, representations and statements of information:

1. The details of the Contractor’s proposed design engineering solution for the Works
2. The Operation and Maintenance Plan proposed by the Bidder which fulfils the Operation Management Requirements contained in the Employer’s Requirements
3. The Contractor’s method statements for the Design-Build Period
4. The Bidder’s proposed Site organization
5. The list of proposed Subcontractors and suppliers of Works under the Contract, in furtherance to the Conditions of Contract Sub-Clause 4.4 and which have their origin in the Eligibility Criteria as defined under Section V of this Bidding Document. The Bidder shall use the specific form for that purpose which is included in the following pages.
6. The programme the Contractor intends to observe when executing its obligations under the Contract, complying with the level of details described in the Employer’s Requirements, and demonstrating the Contractor’s ability to meet the Time for Completion and his other time-related obligations.
7. The proposed Contractor’s Equipment and Personnel to deliver the Contractor’s obligations under the Contract, and meeting the Employer’s Requirements – specific forms shall be used by the Bidders in this respect, and are included in the following pages

If a technical proposal is declared not substantially compliant with the requirements of the Bidding Documents, the Bid shall be rejected and shall not be further evaluated.

**List of forms comprising the technical proposal:**

* Schedule of Performance Guarantees
* Design proposal
* Design-Build Programme, Organization Chart and Construction Management Strategy
* Operation proposal
* Environmental, Social, Health and Safety (ESHS) Methodology
* List of Subcontractors
* Personnel proposed (forms PER-1 and PER-2)
* Equipment proposed (form EQU)

Schedule of Performance Guarantees

The Contractor is required to provide, as part of his Technical Bid, the schedule below reflecting the performance requirements which are included in Section VII, Employer's Requirements, where he will specify the values of the Contractor's Performance Guarantees and the Chemical's Name, as shown below:

*[This table is provided as an example: please refer to the actual Table of performance requirements provided in Section VII, Employer's Requirements. The Bidder shall only fill in the columns of the Contractor's Performance Guarantees and the Chemical's Name.]*

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **No.** | **KPI Name** | **Chemical's Name** | **KPI Description** | **KPI Minimum Value (if any)** | **KPI Maximum Value (if any)** | **KPI Measurement / Testing Methodology** | **Contractor's Performance Guarantees** |
| 1 | **Energy Consumption** | NA | *[The power consumption of the entire plant, per m3 of treated water shall be less or equal to the guaranteed value.]* | N/A | *[kWh/m3]* | Measurement methodology as per Employer’s Requirements | ***[Insert Value]*** |
| 2 | ***[Chemical Type]*** *–* **Water Treatment** | *[Chemical Name[[37]](#footnote-37)]* | *[The chemical consumption of this reagent, per m3 of treated water, shall be less or equal to the guaranteed value.]* | N/A | *[kg/m3 for solids,  l/m3 for liquids]* | Measurement methodology as per Employer’s Requirements | ***[Insert Value]*** |
| 3 | ***[Chemical Type] –* Sludge Treatment** | *[Chemical Name1]* | *[The chemical consumption of this reagent, per ton of produced sludge, shall be less or equal to the guaranteed value.]* | N/A | *[kg/ton for solids,  l/ton for liquids]* | Measurement methodology as per Employer’s Requirements | ***[Insert Value]*** |
| 4 | ***[Etc.]*** |  |  |  |  |  | ***[Insert Value]*** |

Design Proposal

The Bidder shall submit a design proposal which should address all requirements specified in Section VII, Employer's Requirements. The following list is provided as an indicative outline of a possible Technical Bid structure:

1. Overview
2. References
3. Engineering design qualification (Criteria concerning the design personnel requirements, consistent with such requirement in Section III, Evaluation and Qualification Criteria)
4. Analysis results and Interpretation (if the Bidder is required to realise their proper analysis of raw water in addition of the data provided by the Employer’s Requirement)
5. Design criteria and basis
6. Technical narrative
7. Process flow diagram
8. Process design and calculation of components (including structural modelling and Load application)
9. Layout arrangement, component plans and spot details in A3
10. Proposed design deliverables for Contract execution
11. Site Investigation Reports (optional)

The Works shall be designed to withstand all description in accordance with the Employer’s Requirements, and the appropriate codes and standards

A soft copy of engineering design calculations (input and output) for all elements in its original electronic file format, along with a hard copy, shall be submitted.

Work Programme, Organization Chart and Construction Management Strategy  
for Design-Build

1. **Design-Build Work Programme**

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

1. design of the Works, including the submission of the design deliverables, review and approval of the design by the Employer’s Representative
2. processes and deliverables needed to commence the Works;
3. execution of the Works within the Time for Completion, highlighting activities imposing constraints on the construction sequence; and
4. testing, commissioning and handing over of the completed Works.
5. **Organization Chart**

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

1. **Construction Management Strategy**

The Bidder shall submit a construction management strategy which should address all requirements specified in Section VII, Employer's Requirements. The following list is provided as an indicative outline of a possible Technical Bid structure:

1. organizational arrangements for the construction management including: team structure, roles and responsibilities, interface arrangements, approval procedures and quality assurance arrangements;
2. Subcontractor selection and management;
3. proposals for training all Contractor's personnel attending Site;
4. stakeholder engagement;
5. obtaining and managing consents, permits and approvals;
6. Site setup proposals including access, accommodation, welfare facilities, arrangement for Works and Material storage;
7. construction phasing proposals including sequence of work and management of conflicting activities;
8. ensuring that geotechnical investigations or other advance works meet the ESHS requirements;
9. risk management approach for geotechnical and subsurface aspects of the Works;
10. quality management system including a draft of the quality management plan;
11. sustainability aspects demonstrating the Bidder’s approach and commitment to sustainable construction practices (e.g. energy efficiency, reduction of wastages, material reduction and sources of materials etc.);
12. arrangements for testing upon completion of the Works;
13. arrangements for site handover, including completion of as-built drawings, preparation of operation and maintenance manuals, and any other relevant aspects; and
14. Reporting arrangements.

Operation Service

The Bidder shall set out a detailed plan for the Operation Service which should address all requirements specified in Section VII, Employer's Requirements. The following list is provided as an indicative outline of a possible Technical Bid structure:

1. Organisation and key personnel;
2. Operations proposals;
3. Preventative and reactive maintenance;
4. Monitoring water/wastewater quality and flows;
5. The operational systems to be developed, including details of any standards to be adopted or followed for example with respect to managing environmental, social and health and safety risks during operation;
6. Training of Contractor’s Personnel;
7. Knowledge transfer to Employer's personnel;
8. Asset replacement;
9. Preparation of required documents and manuals;
10. Quality assurance;
11. Hand-back arrangements;
12. Emergency Preparedness and Response Plan; and
13. Reporting arrangements.

Environmental, Social, Health and Safety (ESHS) Methodology

***[If the ESHS Specifications are not included in the Bidding Documents, this ESHS Methodology Form should be deleted.]***

The Bidder shall provide an ESHS Methodology providing information on how the Bidder shall meet the requirements and objectives specified in Section VII, Employer's Requirements - ESHS Specifications. **If the ESHS Specifications are not included in the Bidding Documents, this requirement is not applicable.**

The ESHS Methodology submitted shall be in the form of a preliminary draft of the Worksite Environmental and Social Management Plan (Worksite ‑ ESMP), the content of which is detailed in Appendix 1 to ESHS Specifications.

In order to address the highly sensitive ESHS issues highlighted during the project’s environmental and social impact assessment, **the ESHS Methodology shall provide detailed information on the management of the items listed in the table of Annex 3, paragraph 1. "Essential ESHS issues of worksite management" in Section VII, Employer's Requirements.** The purpose is not for the Bidder to provide one more time policies and internal procedures which were requested in the Prequalification phase but to provide a concrete ESHS methodology adapted to the worksites environment.

A Bid for which the ESHS Methodology is evaluated as non‑substantially responsive (i.e. with material deviation, reservation or omission) to the ESHS Specifications shall be rejected.

List of Subcontractors

Proposed Subcontractors for Major Activities/Sub-Activities

The following Subcontractors and/or manufacturers are proposed for carrying out the activity/sub‑activity indicated. For any additional Subcontractor (that is not the specialized Subcontractor accepted in the initial selection process or subsequently approved by the Employer in accordance with ITB 14.2), Bidders are free to propose more than one for each activity/sub‑activity, in accordance with ITB 32.3.

|  |  |  |
| --- | --- | --- |
| **Activity/Sub‑Activity** | **Proposed Subcontractors** | **Nationality** |
|  |  |  |
|  |  |  |
|  |  |  |

Bidders shall submit an undertaking from each proposed Subcontractor to confirm that they have read, understand and will comply with the ESHS obligations using the Form hereby attached.

Form of Subcontractor ESHS Undertaking

Date:

Bid No.:

Alternative No.:

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

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

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

Name of the proposed Subcontractor:

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

*[Signature of the person named above]*

*[Date signed]*

Name of the person duly authorized to sign the Bid on behalf of the Bidder:

Title of the person signing the Bid:

Signature of the person named above:

Date signed (day month year):

Personnel Proposed

Form PER-1: Contractor's Representative and Key Proposed Personnel

Bidders should provide the names of suitably qualified personnel to meet the specified requirements stated in Section III, Evaluation and Qualification Criteria. The data on their experience should be supplied using the Form PER‑2 below for each candidate.

Bidders should submit a fully detailed Key Personnel resource schedule for the whole contract implementation period. The resource schedule must include:

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

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Title of position** | **Name of candidate** |  |
| ***Key Personnel for Design-Build*** | | | |
| 1 | *[Contractor's Representative]* |  |  |
| 2 | *[Design Manager]* |  |  |
| 3 | *[Environmental Impact and Social Expert]* |  |  |
| 4 | *[Health and Safety Specialist]* |  |  |
| 5 | *[Construction Manager]* |  |  |
| 9 | *[Environmental Specialist]* |  |  |
| Etc. | *[Etc.]* |  |  |
| ***Key Personnel for Operation Service*** | | | |
| 10 | *[Operation Service Manager]* |  |  |
| 11 | *[Modify/add others as appropriate]* |  |  |

Form PER-2: Resume and Declaration of Contractor's Representative  
and Key Personnel

|  |
| --- |
| **Name of Bidder:** |

|  |  |  |
| --- | --- | --- |
| **Position:** | | |
| **Personnel information** | Name: | Date of birth: |
| Professional qualifications: | |
| **Present employment** | Name of Employer: | |
| Address of Employer: | |
| Telephone: | Contact (manager / personnel officer): |
| Fax: | Email: |
| Job title: | Years with present Employer: |

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

|  |  |  |
| --- | --- | --- |
| **From** | **To** | **Company / Project / Position / Relevant technical and management experience** |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

**Declaration**

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

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

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

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

1. be taken into consideration during Bid evaluation;
2. my disqualification from participating in the Bid;
3. my dismissal from the Contract.

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

Signature:

Date (day month year):

**Countersignature of authorized representative of the Bidder:**

Signature:

Date: (day month year):

Form EQU: Equipment

The Bidder shall provide adequate information to demonstrate clearly that it has the capability to meet the requirements for the key equipment listed in Section III, Evaluation and Qualification Criteria. A separate Form shall be prepared for each item of equipment listed, or for alternative equipment proposed by the Bidder.

|  |  |  |
| --- | --- | --- |
| **Item of equipment** | | |
| **Equipment information** | Name of manufacturer: | Model and power rating: |
|  | Capacity: | Year of manufacture: |
| **Current status** | Current location: | |
| Details of current commitments: | |
| **Source** | Indicate source of the equipment:  o Owned o Leased  o Rented o Specially manufactured | |

Omit the following information for equipment owned by the Bidder.

|  |  |  |
| --- | --- | --- |
| **Owner** | Name of owner: | |
| Address of owner: | |
| Telephone: | Contact name and title: |
| Fax: | Email: |
| **Agreements** | Details of rental / lease / manufacture agreements specific to the project: | |

Bidders Qualification Forms

The Bidder shall update the information provided during the corresponding initial selection exercise to demonstrate that he continues to meet the criteria used at the time of initial selection by using the relevant Forms included in Section IV, Bidding Forms. If needed, the Bidder may use any of the Initial Selection Documents forms to notify a change which occurred following the Initial Selection. The Employer reserves the right to request updated financial resources from the Bidder.

Form FIN–3.3:  
Financial Resources

*[The following table shall be filled in by the Bidder and all parties combined in case of a Joint Venture.]*

Specify proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total construction cash flow demands of the subject contract as required during the Initial Selection process (see Section III, Initial Selection Criteria and Requirements).

|  |  |  |
| --- | --- | --- |
| **Financial Resources** | | |
| **No.** | **Source of financing** | **Amount (US$ equivalent)** |
| 1 |  |  |
| 2 |  |  |
| 3 |  |  |
| … |  |  |

Form FIN–3.4:  
Current Contract Commitments / Works in Progress

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

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Current Contract Commitments** | | | | | |
| **No.** | **Name of Contract** | **Employer's Contact Address, Telephone and Fax** | **Value of Outstanding Work (Current US$ Equivalent)** | **Estimated Completion Date** | **Average Monthly Invoicing Over Last Six Months (US$/month)** |
| 1 |  |  |  |  |  |
| 2 |  |  |  |  |  |
| 3 |  |  |  |  |  |
| 4 |  |  |  |  |  |
| 5 |  |  |  |  |  |
| … |  |  |  |  |  |

Form of Bid Security

**Demand Guarantee**

Beneficiary:

Invitation of Bids No.:

Date:

Bid Guarantee No.:

Guarantor:

We have been informed that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter called "**the Bidder**") has submitted or will submit to the Beneficiary its bid (hereinafter called "**the Bid**") for the execution of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ under Invitation for Bids No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ("**the IFB**").

Furthermore, we understand that, according to the Beneficiary’s conditions, bids must be supported by a bid guarantee.

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

1. Has withdrawn its Bid during the period of bid validity set forth in the Bidder’s Letter of Bid ("the Bid Validity Period"), or any extension thereto provided by the Bidder; or
2. Having been notified of the acceptance of its Bid by the Beneficiary during the Bid Validity Period or any extension thereto provided by the Bidder, (i) has failed to execute the Contract Agreement, or (ii) has failed to furnish the Performance Security, in accordance with the Instructions to Bidders ("**ITB**") of the Beneficiary’s Bidding Documents.

This guarantee will expire:

1. if the Bidder is the successful Bidder, upon our receipt of copies of the Contract Agreement signed by the Bidder and the Performance Security issued to the Beneficiary in relation to such Contract Agreement; or
2. if the Bidder is not the successful Bidder, upon the earlier of (i) our receipt of a copy of the Beneficiary’s notification to the Bidder of the results of the bidding process; or (ii) twenty-eight days after the end of the Bid Validity Period.

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

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

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *[Signature(s)]*

Form of Bid-Securing Declaration

Date:

Bid No.:

Alternative No.:

To:

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

We accept that we will automatically be suspended from being eligible for bidding in any contract with the entity that invited Bids for the period of time of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ starting on \_\_\_\_\_\_\_\_\_, if we are in breach of our obligation(s) under the bid conditions, because we:

1. Have withdrawn our Bid during the period of bid validity specified in the Letter of Bid or any extension thereto accepted by us; or
2. Having been notified of the acceptance of our Bid by the Employer during the period of bid validity or any extension thereto accepted by us, (i) fail or refuse to execute the Contract Agreement, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the ITB.

We understand this Bid-Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of (i) our receipt of your notification to us of the name of the successful Bidder; or (ii) twenty‑eight (28) days after the expiration of our Bid.

Name of the Bidder[[38]](#footnote-38):

Name of the person duly authorized to sign the Bid on behalf of the Bidder[[39]](#footnote-39):

Title of the person signing the Bid:

Signature of the person named above:

Date signed:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ day of: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Section V – Eligibility Criteria

**Eligibility in AFD‑Financed Procurement**

*[The content of this Section V – Eligibility Criteria depends on the signing date of the AFD Financing Agreement that covers all or part of the financing of this Contract.*

* *For all contracts financed by AFD through a Financing Agreement signed before the 1st of February 2024, the Contracting Authority will select the content of OPTION A and remove the OPTION B;*
* *For all contracts financed by AFD through a Financing Agreement signed on or after the 1st of February 2024, the Contracting Authority will select the content of OPTION B and remove the OPTION A. ]*

*[****OPTION A – Version to be maintained for any Contract financed with an AFD Financing Agreement signed before the 1st of February 2024.***

*(Otherwise, delete this section and keep only the OPTION B below)*

1. Financing allocated by AFD to a Contracting Authority has been entirely untied since 1st January 2002. To the exception of any equipment or any sector which is subject to an embargo by the United Nations, the European Union or France, all goods, works, plants, consulting services and non-consulting services are eligible for AFD financing regardless of the country of origin of the supplier, contractor, subcontractor, consultant or subconsultant inputs or resources used in the implementation processes. The Contracting Authority means the Purchaser, the Employer, the Client, as the case may be, for the procurement of goods, works, plants, consulting services or non-consulting services.
2. Natural or legal Persons[[40]](#footnote-40) (including all members of a joint venture or any of their suppliers, contractors, subcontractors, consultants or subconsultants) shall not be awarded an AFD‑financed contract if, on the date of submission of an application, a bid or a proposal, or on the date of award of a contract, they:

2.1 Are bankrupt or being wound up or ceasing their activities, are having their activities administered by the courts, have entered into receivership, or are in any analogous situation arising from a similar procedure;

2.2 Have been:

1. convicted, within the past five years by a court decision, which has the force of res judicata in the country where the contract is implemented, of fraud, corruption or of any other offense committed during a procurement process or performance of a contract, unless they provide supporting information together with their Statement of Integrity (Form available as Appendix to the Application, Bid or Proposal Submission Form) which shows that this conviction is not relevant in the context of the Contract;
2. subject to an administrative sanction within the past five years by the European Union or by the competent authorities of the country where they are constituted, for fraud, corruption or for any other offense committed during a procurement process or performance of a contract, unless they provide supporting information together with their Statement of Integrity (Form available as Appendix to the Application, Bid or Proposal Submission Form) which shows that this sanction is not relevant in the context of the Contract;
3. convicted, within the past five years by a court decision, which has the force of res judicata, of fraud, corruption or of any other offense committed during the procurement process or performance of an AFD‑financed contract;

2.3 Are listed for financial sanctions by the United Nations, the European Union and/or France for the purposes of fight-against-terrorist financing or threat to international peace and security;

2.4 Have been subject within the past five years to a contract termination fully settled against them for significant or persistent failure to comply with their contractual obligations during contract performance, unless this termination was challenged and dispute resolution is still pending or has not confirmed a full settlement against them;

2.5 Have not fulfilled their fiscal obligations regarding payments of taxes in accordance with the legal provisions of either the country where they are constituted or the Contracting Authority's country;

2.6 Are subject to an exclusion decision of the World Bank and are listed on the website <http://www.worldbank.org/debarr>, unless they provide supporting information together with their Statement of Integrity (Form available as Appendix to the Application, Bid or Proposal Submission Form) which shows that this exclusion is not relevant in the context of the Contract;

2.7 Have created false documents or committed misrepresentation in documentation requested by the Contracting Authority as part of the procurement process of the Contract.

1. State-owned entities may compete only if they can establish that they (i) are legally and financially autonomous, and (ii) operate under commercial law. To be eligible, a state-owned entity shall establish to AFD’s satisfaction, through all relevant documents, including its Charter and other information AFD may request, that it: (i) is a legal entity separate from their state (ii) does not currently receive substantial subsidies or budget support; (iii) operates like any commercial enterprise, and, inter alia, is not obliged to pass on its surplus to their state, can acquire rights and liabilities, borrow funds and be liable for repayment of its debts, and can be declared bankrupt.

*End of OPTION A]*

*[****OPTION B – Version to be maintained for any Contract financed with an AFD Financing Agreement signed on or after the 1st of February 2024.***

*(Otherwise, delete this section and keep only the OPTION A above)*

1. Financing allocated by AFD to a Contracting Authority has been entirely untied since 1st January 2002. To the exception of any equipment or any sector which is subject to an embargo by the United Nations, the European Union or France, all goods, works, plants, consulting services and non-consulting services are eligible for AFD financing regardless of the country of origin of the supplier, contractor, subcontractor, consultant or subconsultant inputs or resources used in the implementation processes.
2. A Person[[41]](#footnote-41) may not be awarded an AFD‑financed Contract if, on the date of submission of its Application, Bid, Proposal or Quotation, or at any time between this date and that of the corresponding Contract award, it or any of its subcontractors, Directors[[42]](#footnote-42), employees or agents (be it declared or not):

## Is bankrupt, being wound up or ceasing its activities, is having its activities administered by the courts, has entered into receivership, or is in any analogous situation arising from any similar procedure;

## Has, within the past five years, been subject to a final administrative sanction, a final conviction issued by a competent authority, or any other non-court resolution[[43]](#footnote-43) having notably an extinctive effect on public action, either (i) in the country of constitution of the Person, (ii) in the country of performance of the Contract, (iii) in the context of the procurement or performance of an AFD-financed Contract, (iv) pronounced by a European Union institution or (v) pronounced by a competent authority in France, for:

1. Prohibited Practices[[44]](#footnote-44), or any other offence committed in the context of the procurement or performance of a Contract, subject to additional information, such as a compliance program, that such Person (or, respectively, their subcontractor, Director, employee or agent) may consider useful to provide in the context of the Statement of Integrity, that would give grounds to consider that this sanction, conviction or other resolution is not relevant in the context of the present Contract;
2. Participation in a criminal organization, terrorist offences or offences related to terrorist activities, child labor, or other offences related to human trafficking;
3. Having created an entity in a different jurisdiction with the intention of avoiding tax or social obligations, or any other legal obligation applicable in the jurisdiction where it has its registered office, its central administration or its principal place of business, or for being an entity created with the intention of avoiding such obligations;

## Has been subject to a termination fully settled against it within the past five years due to a significant or persistent breach of its contractual obligations during the performance of a Contract, unless (i) such termination was challenged and (ii) dispute resolution is still pending or has not confirmed a full settlement against it.;

## Has been declared ineligible by one of the multilateral development banks signatories to the Mutual Recognition Agreement of 9 April 2010.[[45]](#footnote-45) In the event of such ineligibility, the Person may attach additional information to the Statement of Integrity that would give grounds to consider that this ineligibility is not relevant in the context of this Contract;

## Has not fulfilled their obligations relating to the payment of their taxes or social contributions, in accordance with the legal provisions of their country of incorporation, or those of the country of the Contracting Authority;

## Has produced falsified documents or has been guilty of misrepresentation when providing the information requested by the Contracting Authority in the context of the procurement and award process for this Contract.

3. In addition, a Person may not be awarded an AFD‑financed Contract if, on the date of submission of its Application, Bid, Proposal or Quotation, or at any time between this date and that of the corresponding Contract award, it or any of its subcontractors, Directors, employees, agents (be it declared or not), direct or indirect shareholders, or subsidiaries, acting with its knowledge or consent:

3.1 Is directly or indirectly subject to, controlled by a person or an entity subject to, or acting in the name or on behalf of a person or entity subject to individual sanctions measures adopted by the United Nations, the European Union and/or France;

3.2 Is directly or indirectly subject to, controlled by a person or an entity subject to, or acting in the name or on behalf of a person or entity subject to sectoral sanctions measures adopted by the United Nations, the European Union and/or France;

3.3 Is ineligible for the implementation of the Project by way of any other international sanctions measures pronounced by the United Nations, the European Union or France.

1. State-owned entities may compete only if they can establish that they (i) are legally and financially autonomous, and (ii) operate under commercial law. To be eligible, a state-owned entity shall establish to AFD’s satisfaction, through all relevant documents, including its Charter and other information AFD may request, that it: (i) is a legal entity separate from their state (ii) does not currently receive substantial subsidies or budget support; (iii) operates like any commercial enterprise, and, inter alia, is not obliged to pass on its surplus to their state, can acquire rights and liabilities, borrow funds and be liable for repayment of its debts, and can be declared bankrupt.

*End of OPTION B]*

Section VI – AFD Policy - Prohibited Practices – environmental and social responsibility

*[The content of this Section VI depends on the signing date of the AFD Financing Agreement that covers all or part of the financing of this Contract.*

* *For all contracts financed by AFD through a Financing Agreement signed before the 1st of February 2024, the Contracting Authority will select the content of OPTION A and remove the OPTION B;*
* *For all contracts financed by AFD through a Financing Agreement signed on or after the 1st of February 2024, the Contracting Authority will select the content of OPTION B and remove the OPTION A. ]*

*[****OPTION A – Version to be maintained for any Contract financed with an AFD Financing Agreement signed before the 1st of February 2024.***

*(Otherwise, delete this section and keep only the OPTION B below)*

1. **Corrupt and Fraudulent Practices**

The Contracting Authority and the suppliers, contractors, subcontractors, consultants or subconsultants must observe the highest standard of ethics during the procurement process and performance of the contract. The Contracting Authority means the Purchaser, the Employer, the Client, as the case may be, for the procurement of goods, works, plants, consulting services or non-consulting services.

By signing the Statement of Integrity the suppliers, contractors, subcontractors, consultants or subconsultants declare that (i) “it did not engage in any practice likely to influence the contract award process to the Contracting Authority’s detriment, and that it did not and will not get involved in any anti-competitive practice”, and that (ii) “the procurement process and the performance of the contract did not and shall not give rise to any act of corruption or fraud”.

Moreover, AFD requires including in the Procurement Documents and AFD‑financed contracts a provision requiring that suppliers, contractors, subcontractors, consultants or subconsultants will permit AFD to inspect their accounts and records relating to the procurement process and performance of the AFD‑financed contract, and to have them audited by auditors appointed by AFD.

AFD reserves the right to take any action it deems appropriate to check that these ethics rules are observed and reserves, in particular, the rights to:

1. Reject a proposal for a contract award if it is established that during the selection process the bidder or consultant that is recommended for the award has been convicted of corruption, directly or by means of an agent, or has engaged in fraud or anti-competitive practices in view of being awarded the Contract;
2. Declare misprocurement when it is established that, at any time, the Contracting Authority, the suppliers, contractors, subcontractors, consultants or subconsultants their representatives have engaged in acts of corruption, fraud or anti-competitive practices during the procurement process or performance of the contract without the Contracting Authority having taken appropriate action in due time satisfactory to AFD to remedy the situation, including by failing to inform AFD at the time they knew of such practices.

AFD defines, for the purposes of this provision, the terms set forth below as follows:

1. Corruption of a Public Officer means:

* The act of promising, offering or giving to a Public Officer, directly or indirectly, an undue advantage of any kind for himself or for another Person[[46]](#footnote-46) or entity, for such Public Officer to act or refrain from acting in his official capacity; or
* The act by which a Public Officer solicits or accepts, directly or indirectly, an undue advantage of any kind for himself or for another Person or entity, for such Public Officer to act or refrain from acting in his official capacity.

1. A Public Officer shall be construed as meaning:

* Any person who holds a legislative, executive, administrative or judicial mandate (within the country of the Contracting Authority) regardless of whether that natural Person was nominated or elected, regardless of the permanent or temporary, paid or unpaid nature of the position and regardless of the hierarchical level the natural Person occupies;
* Any other natural Person who performs a public function, including for a State institution or a State‑owned company, or who provides a public service;
* Any other natural Person defined as a Public Officer by the national laws of the country of the Contracting Authority.

1. Corruption of a Private Person[[47]](#footnote-47) means:

* The act of promising, offering or giving to any Private Person, directly or indirectly, an undue advantage of any kind for himself or for another Person or entity, for such Private Person to perform or refrain from performing any act in breach of its legal, contractual or professional obligations; or;
* The act by which any Private Person solicits or accepts, directly or indirectly, an undue advantage of any kind for himself or for another Person or entity, for such Private Person to perform or refrain from performing any act in breach of its legal, contractual or professional obligations.

1. Fraud means any dishonest conduct (act or omission), whether or not it constitutes a criminal offence, deliberately intended to deceive others, to intentionally conceal items, to violate or vitiate consent, to circumvent legal or regulatory requirements and/or to violate internal rules in order to obtain illegitimate profit.
2. Anti‑competitive practices mean:

* Any concerted or implied practices which have as their object or effect the prevention, restriction or distortion of competition within a marketplace, especially where they (i) limit access to the marketplace or free exercise of competition by other undertakings, (ii) prevent free, competition-driven price determination by artificially causing price increases or decreases, (iii) restrict or control production, markets, investments or technical progress; or (iv) divide up market shares or sources of supply;
* Any abuse by one undertaking or a group of undertakings which hold a dominant position on an internal market or on a substantial part of it;
* Any practice whereby prices are quoted or set unreasonably low, the object of which is to eliminate an undertaking or any of its products from a market or to prevent it from entering the market.

1. **Environmental and social responsibility**

In order to promote sustainable development, AFD seeks to ensure that internationally recognised environmental and social standards are complied with. Suppliers, contractors, subcontractors, consultants or subconsultants for AFD‑financed contracts shall consequently undertake in the Statement of Integrity to:

1. Comply with and ensure that all their subcontractors or subconsultants comply with international environmental and labour standards, consistent with applicable law and regulations in the country of implementation of the contract, including the fundamental conventions of the International Labour Organisation (ILO) and international environmental treaties;
2. Implement environmental and social risks mitigation measures when specified in the environmental and social management plan (ESMP) provided by the Contracting Authority.

*End of OPTION A]*

*[****OPTION B – Version to be maintained for any Contract financed with an AFD Financing Agreement signed on or after the 1st of February 2024.***

*(Otherwise, delete this section and keep only the OPTION A above)*

* + - 1. **Prohibited Practices**

The Contracting Authority and the suppliers, contractors, subcontractors, consultants or subconsultants shall respect the highest ethical principles during the procurement and performance of Contracts.

For the purpose of this provision, AFD introduces the concept of Prohibited Practices, reffering to acts as defined in the “General Policy to Prevent and Combat Prohibited Practices”[[48]](#footnote-48) available on the AFD website and in the document titled “Procurement Guidelines for AFD-Financed Contracts in Foreign Countries”[[49]](#footnote-49).

By signing the Statement of Integrity the suppliers, contractors, subcontractors, consultants or subconsultants declare that they have not engaged, nor will they engage, in any Prohibited Practices during the procurement and execution of the Contract.

A Person[[50]](#footnote-50) or any of its subcontractors, Directors[[51]](#footnote-51), employees or agents (be it declared or not), may not be awarded an AFD‑financed Contract if on the date of submission of its Application, Bid, Proposal or Quotation, or at any time between this date and that of the corresponding Contract award, it has engaged in a Prohibited Practice, directly or by means of an agent (be it declared or not), for the purpose of being awarded this Contract.

Moreover, AFD requires including in the procurement documents and AFD‑financed contracts a provision requiring that applicants, bidders, suppliers, contractors, subcontractors, consultants or subconsultants will permit AFD to investigate, innncluding the inspection of their accounts and records relating to the procurement process and performance of the AFD‑financed contract, and to have them audited by auditors appointed by AFD.

For the purpose of detecting and effectively combating Prohibited Practices, AFD has established a whistleblowing mechanism open to third parties: anyone can thereby directly report an allegation of a Prohibited Practice to AFD’s Investigations Function, either:

* By e-mail, to the address [investigationsGroupeAFD@tutanota.com](mailto:investigationsGroupeAFD@tutanota.com), or
* By sending a letter to AFD’s Compliance Department, 5 rue Roland Barthes, 75012 Paris.

## **Environmental, Social, Health and Safety (ESHS) Responsibility, and Security**

In order to promote sustainable development, AFD seeks to ensure that internationally recognized ESHS standards are complied with in the Contracts it finances. Consequently, the applicants, bidders, consultants and their subcontractors shall undertake, by signing the Statement of Integrity, to:

* + - * 1. Comply with the environmental standards recognized by the international community, including the international conventions for the protection of the environment and, in particular, take all reasonable steps to avoid or limit negative effects on vegetation, biodiversity, soils, groundwater and surface water, and on persons and property resulting from pollution, noise, vibration, traffic and other effects resulting from our activities, in accordance with the laws and regulations applicable in the country of performance of the Contract.
        2. Implement measures to mitigate environmental and social risks when they are indicated in the environmental and social management plan provided by the Contracting Authority, and ensure that the emissions, surface discharge and effluents produced by our activities respect the limits, specifications or requirements applicable to the Contract.
        3. Respect the rights of workers related to wages, working hours, rest periods and vacations, overtime, minimum age, regular payments, compensation and benefits, in accordance with the standards recognized by the international community, including the fundamental conventions of the International Labour Organization (ILO), in accordance with the laws and regulations applicable in the country of performance of the Contract; indicate these elements in a document annexed to the employment contracts of our employees and made available to the Contracting Authority; and respect and facilitate the rights of workers to organize themselves and set up a complaints management mechanism for direct or indirect workers.
        4. Implement practices for non-discrimination and equal opportunities, and ensure the prohibition of child labor and forced labor.
        5. Keep a record for each member of the local staff recording the hours worked by each person, the type of work, the wages paid and the training undertaken, and ensure that these records are available at all times to be inspected by the Contracting Authority and the authorized representatives of the government, in accordance with the laws and regulations applicable to the protection of personal data in the country of performance of the Contract.

*End of OPTION B]*

PART 2 – Employer's Requirements

Section VII – Employer's Requirements

**Notes on preparing the Employer's Requirements**

The DBO is designed as a "single responsibility contract" where the Employer shall not indicate any details of process design or Works dimensions, but only to provide the necessary information allowing the Contractors to propose a tailor-made solution. Hence, this section on Employer's Requirements replaces the usual Technical Specifications of a more traditional approach.

The Employer’s Requirements should specify the purpose for which the Works are intended and their primary requirements, as outputs and performance for the Works to be designed, built, tested and operated under the Contract, along with the various constraints to be taken into account and limits within which the Contractor shall freely operate and bring its own design and workmanship added values. Most of all, a Table of performance requirements (key document of the Bidding Documents specific to DBO), specifying the expected production outputs and performance of the Works, should be carefully prepared by experts who are familiar with the requirements and technical aspect of the Works, in order to provide the criteria to which it expects the design to comply with.

The Employer should perform appropriate preparation tasks (such as geotechnical investigations, water quality analysis and permit acquisitions) to enable the Employer to: (a) develop a realistic understanding of the contract’s scope and budget; and (b) furnish Contractors with input data that they can reasonably rely on to establish with flexibility, their technical solutions and commercial decisions.

**Template of Employer's Requirements Content**

**Employer's Requirements should contain as a minimum:**

1. **General Information**
   1. General description of the Works:

As an introduction, the section shall provide a brief presentation of the project, including background information and scope of works summary.

If applicable for the project, it should also set out any Section which the Employer may consider using, and its associated Time for Completion. A Section is a physical part of the Works (for instance, a sludge treatment line in a WWTP, a raw water pumping station at the inlet of a WTP, a water transmission main, etc.) for which the Employer wishes to set a different Time for Completion of Design–Build than for the rest of the Works.

* 1. Purpose of the Works:

To be defined through a few generic lines which summarize the main functional expectations of the Employer, and performance based fit for propose requirements. This should clearly state that the performance requirements set out in section 4 below are part of the purpose of the Works.

* 1. Site status and conditions:

The data and information provided under this section is a representation made by the Employer as to the status of and conditions prevailing at Site.

If space is at a premium (for instance if the works is to be located in a high density urban environment), it may be appropriate to introduce incentives to encourage the most efficient use of the space available. One way of doing this, would be to use a form of land pricing in the bid evaluation whereby bidders are asked to indicate how much land they require and then this would be priced based on a predefined price per unit of land and added into the bid price for evaluation purposes. A high unit price of land would encourage bidders to propose process technologies with a smaller footprint and to use the available space as efficiently as possible.

|  |
| --- |
| *In accordance with the provisions of the Contract, the Employer shall provide:*   * *As per GCC Sub-Clause 1.14(a) [Compliance with Laws]:*   + *a list of planning, zoning, building permit or similar permission for the Permanent Works and for the Operation Service, and any other permission, having been (or being) obtained by the Employer;* * *As per GCC Sub-Clause 4.6 [Co-operation]:*   + *a list of other contractors having other activity on the Site, if any.* * *As per GCC Sub-Clauses 4.8 [Safety Procedure] and 4.22 [Security on the Site]:*   + *site wide policies and procedures that the Contractor should be aware of (Security arrangements to be complied with and implemented by the Contractor, in particular, transportation of personnel, handling and transportation of Goods on Site, disposal of construction waste, rubbish and debris, etc.)* * *As per GCC Sub-Clauses 2.1 [Right of Access to the Site] and 4.10 [Site Data]:*   + *a general description of the location and boundaries of the project Site and a detailed description of the location of the parts of the Site that the Contractor will be granted possession of under Sub‑Clause 2.1 [Right of Access to the Site]. A plan or plans should be attached, clearly showing these details for ease of identifying what is (and what is not) the Site;*   + *a description of all access/possession restrictions which may affect the Site. For example:*     - *any phased access to or possession of the Sections or to parts of the Site–for example, areas that are dependent on Works being completed by other contractors such as piling or other ground improvement works;*     - *a part of the Site which is only available during certain periods of time which are to be specified;*     - *a part of the Site which is under a specific security regime and where access will be limited to those within the Contractor’s Personnel who will have gone through a specific safety training organized by the Employer as detailed in the Contract,*     - *Etc.*   + *a description of approved locations for the Contractor's Site facilities (offices, warehouses, etc.), if the Contractor is authorized to have those on-Site. A plan clearly showing the locations should be attached;*   + *the description of any natural Materials which the Contractor is authorized to extract on and off the Site, and, if applicable, at what price and to be paid to whom;*   + *sub-surface conditions, based on geotechnical surveys carried out during project preparation, for identification of unstable ground, rocky ground;*   + *sub-surface conditions shall also include any underground man-made obstructions such as utilities, culverts, drainage systems, etc.;*   + *hydrological conditions at Site (history of hydrological regime, flood records and magnitude for any body of water on or nearby the Site, etc.);*   + *meteorological records describing climatic conditions prevailing at Site;*   + *topographical levels, benchmarks of reference required for the setting-out of the Works.* * *As per GCC Sub-Clause 4.15 [Access Route]:*   + *a description of all access restrictions which may affect the Site. If any, a description of all approved access routes (indicating those which are shared or exclusive use routes) to the Site. A plan or plans clearly showing the access routes to the Site and dates of access should be attached.* * *As per GCC Sub‑Clause 4.19 [Electricity, Water and Gas]:*   + *a list and details of services that are available on the Site, and the Contractor is entitled to use (prices of electricity, water, gas and other services if the services are to be available for the Contractor to use);*   + *Finally, a list of the Site arrangements, equipment and/or facilities to be provided by the Contractor to the Employer (for example Site offices). This should include the standard and terms on which the facilities are to be provided and clarify who is responsible for the payment of consumptions charges and connection fee for utilities etc.* |

* 1. Technical Standards and Applicable Regulations:

The Employer shall provide a list of technical, design and workmanship standards applicable to the Contract as well as a list of regulations and applicable Laws, as per GCC Sub‑Clause 5.4 *[Technical Standards and Regulations]*.

For each specified standard, the Employer shall define:

* the edition to be used,
* the priority of potential conflicting standards/regulations
* whether the Employer allows alternative equivalent standards or not,
* the measurement units (metric system or other) to be used.
  1. Quality Assurance:

Describe those obligations to be complied with by the Contractor under the Contract, in relation with GCC Sub‑Clause 4.9 *[Quality Assurance]*.

This may, for example, introduce a system of non‑conformities to be managed by the Parties under the Contract, in conjunction with GCC Sub‑Clauses 7.5 *[Rejection]* and 7.6 *[Remedial Work]* for instance.

* 1. Project Management:

The Employer shall specify in particular:

* Progress monitoring and especially, requirements for the Progress Reports: (i) Number of copies of Progress Reports; (ii) Contents of Progress Reports; (iii) Reporting requirements for the Operation Service, as per GCC Sub‑Clause 4.21 *[Progress Reports]*;
* Programme requirements, in accordance with GCC Sub‑Clause 8.3 *[Programme]*. This should be typically set out any programming software to be used, and the programme format to be complied with (critical-path method, the various levels of details of the programme, nature of the logic links in between tasks, etc.);
* Contractor’s Staff and Expertise, requirement for qualification, experience, skills, language, for Design-Build and Operation Service Period respectively.
* **Contractor’s Documents** (**see document attached – Annex 1**).

1. **Design-Build requirement:**
2. Design basis:

This section shall provide the necessary data allowing the Contractors to elaborate their technical solution, it shall include at least the input data and particularly the raw water characteristics (with average max and min values of chemical and bacteriological elements, temperature, flow rate, etc.) and also the layout with main connections.

Criteria (if any) concerning the design personnel (requirements) shall be provided, as per GCC Sub‑Clause 5.1 *[General Design Obligations]*.

In addition, the influent baseline should be described in detail, with specification of acceptance criteria for trial operations or process proving period.

|  |
| --- |
| *In accordance with the provisions of the Contract, the Employer shall provide:*   * *As per GCC Sub-Clause 1.1.91 [Influent Baseline]:*   + *the definition and the details of the Influent Baseline to be considered.* |

1. Process description:

The DBO Contract is performance-based, and its key strengths lies with the possibility it gives to Contractors to propose their own design and engineering solutions to meet the Employer’s Requirements.

Therefore, only conceptual drawings and/or outline design should be provided, if any and as appropriate, to supplement or help explain the general concept of the Employer’s needs. Contractors should be advised to the extent to which the Employer’s outline design is a suggestion or a requirement. Any so-called "base solution" imposed by the Employer shall be defined in such a way that allows Bidders to propose their design and engineering added values for the benefit of the project, hence of the Employer.

The Employer should accordingly be mindful to resist the temptation to become over‑prescriptive with any base solution he/she wishes to impose on Bidders. It is a well‑known fact that, for example, various design and engineering solutions exist in the market to deliver the expected treatment performance for a WTP or WWTP. It is in the interest of the project and the communities it serves, hence of the Employer, to take full advantage of the available market options, and that may not be achieved if the Employer becomes over-prescriptive on any base solution it wishes to impose.

Bidders should be free to deviate from any base solution set out by the Employer. As long as the solution brought forward by the Bidder meets the Employer’s Requirements, and in particular the purpose of the Works and the performance requirements, such deviation shall not be held to be an alternative Bid, shall not be rejected and shall be duly evaluated on its merits. Notwithstanding the above, the Employer may state here whether there are any limitations on the choices of treatment process or other design elements, such as exclusion of certain technologies, but the Employer should only do so in exceptional and well justified circumstances.

1. Phasing:

If applicable, this section should set out:

* Any sequence/phasing of the design and build of the Works which the Contractor shall comply with; and
* Any intermediary progress milestones (in between Commencement Date and the Time for Completion of Design–Build for the whole of the Works—for example a milestone for the production of an approved detailed design, of approved construction drawings, for the completion of a particular structure on Site, etc.) to be complied with by the Contractor.

1. Material and equipment:

This section is allowing the Employer to describe any requirement with regards to material or equipment, as well as the sampling requirement if applicable as per GCC Sub-Clause 7.2 *[Samples]*, for example:

* Material: requirement for pipe and duct of different fluid, grade of stainless steel,
* instrumentation and control system for process monitoring: type of SCADA system, level of automation, required sampling and measuring instruments;
* Employer's Equipment and Free-Issue Materials, as per GCC Sub‑Clause 4.20;
* availability of stand-by pump for each duty pump;
* spares part and special tools.

1. Existing Facilities:

This section shall provide the conditions of re-use, sale and disposal of demolished material as per PCC Sub-Clause 4.26 *[Demolition]*, as well as the conditions of refurbishment, upgrade and maintenance of the existing facilities as per PCC Sub‑Clause 4.27 *[Existing Facilities]*.

1. Ancillary works:

This should include requirements for: laboratory (with list of equipment), administration building as per GCC Sub‑Clause 6.6 *[Facilities for Staff and Labour]*, operation and control centre, warehouse, security and boundary fencing, utilities and firefighting, landscaping and parking, etc.

1. **Operation Management Requirements:**

In this section, the Employer shall specify:

* the nature of services required during operation such as Operational Management Requirements, as per GCC Sub‑Clause 1.1.55 *[Operation Management Requirements]*;
* if relevant, a minimum requirement of team composition during operation;
* whether electricity bills shall be paid by the Contractor or the Employer; and
* who shall pay operation associated costs (spare parts, consumables, asset replacement, waste disposal, etc.).

Knowledge transfer and training during Operation Service:

Current DBO contract has been designed with relatively short operation period; this aims to allow the Employer’s team to acquire the operation and maintenance skills through knowledge transfer and training programme.

As specified in GCC Sub Clause 10.5 *[Training]*, the Contractor shall provide adequate offer with:

* Knowledge transfer proposal, with a proposed schedule of Progressive taking-over of the Employer's staff;
* Training plan for Employer's Personnel: frequency, duration and content of trainings;
* Training methods and materials.

1. **Performance requirements**

This section shall specify the functional performance with the characteristics, nature and performance of the finished Works and any limitations which the Employer wishes to impose:

* for each component (pumping station, sludge treatment, etc.)
* for treatment quality and efficiency.

This section shall provide the **Table of performance requirement** of the Works (**see document attached – Annex 2**).

1. **Commissioning and testing:**

In this section, the Employer shall specify

* the procedures and durations of commissioning and testing for **"Tests on Completion of Design-Build"** (GCC Sub‑Clause 11.1 *[Testing of the Works]*); and
* the procedures and durations of commissioning and testing for **"Tests Prior to Contract Completion"** (GCC Sub‑Clause 11.1 *[Testing of the Works]*).

Performance requirements and performance damages are closely connected to measurement methods. It is mandatory to specify the testing procedures (sampling and instrumentation etc.).

In order to apply performance damages specified in Appendix 3 to the Contract Agreement, detailed description of testing method should be specified to measure potential failure to reach production outputs (GCC Sub‑Clause 10.7), as well as the specification of acceptance criteria for trial operations or process proving period.

Therefore, for each Key Performance Indicator - KPI (as specified in the Table of performance requirements), detailed information on testing methodology should be provided (in accordance with the applicable standards):

* measurement point / sampling location (which should be easily verifiable, regularly checked and calibrated, tamper-proof) frequency, duration and calculation method
* instrumentation, calibration and analysis instructions,
* laboratory qualification,
* independent audit if required.

|  |
| --- |
| *In addition, the Employer shall provide:*   * *As per GCC Sub-Clause 7.3 [Inspection]:*   + *a description of the testing regime to be applied to the Plant and Materials while manufactured in factory (testing details, frequency, criteria and methodology shall be here defined).* * *As per GCC Sub‑Clause 7.4 [Testing]:*   + *a description of the testing regime to be applied to the Works during construction, and also Tests on Completion of Design-Build (testing details, frequency, criteria and methodology shall be here defined).* * *As per GCC Sub‑Clause 8.7 [Handback Requirements]:*   + *determination of handback requirements after the [Completion of Operation Service] as per GCC Sub‑Clause 10.8. Regarding the Hand-back inventories at the* Contract *Completion Date, the Contractor shall had over the stocks of consumables (chemicals, fuel, others supplies) and spare parts as per stated provision requirement of [insert number] months (or weeks) of continuous operation, and special tools as are necessary to carry out maintenance in accordance with the manufacturers recommendations.* * *As per GCC Sub‑Clauses 11.1 [Testing of the Works] and 1.1.76 [Tests on Completing of Design‑Build]:*   + *details of required testing and criteria of the Works, on Completion of Design-Build.* * *As per GCC Sub‑Clause 11.9 [Procedure for Tests Prior to Contract Completion]:*   + *a description of procedure for Tests Prior to Contract Completion.* |

1. **ESHS specifications (see document attached – Annex 3)**

Annex 1: Contractor's Documents

**(Reference Sub‑Clause 5.2 of the General Conditions of Contract)**

***[List the documents that are required to be submitted by the Contractor, for the Employer’s review and/or for approval e.g.:]***

| **Item No.** | **Item Type (Contractor's Documents, samples)** | **Item description (e.g. Process and Instrumentation of the Pumping Station, Detailed Design of the Chlorine Dosing Room, etc.)** | **Submission for: "prior approval", "approval" or "consent"** | **Submission format (electronic and/or hard copies)** | **Number of Submissions: originals and copies** | **Review period in days, by the Employer's Representative (default position is 21 days under GCC Sub‑Clause 5.2)** |
| --- | --- | --- | --- | --- | --- | --- |
| 1 | Design Schedule |  |  |  |  |  |
| 2 | Preliminary Design |  |  |  |  |  |
| 3 | Detailed Design |  |  |  |  |  |
| 4 | Design for Construction |  |  |  |  |  |
| 5 | Worksite – ESMP environmental and Social Management Plan |  |  |  |  |  |
| 6 | Drainage Design |  |  |  |  |  |
| 7 | Temporary and Permanent 3rd Party Access Design |  |  |  |  |  |
| 8 | The Operating and Maintenance Manual |  |  |  |  |  |
| 9 | The Emergency Response Plan |  |  |  |  |  |
| 10 | The Water Quality Testing Plan |  |  |  |  |  |
| 11 | The Health and Safety Manual (Operation Service) |  |  |  |  |  |
| 12 | The Quality Assurance Plan |  |  |  |  |  |
| 13 | *[Etc.]* |  |  |  |  |  |

***[This section shall also indicate any design review by, and then consent and/or approval process from local authorities as might be imposed by the applicable Laws and regulations. These shall then duly be taken into account when planning his activities.]***

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

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

The Employer’s Requirements shall also require the Contractor to provide for approval the ESHS documents as specified in the Specifications for ESHS Management of Worksite.

Annex 2: Table of performance requirements

As per the provisions of GCC Sub-Clause 4.1 *[Contractor’s General Obligations]*, the Contractor is to design, execute and complete Works which shall be fit for the purposes for which the Works are intended as defined in the Contract, and as per GCC Sub-Clause 10.1 *[General Requirements]* the Contractor shall be responsible for ensuring that the Works remain fit for such purposes during the Operation Service Period.

The Employer has accordingly defined the following Key Performance Indicators (KPI) which reflect the main performance requirements to be achieved by the facility designed, executed and operated by the Contractor. Those are split in between two categories as follows:

1. **Inputs-based KPI**[[52]](#footnote-52), i.e. indicators which will measure the facility consumption of inputs, and
2. **Outputs-based KPI**[[53]](#footnote-53), i.e. indicators which will measure the outputs of the facility.

The two tables below reflect these two categories of KPIs, and define for each of them:

* + - * 1. KPI Name
        2. KPI Description
        3. The KPI maximum or minimum value to be achieved by the Contractor, as the case may be
        4. Any tolerance on KPI achievement

1. The KPI measurement/testing methodology

The first Table below reflects inputs-based KPIs which have the greatest impact on the operating expenditure of the facility, and for which the Contractor guarantees values through his Bid and then under the Contract, by specifying guaranteed KPI values in the far right column.

The second Table below reflects other KPIs which will apply throughout the Contract execution, and with which the Contractor shall comply.

Measurement point methodology should be detailed in Section VII – Employer’s Requirements and should aim at defining measurement point(s) which is(are) easily verifiable, regularly checked and calibrated, tamper-proof so as to mitigate as much as possible any dispute stemming from measurement readings, owing to their critical impact on payment under the Contract.

The Bidder hereby guarantees that his Bid ensures compliance with these Key Performance Indicators values. Failure to reach those will impact the Contractor’s payment under Appendix 1 *[Schedule of Payments]* to the Contract Agreement, and will make the Contractor liable to pay damages to the Employer in accordance with the provisions of Appendix 3 *[Performance Damages]* to the Contract Agreement, GCC Sub‑Clause 10.7 *[Failure to Reach Production Outputs]*.

For the purpose of calculating performance damages, the Contractor is fully aware that the life span expectancy of the facility is as follows:

|  |  |
| --- | --- |
| Life span expectancy of the facility to be designed, built and operated by the Contractor under the Contract | *[between 15 and 20]* **years** |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | **Unit** | **Year 1** | **Year 2** | **Etc.** | **Y[[54]](#footnote-54)** |
| **Annual water production (forecast)** | m3 | *[insert number]* | *[insert number]* | *[insert number]* | *[insert number]* |

1. **Inputs-based KPI**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **No.** | **KPI Name** | **KPI Description** | **KPI Minimum Value (if any)** | **KPI Maximum Value (if any)** | **KPI Measurement / Testing Methodology** |
| 1 | **Energy Consumption** | *[The power consumption of the entire plant, per m3 of treated water shall be less or equal to the guaranteed value.]* | N/A | *[kWh/m3]* | Measurement methodology as per Employer’s Requirements |
| 2 | ***[Chemical Type[[55]](#footnote-55)]*** *–* **Water Treatment** | *[The chemical consumption of this reagent, per m3 of treated water, shall be less or equal to the guaranteed value.]* | N/A | *[kg/m3 for solids,  l/m3 for liquids]* | Measurement methodology as per Employer’s Requirements |
| 3 | ***[Chemical Type4] –* Sludge Treatment** | *[The chemical consumption of this reagent, per ton of produced sludge, shall be less or equal to the guaranteed value.]* | N/A | *[kg/ton for solids,  l/ton for liquids]* | Measurement methodology as per Employer’s Requirements |
| 4 | ***[Etc.]*** |  |  |  |  |

1. **Outputs‑based KPI[[56]](#footnote-56)**

***[For a Drinking Water Treatment Plant:]***

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **No.** | **KPI Name** | **KPI Description** | **KPI *[minimum or maximum]* value** | **KPI Tolerance (if any)** | **KPI Measurement / Testing Methodology** | **Comment** |
| 1 | **Plant production** | *[The plant shall treat 100% of the design basis charge; the maximum of plant capacity shall reach; the total water loss shall not exceed XX%.]* | *[m3/day or %]* | *[% or m3]* | Measurement methodology as per Employer’s Requirements |  |
| 2 | **Treated water quality** | *[Several options: Target mean < XX mg/l 95% of time; operating maximum < XX mg/l; XX to XX mg/l at all times; > 98% removal rate; etc.]* | *[mg/l]* | *[mg or %]* | Measurement methodology as per Employer’s Requirements |  |
| 3 | **By-products management** | *[The Dry Solid Content of the sludge shall not be less than XX%.]* | *[%DS]* | *[%]* | Measurement methodology as per Employer’s Requirements |  |
| 4 | **Plant downtime / Total bypass flow count** | *[The turn down hours/ratio of the plant shall not be more than the guaranteed value; the total by pass flow rate shall not be more than.]* | *[h/year, m3/year]* | *[%]* | Measurement methodology as per Employer’s Requirements |  |
| 5 | ***[Etc.]*** |  |  |  |  |  |

*[The following example KPI can be selected by the Employer:]*

* **Plant production:** according to the needs of Employer, the guarantee of plant production may be set either for the peak output flowrate or average over certain period (typically for Operation Service Period) or the water loss rate (percentage of output volume divided by intake). Please note that the plant production is subject to possible fluctuations depending on time (different demand in one day) and seasons (hot season, touristic season, etc.)
* **Treated water quality:** please select relevant parameters among following "**pH, temperature, Turbidity, Chlorides, Residual Chlorine, Total Dissolved Solids, Iron, Aluminum, Manganese, Total Hardness, Total Alkalinity, Dissolved Organic Carbon, Total Organic Carbon, Ammonia-Nitrogen, Total Algae Counts, Total Coliform, Fecal Coliform**" **and other parameters in Treated Water** according to local regulation and standards mentioned the Employer’s Requirement, then specify the guarantee with appropriate description.
* **By-products management:** is mainly the sludge production quantity and/or dryness requirement.
* **Plant down time or Total bypass flow count** (untreated water): is a key indicator of installation availability as well as for operation performance.
* **Others:** select required parameters such as Noise levels or Wastewater Discharge Standard in compliance with specific local environmental laws & regulations.

***[For a Wastewater Treatment Plant:]***

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **No.** | **KPI Name** | **KPI Description** | **KPI *[minimum or maximum]* value** | **KPI Tolerance (if any)** | **KPI Measurement / Testing Methodology** | **Comment** |
| 1 | **Plant production** | *[The plant shall treat 100% of the design basis charge.]* | *[m3/day]* | *[% or m3]* | Measurement methodology as per Employer’s Requirements |  |
| 2 | **Effluent quality** | *[Several options: Target mean < XX mg/l 95% of time; operating maximum < XX mg/l; XX to XX mg/l at all times; > 98% removal rate; etc.]* | *[mg/l]* | *[mg or %]* | Measurement methodology as per Employer’s Requirements |  |
| 3 | **By-products management** | *[The Dry Solid Content of the sludge shall not be less than XX%.]* | *[%DS]* | *[%]* | Measurement methodology as per Employer’s Requirements |  |
| 4 | **Plant downtime** | *[The turn down hours/ratio of the plant shall not be more than the guaranteed value.]* | *[h/year, m3/year]* | *[%]* | Measurement methodology as per Employer’s Requirements |  |
| 5 | ***[Etc.]*** |  |  |  |  |  |

*[The following example KPI can be selected by the Employer:]*

* **Plant production:** same remark as for **Drinking Water Treatment Plant.**
* **Effluent quality:** please select relevant parameters among following **"BOD5, COD, pH, DO, Temperature, TSS, SSV, Colour, Oil & Grease, Total Coliform, Nutrient"** and other parameters as per applicable standards defined in the Employer’s Requirements.
* **By-products management:** Sludge production quantity and/or dryness, Solid Waste Collected (bar screen etc.)
* **Plant down time:** is a key indicator of installation availability as well as an important element of operation performance.
* **Others:** select required parameters such as Noise levels or Odour Emissions (H2S & NH3) in compliance with specific local environmental laws & regulations.

***[For Water supply / Wastewater networks:]***

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **No.** | **KPI Name** | **KPI Description** | **KPI *[minimum or maximum]* value** | **KPI Tolerance (if any)** | **KPI Measurement / Testing Methodology** | **Comment** |
| 1 | **Network capacity** | *[Flow and pressure at designated points in the water supply network shall not be less than.]* | *[Bar/day]* |  | Measurement methodology as per Employer’s Requirements |  |
| 2 | **Network reliability** | *[The pressure on the end of the network shall not be less than XX bar.]* | *[Bar]* |  | Measurement methodology as per Employer’s Requirements |  |
| 3 | **Client Service** | *[the availability of client service shall be ensured 24x7h; the response time of reported incident shall be less than XX h.]* |  |  | Measurement methodology as per Employer’s Requirements |  |
| 4 | **Etc.** |  |  |  |  |  |

*[The following example KPI can be selected by the Employer:]*

* Silt levels at designated point in the wastewater network
* Accessibility of manholes for maintenance works
* Decrease of Non-Revenue Water
* Residual chlorine contents in the water supply network
* Water quality at delivery points of the water supply network (at customer meters, or customer taps, etc.)

***[In the event of works for which worksite and Project Area management involves minor ESHS impact, those ESHS Specifications may be specified as "not applicable" in Sub-Clause 1.1.6.11 of the Special Conditions of Contract, by checking "No" in the appropriate box, and taken out from the Bidding Documents.]***

Annex 3: Specifications for Environmental, Social, Health and Safety Management (ESHS) of the Worksite

1. **Essential ESHS issues of worksite management**

*[Selection should be based on actual worksites management issues, and highlighted in the ESIA, the ESMP or the Environmental and Social Commitment Plan ESCP, if any.]*

The ESHS topics identified during the Environmental and Social Impact Assessment study of the project, which present a major risk for the worksites management are:

|  |  |
| --- | --- |
| 1. ESHS resources and facilities and ESHS monitoring organization | *[select:]* YES / NO |
| 1. Project Areas management (base camps, quarries, borrow pits, storage areas) | *[select:]* YES / NO |
| 1. Health & Safety on worksites | *[select:]* YES / NO |
| 1. Local recruitment and ESHS trainings of local staff (capacity building), ESHS trainings of Subcontractors and local partners (transfer of knowledge) | *[select:]* YES / NO |
| 1. Relations with stakeholders, information and consultation of local communities and authorities | *[select:]* YES / NO |
| 1. Traffic management | *[select:]* YES / NO |
| 1. Hazardous products | *[select:]* YES / NO |
| 1. Wastewater (effluents) | *[select:]* YES / NO |
| 1. Protection of water resources | *[select:]* YES / NO |
| 1. Atmospheric emissions, noise and vibrations | *[select:]* YES / NO |
| 1. Waste management | *[select:]* YES / NO |
| 1. Biodiversity: protection of fauna and flora | *[select:]* YES / NO |
| 1. Site rehabilitation and revegetation | *[select:]* YES / NO |
| 1. Erosion and sedimentation | *[select:]* YES / NO |
| 1. Control of infectious and communicable diseases (HIV/AIDS, malaria, etc.) | *[select:]* YES / NO |

1. **ESHS requirements not applicable under this Contract**

|  |
| --- |
| **The ESHS norms, standards and discharge limit values recommended by the specialised international organisations affiliated to the United Nations shall apply to the Contract:**  **Yes ❑ / No ❑**  ***[In the case of a project rated B[[57]](#footnote-57) by AFD, check "No". Only the country's regulations are applicable. The table below should then be completed as per the example provided below, stating that Clauses 9.2 and 9.3 are not applicable.***  ***In the case of a project rated A or B+ by AFD, check "Yes".]*** |

*[The Employer shall specify in the following table the Clauses of the ESHS Specifications that shall not apply to this contract as not being relevant in the context of the Works:]*

The following Clauses of the ESHS Specifications shall not apply to this Contract and shall not be priced by the Bidder under the specific ESHS Cost Schedule:

|  |  |
| --- | --- |
| **Number of the Non‑Applicable Clause** | **Description** |
| *Clause [insert the reference of the Clause]* | *[insert description]* |
| *[Etc.]* | *[Etc.]* |

*[An example is provided below, for information (to be deleted in the final version of the Bidding Documents):]*

|  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Example of a works situation and deletion of certain clauses from the ESHS Specifications**  **Context**: Construction and development of 2 buildings with 4 floors on the same worksite, in an urban area. The worksite already exists and the ESIA has not shown any issues in regard to biodiversity. The worksite is in the city, served by public transport, and it is not necessary to establish a camp to house staff. In addition, a hospital centre is nearby to evacuate and treat staff in the event of an accident.  The project is rated B by AFD for the environmental and social risks for the Works. In this case, only the country’s regulations apply.  In this case, for example, the following Clauses of the ESHS Specifications will not apply in the context of this contract and will therefore not be counted by the Bidder in the ESHS price table:   |  |  | | --- | --- | | **Number of the Non‑Applicable Clause** | **Description** | | 9.2 and 9.3 ‑ Norms, standards and discharge limit values recommended by the specialised international organisations affiliated to the United Nations, as described in ESHS Specifications | Sub‑Clause 9.1 remains applicable: The Contractor shall be required to comply with applicable norms, standards, and discharge limit values according to the regulations of the country where the work is performed. | | 16 – Vegetation clearing  17 – Biodiversity |  | | 30 – Health care centre and medical personnel  32 – Emergency medical evacuations  33 – Access health care | The Contractor will be required to obtain an agreement with a nearby hospital to evacuate and treat staff in case of an accident. | | 36.2 – Accommodation conditions  36.3.2 – Canteen  36.4 – Food  40 – Transport & accommodation  41 ‑ Meals | Sub‑Clauses 36.1 – Drinking water and 36.3.1 and 36.3.3 – Hygiene in shared areas remain applicable | | 39.9 à 39.12 – Local recruitment office | Sub‑Clauses 39.1 to 39.8 and 39.13 remain applicable. | |

Throughout the present ESHS Specifications (hereinafter called "**the ESHS Specifications**"), a reference to Conditions of Contract, abbreviated by CC, means a reference to both the General Conditions of Contract and the Particular Conditions of Contract. Readers should apply due care, when being referred to a specific Clause or Sub-Clause, to:

* Read first the Clause or Sub-Clause text from the General Conditions of Contract;
* Then check whether this text has been amended by the Particular Conditions of Contract, and if so, to which extent.

As per CC Sub-Clause 1.5 – Priority of Documents, when interpreting the Contract, the terms of the Particular Conditions of Contract prevail over those found in the General Conditions of Contract.

Any term in these ESHS Specifications which is identical to a term in the Conditions of Contract shall have the same meaning as the one defined in the Conditions of Contract.

Any term in capital letters in these ESHS Specifications is defined in CC Sub-Clause 1.1 – Definitions.

ESHS Specifications

**Table of Contents**

A. Environmental, Social, Health and Safety Management System 102

1 Responsibilities and Liabilities 102

2 ESHS Planning Document 103

3 Management of non‑conformities 104

4 Resources allocated to environmental management 105

5 Inspections 105

6 Reporting 106

7 Rules of Procedure 107

8 ESHS Training 108

9 Standards 109

B. Protection of the Environment 109

10 Protection of adjacent areas 109

11 Selection of borrow areas, backfill material stockpile sites and access road 110

12 Effluents 110

13 Atmospheric emissions and dust 111

14 Noise & vibration 112

15 Waste 112

16 Vegetation clearing 115

17 Biodiversity 116

18 Erosion and sediment transport 117

19 Site rehabilitation 119

20 Documentation on the Project Area condition 120

C. Health & Safety 120

21 Health and safety plan 120

22 Daily and weekly meetings 121

23 Equipment and operating standards 121

24 Work permit 121

25 Personal protective equipment 121

26 Dangerous substances 122

27 Planning for emergency situation 123

28 Medical check‑ups 124

29 First aid 124

30 Health care centre & medical personnel 124

31 First aid kits 125

32 Emergency medical evacuations 126

33 Access to health care 126

34 Health monitoring 126

35 Sanitary repatriation 127

36 Hygiene, accommodation and food 127

37 Substance abuse 128

D. Local Labour and Relations with Local Communities 129

38 Labour conditions 129

39 Local recruitment 129

40 Transport & accommodation 130

41 Meals 131

42 Damage to people and property 131

43 Land acquisition and land take 131

44 Traffic 132

APPENDIX 1 – Contents of Worksite ‑ ESMP 134

APPENDIX 2 – Properties rendering a product dangerous 137

|  |  |
| --- | --- |
| 1. Environmental, Social, Health and Safety Management System | |
| Responsibilities and Liabilities | In conjunction with his obligations defined under the Contract, the Contractor will plan, execute and document construction works pursuant to the Environment, Social, Health and Safety (ESHS) Specifications.The Contractor is liable for all damages to natural resources caused by the execution of the Works or the methods used for execution, unless it is established that the execution or methods were necessary, according to the provisions of the Contract or an Employer's Representative’s instruction.Under the Contract and as introduced by the ESHS Specifications, the term "Project Area" means:  1. The land where work will be carried out; or 2. The land necessary for the implantation of construction facilities (work camp, workshops, offices, storage areas, concrete production plants) and including special access roads; or 3. Quarries for aggregates, rock material and riprap; or 4. Borrow areas for sand and other selected material; or 5. Stockpiling areas for backfill material or other demolition rubble; or 6. Any other location, specifically designated in the Contract as a Project Area.   The term "Project Area" encompasses any individual Project Area or all Project Areas.  For the sake of clarity, Project Area is a different concept than Site under Sub-Clause 1.1.72 of the CC.  Project Area defines an area within which the Contractor is to comply with environmental, social, health and safety obligations defined in the ESHS Specifications.  Site is the places where the Permanent Works are to be executed and to which Works and materials are to be delivered, and where right of access to, and possession of, is to be given by the Employer to the Contractor. The Employer is under no similar obligation for any area located outside the Site, even if within the Project Area, where access is at Contractor’s risk.  In term of physical footprint, the CC Sub-Clause 1.1.72 Site is included in the Project Area. The Project Area is then of greater geographical extent than the Site. The ESHS Specifications refer to the entire area of influence for the Works:  1. Protection of the natural environment (water, air, soil, vegetation, biological diversity) in areas within any Project Area and its surroundings, i.e. including but not limited to access roads, quarries, borrow areas, stockpiling of backfill material, camps or storage areas; 2. Health and safety conditions to be maintained for the Contractor’s personnel and any other person present on the Project Areas, or along access routes; 3. Working practices and the protection of people and populations living near the Project Area, but exposed to the general disturbance caused by works.  Subcontractors: The ESHS Specifications apply to the Contractor and unless explicitly agreed with the Employer's Representative, all Subcontractors used for the execution of the Works. Pursuant to Sub-Clause 4.4 of the CC, the Contractor is fully liable for all actions, non-compliance and negligence by Subcontractors, their representatives, employees and workers, to the same degree as it would be held liable for its own actions, non-compliance or negligence or that of its own representatives, employees or workers. Applicable regulations: The Contractor must identify all regulations in relation to the protection of the environment (water, air, soils, noise, vegetation, fauna, flora, waste, groundwater) and, pursuant to Clauses 4 and 6 of the CC, the protection of people (labour law, indigenous populations, standards on occupational exposure, other). The Contractor must list all texts, standards and other regulatory limitations in its Worksite Environmental and Social Management Plan (Worksite ‑ ESMP as specified in Sub‑Clause 2.1 of the ESHS Specifications) and specify the means taken for compliance. |
| ESHS Planning Document | Worksite Environmental and Social Management Plan (Worksite ‑ ESMP)The Contractor prepares and ensures prior validation by the Employer's Representative, implementation and regular update of a Worksite Area Environmental and Social Management Plan (Worksite ‑ ESMP).The Worksite ‑ ESMP represents the unique reference document in which the Contractor defines in detail all organisational and technical provisions implemented to satisfy the obligations of the ESHS Specifications.The Contractor defines in the Worksite ‑ ESMP the number, the locations and the type of Project Area as defined in Sub‑Clause **Erreur ! Source du renvoi introuvable.** of the ESHS Specifications. For each of the identified Project Area, unless otherwise agreed by the Employer's Representative, the Contractor establishes an Environmental Protection Plan (EPP). The EPP(s) are annexed to the Worksite ‑ ESMP.The Worksite ‑ ESMP covers the entire period from the Contract Agreement signature date to the date of issue of the Contract Completion Certificate by the Employer's Representative.Unless agreed otherwise by the Employer's Representative, the Worksite ‑ ESMP is written in the language of communication defined under Sub‑Clause 1.4 of the CC.The first draft version of the Worksite ‑ ESMP is to be provided by the Contractor to the Employer's Representative within 28 days from the date of execution of the Contract Agreement.No physical work or activity shall commence on any Project Area until such time the Worksite ‑ ESMP, and the annexed EPP corresponding to the Project Area, are approved by the Employer's Representative.During the execution of the Works, whenever instructed by the Employer's Representative, the Worksite ‑ ESMP will be updated by the Contractor and reissued to the Employer's Representative. The revised version shall highlight the new elements incorporated in the document.The Worksite ‑ ESMP (and the EPP) is structured according to the plan specified in Appendix 1 to the ESHS Specifications. |
| Management of non‑conformities | In application of Clause 5, non-conformities detected during inspections carried out by the Contractor or Employer's Representative are subject to a process adapted to the severity of the situation. The non-conformities will be defined as Deviations from the requirements of the applicable regulations, the ESHS Specifications, the ESMP, and the Worksite ‑ ESMP. Non‑conformities are divided into 4 categories as follows:Notification of observation of minor non-conformities. The non‑conformity results in a notification to the Contractor’s Representative, followed-up by a signed notification of observation prepared by the Employer's Representative. The multiplication of notifications of observation at the Project Area, or absence of corrective actions by the Contractor, can result in the severity of the non-conformity being raised to that of level 1.Level 1 non conformity: Non-conformities that present a moderate and non-immediate risk for health, environment, social or safety. The non-conformity is identified in writing to the Contractor and shall be resolved within five (5) days. The Contractor addresses to the Employer's Representative the proof explaining how the non-conformity has been corrected. Further to an inspection and a favourable evaluation of effectiveness of the corrective action, the Employer's Representative validates in writing the close-out report for the non‑conformity. In all cases where a non‑conformity of level 1 is not resolved within one (1) month, the severity of the non-conformity is raised to level 2.Level 2 non-conformities: applies to all non‑conformities that represent a moderate and immediate risk or with significant consequences to health and/or the environment, social or safety. The same procedure as for level 1 non-conformities is applied. Corrective action shall be taken by the Contractor within three (3) days. All level 2 non‑conformities which are not resolved within one (1) month, are raised to level 3.Level 3 non-conformities: applies to all non‑conformities that have resulted in damage to health or the environment, or which represent a high risk for health, safety, environmental or social hazards. The highest levels of the Contractor's and Employer's Representative’s hierarchies present in the Employer’s country are informed immediately and the Contractor has twenty-four (24) hours to bring the situation under control. Pursuant to Clause 14.7 of the CC, a level 3 non‑conformity results in the suspension of interim payments until the non‑conformity has been resolved. If the situation requires, and in pursuance to Clause 9.7 of the CC, the Employer's Representative can order the suspension of work until the resolution of the non‑conformity. |
| Resources allocated to environmental management | ESHS supervisors and Manager:Pursuant to Sub-Clause 4.18 of the CC and in addition to the provisions of Sub-Clause 6.7 of the CC, the Contractor appoints one (or two depending on the case) Environment, Social, Health and Safety manager(s) in charge of implementing the ESHS Specifications. Several experts may be assigned to fulfil this position. The manager(s) will be the Key ESHS Personnel identified in the bidding process, if any.The ESHS Manager is permanently based at the Project Area for the full duration of the works as of Contractor’s mobilisation until Commissioning Certificate is issued.This manager holds the power within the Contractor’s organisation to be able to suspend the works if considered necessary in the event of level 2 or 3 non‑conformities, and allocate all resources, personnel and equipment required to take any corrective action considered necessary.The ESHS Manager speaks fluently the language of communication of the Contract, and the official language of the Employer’s country, if the language of communication of the Contract is not the official language. The ESHS Manager will hold a relevant University degree or a significant experience of at least five (5) years in designing and monitoring the implementation of an environmental and social management plan for construction works.ESHS supervisors are appointed in sufficient numbers and represent the ESHS Manager within work teams. Their role is to ensure that the works are carried out pursuant to the ESHS Specifications and notify the ESHS Manager of any detected non-conformities.Person in charge of relations with external stakeholders:The Contractor appoints a person responsible for relations with external stakeholders: local communities, administrative authorities, religious and other representatives. If necessary, a team will be created.Administrations and local authorities will be informed of the existence of this person as of the start of works and will be provided with contact details so as to be able to contact this person if a problem arises during the execution of works, or concerning the behaviour of the Contractor’s Personnel, inside or outside the Project Area.The team, including the ESHS supervisors and manager, and the person in charge of relations with external stakeholders, will be allocated the necessary resources to operate independently (travel, office equipment and communication). |
| Inspections | In addition to the ESHS Manager's own inspections, an ESHS inspection will be carried out on the facilities and Project Area on a weekly basis jointly with the Employer's Representative.A written report will be drafted for each weekly inspection, in a format approved by the Employer's Representative, addressing non-conformities detected on the Project Area as specified in the ESHS Specifications.Each non‑conformity will be documented by a digital photograph with captions to provide a visual illustration, explicitly indicating the location, date of inspection and the non-conformity in question. |
| Reporting | As part of the Progress Report specified in Sub-Clause 4.21 of the CC, the Contractor submits an ESHS activity report summarising all ESHS initiatives implemented in relation to the execution of the works during the reporting period to the Employer's Representative on a monthly basis. The activity report is a separate document from the update of the Worksite ‑ ESMP, which is updated at the intervals indicated in Sub-Clause 2.1.8 of the ESHS Specifications.The ESHS activity report is written exclusively in the language of communication defined under Sub-Clause 1.4 of the CC.Pursuant to Sub-Clause 4.21 of the CC, the ESHS activity report is submitted at the latest 7 working days after the last day of the month in question. The report contains the following information.List of ESHS personnel present at the Site at the end of the month.Construction works activities conducted during the month.Inspections carried out (location and intervals).Non‑conformities detected during the month with descriptions of the root cause analysis and corrective actions taken.Description of actions conducted and measures taken during the month to remedy non-conformities and to manage environmental, social, health and safety risks and impacts.Description of stakeholder engagement activities undertaken with neighbouring populations, local authorities, governmental agencies.Monitoring results for the following indicators:  1. Effluent quality (Sub-Clause 12.5 of the ESHS Specifications), if applicable; 2. Drinking-water quality, if applicable; 3. Hazardous and non-hazardous waste generation; 4. Air and noise emissions, if applicable; 5. Project Area location (Sub‑Clause 20 of the ESHS Specifications); 6. Recruitment, number of positions and hours worked by local Contractor’s Personnel (Sub‑Clause 39.3 of the ESHS Specifications); 7. Health & safety statistics: in pursuance to Clauses 4 and 6 of the CC, number of fatal accidents, lost-time accidents, number of accidents without lost-time, serious illness, frequency of accidents, and serious misconduct by Contractor’s Personnel (record sheet attached as an appendix to the activity report, pursuant to Sub‑Clause 7.7 of the ESHS Specifications); including root cause analysis and corrective actions taken.  Where appropriate, description of the formal or informal complaints (negative media attention, strikes or labour disputes, protests, complaints from communities, NGO or workers or formal notice from authorities…) related to environmental, social, health and safety risks and impacts of the works; including root cause analysis and corrective actions taken.Report on training activities (topic, number and duration of sessions, number of participants).Provisional environmental, social, health and safety actions for the coming months.Notification of ESHS events:The Employer's Representative is informed within one hour of any accident (i) involving serious bodily injury to a member of personnel, a visitor or any other third party, caused by the execution of the works or the behaviour of the personnel of the Contractor, or (ii) any significant damage to private property, or (iii) any significant damage to the environment.The Employer's Representative is informed as soon as possible of any near-accident relating to the execution of the works which, in slightly different conditions, could have led to bodily injury to people, or damage to private property or the environment. |
| Rules of Procedure | Rules of procedure are established by the Contractor for the Project Areas, addressing the following: safety rules, zero tolerance for substance abuse (refer to Clause 37), environmental sensitivity of areas around the Project Areas, the dangers of STDs with HIV/AIDS, gender issues (in particular sexual harassment) and respect for the beliefs and customs of the populations and community relations in general (drawing special attention to the risks of prostitution and human trafficking).The rules are clearly displayed at the different Project Areas.The rules confirm the Contractor’s commitment to implementing the ESHS provisions provided for in the Contract.New Contractor's Personnel and existing Contractor's Personnel are made aware and acknowledge their understanding of the rules of procedure and the associated provisions. Rules of procedure document are initialed by all Contractor's Personnel prior to the start of any physical work at any Project Area.Pursuant to Sub‑Clauses 6.9 and 6.11 of the CC, the rules of procedure include a list of acts considered as serious misconduct and which must result in dismissal from any Project Area by the Contractor, or by the Employer's Representative if the Contractor is not acting in due course, should a Contractor's Personnel repeatedly commit an offence of serious misconduct despite awareness of the rules of procedure, and this is without prejudice to any legal action by any public authority for non-compliance with applicable regulations:  1. Drunkenness during working hours; 2. Drug use; 3. Punishable statements or attitudes, and sexual and mental harassment in particular; 4. Violent behaviour; 5. Intentional damage to the assets and interests of others, or the environment; 6. Repeated negligence or imprudence leading to damage or prejudice to the environment, the population or properties, particularly breaching provisions intended to prevent the spreading of STD with AIDS; 7. Possession and/or consumption of meat or any other part of an endangered animal or plant as defined in the Washington convention (CITES) and national regulations.  Serious misconduct, such as organization of sex trade (pimping), committing pedophilia, rape, physical aggression, drug trafficking, deliberate and severe pollution, trading and/or trafficking in all or part of protected species, shall lead to immediate dismissal as of the first report of misconduct is detected, in application of the rules of procedure and labour laws.The Contractor establishes a record for each case of serious misconduct, and a copy will be provided to the Contractor's Personnel in question, indicating all action taken to terminate the misconduct by the Contractor's Personnel in question and to bring the attention of other Contractor's Personnel to the type of incident detected. This record will be provided to the Employer's Representative as an attachment to the ESHS activity report (see Sub-Clause 6.3 of the ESHS Specifications). |
| ESHS Training | The Contractor prepares a training and capacity building programme for its Contractor's Personnel, as described in the Worksite ‑ ESMP and documented each month in the ESHS activity report.The Contractor also details in the training programme the actions and ESHS training for Subcontractors and other members of the joint venture when applicable.Training sessions are two-fold: introductory sessions for starting work at the Project Area, and technical training as required in relation to the execution of the works.Starting work sessions are organised for each Contractor's Personnel and shall cover as a minimum:  1. Rules of procedure; 2. Safety rules on Project Areas; 3. Protection of areas adjacent to Project Area; 4. Risks relating to sexually transmitted diseases (Sub‑Clause 6.7 of the CC), prostitution, human trafficking, and sexual harassment; 5. Basic health: combating malaria (if prevalent) and waterborne diseases, improving hygiene; 6. Emergency response procedures or evacuation.  Technical training:  1. Training in the skills needed for tasks requiring a work permit (Clause 24 of the ESHS Specifications); 2. Training in first aid and transporting the injured in order to achieve the targets defined in Sub‑Clause 29.1 of the ESHS Specifications on the number of first aid officers per Project Area and per team; 3. Ability to drive on rough ground.  The Contractor prepares an awareness programme, where applicable, for local communities adapted to the main risks relating to the Works. This programme will be included in the training programme described in Sub‑Clause 8.1 of the ESHS Specifications. |
| Standards | The Contractor complies with all norms, standards and discharge limit values defined in the national regulations of the Employer’s country regulations and pursuant to Sub-Clause 1.6 of the ESHS Specifications.The Contractor complies with norms, standards and discharge limit values recommended by the specialised international organisations affiliated to the United Nations, as described in Sub‑Clause 9.3 below of the ESHS Specifications. In the event of discrepancies in between international standards and national regulations, the Contractor shall comply with the most stringent requirements.The specialised international organisations affiliated to the United Nations referred to in Sub-Clause 9.2 of the ESHS Specifications include:  * World Bank, including the IFC and its Environmental, Health and Safety guidelines available from <http://www.ifc.org/ehsguidelines>.   For matters not addressed in the IFC above document, the most stringent of the norms, standards and discharge limit values of the following institutions shall apply:   * World Health Organization (WHO); * International Labour Organization (ILO) (in particular in pursuance to Sub‑Clauses 6.20, 6.21, 6.23 and 6.24 of the CC); * International Maritime Organization (IMO). |
| 1. Protection of the Environment | |
| Protection of adjacent areas | Pursuant to Sub-Clause 4.18 of the CC, and unless instructed otherwise by the Employer's Representative, the Contractor uses construction methods and means of protection in order to avoid or minimize adverse effects that are incurred on vegetation, soils, groundwater and surface water, biodiversity, natural drainage and the water quality in areas within any Project Area and its surroundings for the entire duration of the Works.Wetland areas include marshes, fens, mires or natural or artificial bodies of water, whether permanent or temporary, where water is stagnant or flowing, fresh, saline or briny, including seawater with a low-tide depth of six metres or less. Filling of all or part of a wetland area is not permitted, unless the Works are necessary according to the provisions of the Contract or the instructions of the Employer's Representative.With the exception of access roads, or unless instructed otherwise by the Employer's Representative, the entire perimeter of land sites with a surface area of less than 2 hectares is physically demarcated with a fence or tape. For Project Area with a surface area of more than 2 hectares, the perimeter will be physically demarcated by a perimeter track, road, signs or any other means leaving no possible ambiguity as to the location of the Project Area perimeter.Unless instructed otherwise by the Employer's Representative, the Contractor defines the perimeter of the Project Area at a distance of at least:  1. 50 m from any permanent water course and outside of floodable areas; 2. 300 m from sensitive urban services and buildings (health centre, school centres, water supply for populations); 3. 200 m from any housing; and 4. 300 m from housing in the specific case of work requiring the use of explosives.  If the footprint of the Works do not respect the distances mentioned in the situations a) to d) of Sub-Clause 10.4 above of the ESHS Specifications, and unless agreed upon otherwise by the Employer's Representative, the Contractor will contract a bailiff to make a sworn statement regarding the existence and conditions of residential buildings situated around the Site with a distance specified in paragraph b) to d) of Sub-Clause 10.4 of the ESHS Specifications. The bailiff’s sworn statement is prepared and provided to the Employer's Representative with the EPP. |
| Selection of borrow areas, backfill material stockpile sites and access road | The Contractor will submit to the Employer's Representative for prior approval, within the framework of the EPP (provided in Clause 2.1.3), (i) the location of proposed borrow areas or areas to be excavated, or (ii) proposed backfill material stockpile locations or zones designated for the rubble from demolition Works.The access routes to the Project Areas will be shown on a map and approved by the Employer's Representative prior to the start of the corresponding Works. |
| Effluents | Effluents consist of liquid discharges, including infiltration, from Project Area, transporting a pollutant (dissolved, colloidal or particles).A pollutant is a given chemical compound that is at a concentration that is greater than the limit values recognised for that compound according to Clause 9 of the ESHS Specifications.If no recognised threshold exists pursuant to Sub-Clause 12.2 of the ESHS Specifications, the Contractor provides proof that the charges are harmless.No effluent is discharged by the Contractor into water courses, soils, lakes or the marine environment without prior treatment and without monitoring of the treatment’s performance to guarantee the absence of pollution.The Contractor carries out or contracts the monitoring of the effluent quality pursuant to Sub-Clause 12.4 of the ESHS Specifications. In the first case, the Contractor provides the ESHS Manager with the means and skills to carry out in-situ monitoring and laboratory analysis of the performance indicators. In the second case, the Contractor establishes a contract with a specialised contractor, accredited with the Employer’s country authorities for this activity.The physical and chemical parameters of the effluent that are monitored are those that are listed in the applicable regulations according to the provisions of Clause 9 of the ESHS Specifications. The parameters have prior approval from the Employer's Representative.The Contractor will list, locate, and characterise (flow, expected quality, discharge frequency) all sources of effluents and outlets in the natural environment in the Environment Protection Plan(s).The Contractor will submit to the Employer's Representative an effluent monitoring report on a monthly basis, including documentation for the following for each effluent discharge point: (i) average flow rates of discharged effluents, (ii) discharge frequencies and durations over the month, and (iii) the physical and chemical quality of the effluent discharged, for the conformity parameters listed in Sub-Clause 12.1 above of the ESHS Specifications.The special case of rainwater run-off:Run off consists of the rainwater flow on the surface or the soil and other technical surfaces at Project Areas.In the context of the Contract, run-off is considered as an effluent and will be treated in accordance with Sub‑Clause 12.4 above, unless demonstrated otherwise, as documented and substantiated by the Contractor, and approved by the Employer's Representative.Particular attention will be given to all platforms with installed generators, hydrocarbon storage tanks, refuelling stations and concrete plants (cover, containment, settling, pH neutralization). |
| Atmospheric emissions and dust | Emissions refer to any discharge into the air of solid substances, aerosols, gases, radiation, or energy, whether point sources (e.g. incineration stack) or diffuse (e.g. fugitive dust emissions from road use by trucks).The Contractor will use equipment and adopt construction and transport methods with atmospheric emissions which are not in excess of the threshold emission values recommended in the applicable regulations according to the provisions of Clause 9 of the ESHS Specifications.The fleet of vehicles or equipment emitting combustion gases will be maintained at the intervals and according to the methods specified by the manufacturer.The Contractor will document the maintenance records for its fleet of vehicles, machinery and equipment. The records will be in the language of communication defined under Sub-Clause 1.4 of the CC, or any other language approved by the Employer's Representative, and will be at the disposal of the Employer's Representative.On unpaved roads used by the vehicles and machinery of the Contractor:The Contractor takes action to abate fugitive dust emissions generated by vehicles or mobile equipment in residential areas and on roads within the Project Area perimeter.The Contractor will implement the necessary measures, as described in the Worksite – ESMP, to avoid or limit dust generation: dust removal, regular watering, reduction of Contractor's vehicles speed as specified in Sub‑Clause 44.10 of the ESHS Specifications.When storage, handling and transportation of bulk materials is made in the open air and exposed to the wind, the Contractor implements the necessary dust abatement measures, including one or several of the following techniques: vegetation of the surface, covering of the surface, humidification of the surface, covering the trucks, etc. |
| Noise & vibration | The Contractor uses equipment and adopts construction and transport methods so not to generate noise levels in excess of values recommended in the applicable regulations according to the provisions of Clause 9 of the ESHS Specifications.Except as otherwise provided in the Contract or unless waived by the Employer's Representative, high noise generating works (e.g. pile driving, blasting, rock clearing, drilling, percussion drilling) which may impact occupied receptor areas are carried out during normal working days, but prohibited at night. A receptor area is defined as an area used for nocturnal socioeconomic activities (e.g. accommodation camps, residential areas, hotels, health centres).The use of heavy vehicles at night is specified in Sub-Clause 44.9 of the ESHS Specifications. |
| Waste | The Contractor is responsible for identifying, collecting, transporting and treating all waste produced on the Project Areas by its personnel, Subcontractors and visitors.Waste management should be based on the following hierarchy: prevention of waste generations, reuse, recycling and disposal. The Contractor selects suppliers having a voluntary and documented policy to reduce the volume and weight of packaging, and to select recyclable or biodegradable packaging.The Contractor establishes and maintains a waste register which is at the disposal of the Employer's Representative. This register will record all waste management operations: production, collection, transport, treatment. The following aspects are documented in this register:  1. Type of waste, using the nomenclature specified Sub‑Clause 15.7 of the in ESHS Specifications; 2. Waste quantities; 3. Name and address of the third party waste management facilities receiving waste or parties taking possession of the substances no longer considered as waste; 4. Name and address of waste transport contractors; 5. Planned waste treatment.  The Contractor files and maintains at the disposition of the Employer's Representative the waste manifests for the collection, transport, treatment and/or elimination of waste.The waste register is established and available as of the Contractors mobilisation to any Project Area. This register will be archived for at least 1 year after the Commissioning Certificate for the Works is issued.The Contractor implements specific waste management practices adapted to the level of danger for human health or the natural environment. Three waste categories are identified for Project Areas and in tracking documents:  1. Hazardous waste: any waste with one or several dangerous properties as listed in Appendix 2 to the ESHS Specifications; 2. Non-hazardous waste: any waste with no properties rendering it hazardous. Non-hazardous waste contaminated by hazardous material will be considered as hazardous waste, unless instructed otherwise by the Employer's Representative; 3. Inert waste: any waste unaffected by any significant physical, chemical or biological modifications, which does not decompose, burn or produce any physical or chemical reaction, is not biodegradable and does not damage any substance with which it comes into contact in a manner likely to cause damage to the environment or human health.  The Contractor assesses, document and effectively implements any local recycling or re-use options for its waste.Waste is categorised and stored separately prior to removal from the Project Areas, depending on the level of danger, phase (liquid, solid or gas), the waste management solution to be applied and its potential in terms of recycling or reuse.Waste is collected from each Project Area at the same rate that it is produced and is placed in temporary locations meeting the following criteria:  1. Located at a distance of over 100 m from any natural sensitive area and over 500 m from any socioeconomic sensitive area (school, market, healthcare centre, water well or catchment area), with the exception of waste storage area in camps; 2. Protected from moving machinery and vehicles, but easy to access for regular collection; 3. Located on a flat impervious surface to prevent infiltrations; 4. Under cover for non‑inert waste; 5. Stored in containers of the appropriate size, tightness and level of resistance depending on the danger and phase (solid, liquid, gas) of the waste; 6. Liquid wastes storage is equipped with secondary retention with a volume at least equal to the greater of the following two values (i) 100% of the capacity of the largest reservoir and (ii) 50% of the overall capacity of the associated reservoirs; 7. Hazardous waste stored pursuant to Sub-Clause 26.8 of the present ESHS Specifications.  Waste is removed from Project Areas and transported to recycling, treatment and waste management facilities on a regular basis. The frequency of removal, approved by the Employer's Representative, guarantees:  1. No overflow from containers; 2. No unpleasant odour or emissions which are dangerous for human health; 3. No proliferation of insects, rodents, dogs or other animals which are harmful or dangerous for human health; 4. Regular cleaning of containers and surfaces on which they are located.  Unless otherwise specified in the Contract or instructed by the Employer's Representative, waste incineration is prohibited on Project Areas. Two exceptions are medical waste and green waste, which unless instructed to the contrary by the Employer's Representative, are managed pursuant to Clauses 15.15.1 and 16.1.3 of the ESHS Specifications. The use of third party waste management services is subject to a documented prior audit of the treatment, storage and recycling facilities by the Contractor, to guarantee the conformity with the provisions of the ESHS Specifications on waste. Pursuant to Sub-Clause 1.5 of the ESHS Specifications, the provisions applicable to the Contractor regarding waste management also apply to any third party waste management Subcontractor. The Employer's Representative reserves its right to inspect third party waste management facilities and prohibit the Contractor from using the facilities if considered unacceptable.The management of non-hazardous waste complies with the following conditions:Inert waste is removed or treated on‑site and can be disposed in a permanent or temporary landfill with unused backfill material. The location, capacity and environmental protection measures, particularly for water courses, implemented by the Contractor or any Subcontractor, will comply with the provisions of the ESHS Specifications, and will be described in the EPP and validated by the Employer's Representative.Non-hazardous waste that cannot be recycled is disposed of to landfill, complying with the following criteria:  1. Walls and base sealed by a geo-membrane or a layer of compacted clay with a permeability 10-7 cm/s; 2. Drained for the recovery of leachates, which are routed to a lagoon aerobic/anaerobic treatment prior to discharge into the natural environment or collected in a temporary storage prior to regular collection and transfer to a treatment unit (septic tank or wastewater treatment plant); 3. Regularly compacted and covered by earth to limit odours and the proliferation of insects; 4. When the landfill has reached full capacity, vents are installed to evacuate gases, and the landfill covered by a geo-membrane with a minimum thickness of 1 mm, or a layer of compacted clay, and a top layer of 1.5 m of topsoil, which is revegetated.   Any other proposal must first be validated by the Employer's Representative. The Contractor’s hazardous waste is managed by a specialised waste Subcontractor, accredited in the Employer’s country for this activity.In the absence of an existing waste management solution for hazardous waste satisfying the provisions of Sub-Clause 15.14 of the ESHS Specifications, the Contractor takes the following action:Medical waste is incinerated in a specific facility constructed and accredited for this purpose. The Contractor will submit the technical specifications of the facility to the Employer's Representative before importing or procuring the equipment.Hydrocarbons, lubricants, paints, solvents and batteries are transported in drums to the capital city, or any other city where suitable waste management facilities are available. Sludge from settling tanks/ponds, septic tanks or oily water skimmers will also be managed in the same way.Contaminated soils from construction/demolition and drilling muds will be treated, stabilised and disposed of to landfill. Prior approval is required from the Employer's Representative regarding the method and site location. The Contractor obtains authorisation from the competent local authorities prior to any disposal to landfill.Prior approval from the Employer's Representative is required before implementing waste management solutions on any other hazardous waste.Prior to the issue of the Commissioning Certificate for the Works, the Contractor provides documentation on hazardous waste landfilled at other sites than accredited third party waste management facilities. The documentation includes a plan showing the location of landfill sites. The document is provided to the competent local authorities whose jurisdiction covers the landfill sites. |
| Vegetation clearing | The Contractor describes in the Worksite ‑ ESMP the planned methods and schedule for vegetation clearing. Specific agreement from the Employer's Representative is obtained prior to any clearing works.Vegetation clearing using chemicals is not permitted.Vegetation clearing using bulldozer is not permitted in zones less than 30 m from areas designated as sensitive by the Employer's Representative, where only manual clearing is authorised.Unless otherwise specified in the Contract or if otherwise instructed by the Employer's Representative, burning vegetation is not permitted. Green waste can be burnt with prior approval from the Employer's Representative regarding the location, method and schedule.Areas cleared prior to undertaking earthworks are shown on a plan with a minimum scale of 1/10,000. Plans are submitted to the Employer's Representative for validation prior to starting clearing works.The Contractor undertakes physical demarcation of zones to be cleared using a method approved by the Employer's Representative.Trees not to be cut down are identified in relation with the Employer's Representative. Such trees are marked with paint and protected against clearing machinery using a method approved by the Employer's Representative.Clearing is undertaken without damage to adjacent non-cleared areas. Topsoil is stored within the cleared areas at the edge of the cleared zone. Clearing is undertaken working from the edge of the zone inwards.Wood with economic value:During clearing, the Contractor stockpiles separately: (i) tree trunks with a diameter at chest height greater than the size defined by the Employer's Representative, and (ii) trunks with a smaller diameter, branches, leaves, stumps and roots.Unless instructed otherwise by the Employer's Representative when validating the plans of Sub‑Clause 16.2 of the ESHS Specifications or unless specified otherwise in the Employer’s country regulations, the trunks of trees exceeding the diameter defined by the Employer's Representative are made available to the local communities, according to the methods defined with the Employer's Representative. |
| Biodiversity | The Contractor shall ensure that all personnel are informed and aware of the importance to protect fauna and flora. Information and awareness training is documented.The Contractor shall ensure that all personnel are informed and aware of wildlife encounters procedures. Information and awareness training is documented.The Contractor shall define in the Worksite – ESMP the methods with regards to fauna and flora management prior to clearing activities. This method must notably address the work schedule, which sometimes can be adjusted to limit impacts on fauna and flora.Where possible, areas shall be cleared from one side to another, or from the inside out, to prevent animals becoming trapped.The Contractor personnel shall not approach, injure, hunt, capture, possess, feed, transport, rear or trade wild animals and/or collect eggs while working on the Project Areas.The Contractor personnel shall not collect flora species while working on the Project Areas.The Contractor shall report any sighting or finding of wounded or dead wildlife to the Employer's Representative immediately.The Contractor shall protect excavations to prevent injury to animals.The Contractor shall release any trapped uninjured animals immediately.The Contractor shall not disturb natural habitats outside the Project Areas.The Contractor shall only use designated roads or paths and abide by speed limits.The Contractor shall not start forest fires.The Contractor shall not introduce Invasive Alien Species (IAS).All construction machinery imported from overseas shall be inspected to detect IAS and washed before dispatching to the Project Areas.If the presence of topsoil contaminated with IAS is detected, that topsoil shall only be stored or re-spread in the area from where it was removed.When earthworks are carried out in IAS contaminated areas, vehicles shall be washed before moving them to other areas.Where necessary, the Contractor shall develop IAS control procedures (e.g. physical removal, slashing, mulching, herbicides, etc.). Methods used to control or prevent such species shall not cause adverse impacts on the environment or communities.To limit the risk of introducing marine invasive species, the Contractor shall control the ballast water and anti-fouling systems of vessels arriving from other bioregions in accordance with International Maritime Organization (IMO) conventions and guidelines. |
| Erosion and sediment transport | The Contractor plans earthworks and optimises the management of space to ensure that all cleared surfaces and areas exposed to soil erosion are minimised on all Project Areas.Topsoil:Unless indicated otherwise by the Employer's Representative, the top 25 centimetres of the soil will be considered as topsoil.Earthworks for the temporary occupation of the Project Area are preceded by the clearing of topsoil and the storage of this soil separately from the underlying sterile soil.Topsoil is stored according to the provisions approved by the Employer's Representative to enable reuse during Project Area rehabilitation.The refurbishment must be done in accordance with the provisions of Clause 19.Draining and treatment of rainwater run‑off:The gradient of Project Areas allows the collection and drainage of rainwater from the entire surface area to one or several discharge points. No pools of water are created.Suspended solids in rainwater are removed using sediment traps / settling ponds. Rainwater from vehicle parking areas, machinery areas, workshops is subject to treatment with oily water separators.Rainwater treatment units are sized, cleaned, maintained and accessible to ensure compliance with the effluent quality criteria defined in Sub-Clause 12.9 of the ESHS Specifications and to allow monitoring of performance.Sediment control:The Contractor installs sediment control barriers to slow the flow of water and control sediment transport at Project Areas with (i) a gradient of more than 20%, and (ii) where land is disturbed by the Works or where stockpiled mineral material are susceptible to erosion.Sediment control barriers are installed on the slope or at the base of the slope to protect the natural drainage system from sediment accumulation at levels higher than the natural situation. These barriers comply with the following principles:  1. Made with geotextiles or straw bales or any other means pre‑approved by the Employer's Representative; 2. Deployed before the start of works and removal of topsoil. Barriers can be used for the physical demarcation of working areas; 3. Installed, cleaned, maintained and replaced according to manufacturer recommendations; 4. Drainage surface area does not exceed 1,000 m² per 30 m of barrier. The length of the slope behind the barrier is less than 30 m, and is not used for flows in excess of 30 l/s.  For the dredging of marine sediments, unless specified otherwise in the Contract, or instructed otherwise by the Employer's Representative, and particularly if the working area is exposed to currents, the Contractor will install a geotextile silt curtain, or any other technique approved by the Employer's Representative to control turbidity clouds.Backfilling and stockpiling of backfill materials:In the EPP of these temporary and permanent stockpiles, the Contractor defines the proposed arrangements (height, slope, drainage, revegetation, etc.) to guarantee stability and erosion resistance.For permanent backfill material stockpiles, the stockpile is shaped and compacted to ensure long-term stability.Temporary stockpiles likely to result in strong erosion (duration of storage, rainy season, presence of downstream issues, etc.) are protected against runoff erosion by (i) revegetation using fast growing grass species, either by direct seeding or by hydro‑seeding, or (ii) using other natural anti‑erosion cover with prior approval from the Employer's Representative. |
| Site rehabilitation | Unless instructed otherwise by the Employer's Representative, the Contractor will rehabilitate all Project Areas disturbed by the Works, prior to the completion of the Works as per CC Sub‑Clause 11.5.All buildings and free standing and underground structures (e.g. piping, underground tanks, sumps and basins) are removed pursuant to the provisions of Sub-Clause 4.23 of the CC. All waste and rubble is removed in accordance to the provisions of Clause 15 of the ESHS Specifications. After removal of buildings structures and rubble, the Contractor returns Project Areas to their original condition, according to the following provisions.Land is adjusted to ensure that run-off water drains without eroding soil or stagnating in pools. Unless instructed otherwise by the Employer's Representative, the gradients of restored sites (excluding backfill as defined in Sub‑Clause 18.5 of the ESHS Specifications) must be as for the adjacent undisturbed land.Rehabilitated Project Areas do not represent hazards for people. Areas near steep drops at quarries are indicated with permanent concrete signs. Holes are refilled. Sharp or unstable items are rendered inoffensive.Unless specified otherwise in the Contract, or instructed otherwise by the Employer's Representative, the Contractor undertakes revegetation of all Project Areas disturbed by the works and bears the cost of such work.Topsoil set aside during initial earthworks pursuant to Sub‑Clause 18.2 of the ESHS Specifications, is evenly spread over cleared areas. The surface of compacted soils on Project Areas is loosened by scouring (using rakes or other acceptable methods).The Contractor describes in the Worksite ‑ ESMP the planned revegetation works to ensure sustainable Project Area rehabilitation: methods, plant species to be used and their origins, activity schedule based on a progressive taking over of Project Areas.Prior approval by the Employer's Representative is required regarding the origin of seeds and plants proposed by the Contractor. The species used for revegetation must be suitable for the local environmental conditions, and selected according to the rehabilitation programme: stabilisation of backfill, landscaping, drainage, prevention of erosion, etc.Revegetation is undertaken throughout the duration of construction Works, and is not limited to the rehabilitation of Project Areas at completion of the Works. |
| Documentation on the Project Area condition | The Constructor documents changes in condition of all Project Areas from the start of Works until the Contract Completion Certificate is issued. Documentation comprises dated and geo-referenced colour photographs taken from a constant angle and viewpoint.The Project Area condition is documented as a minimum for the following stages:  1. Before any Project Area disturbance at the start of Works; 2. On completion of Works, but prior to starting rehabilitation; 3. On completion of rehabilitation and revegetation, if necessary, but prior to the Commissioning Certificate issuing; 4. After the end of the Operation Service Period and prior to the Contract Completion Certificate issuing.  The Contractor specifies in the Worksite – ESMP: (i) the list of viewpoints to be used, (ii) areas to be photographed, and (iii) methods used for taking and archiving photographs.Adjacent areas (100 m from the perimeter of the Project Area) are included in photographic documentation.Unless instructed otherwise by the Employer's Representative, structures to be buried are photographed weekly until covered. As a minimum the structures are photographed twice for Works with duration of less than 7 days, and at least once a week for Works with a longer duration.Photographs subject to the present Clause 20 are archived in digital format and provided to the Employer's Representative on a monthly basis under the CC Sub-Clause 4.21 monthly progress report.The nomenclature of electronic files for photographs explicitly indicates the Project Area, date and structure documented. |
| 1. Health & Safety | |
| Health and safety plan | In application of Clauses 4 and 6 of the CC, the Contractor describes in the Health and Safety Plan section of the Worksite ‑ ESMP its organisation for managing health and safety (section 7 of Worksite – ESMP as described in Appendix 1 to the ESHS Specifications), pursuant to its Health and Safety Management System (HSMS) (the "Health and Safety Plan").Pursuant to Clause 6 of the CC, the plan identifies and specifies:  1. All health and safety risks relating to the execution of the Works, by also identifying gender-specific risks; 2. Prevention and protection measures to control risks related to the execution of the Works, by differentiating, where necessary, measures concerning the protection of women and men; 3. Human and material resources involved; 4. Works requiring work permits; and 5. Emergency plans to be implemented in the case of an accident.  In addition, this Health and Safety Plan describes how workers are trained in health and safety aspects.The Contractor implements prevention, protection and monitoring measures, as described in the Health and Safety Plan. |
| Daily and weekly meetings | The Contractor organises as a minimum one health and safety meeting per Project Area per week (or at another frequency approved by the Employer's Representative) with all the personnel assigned to the Project Area. This applies only to Project Areas where work is ongoing. At the meeting accidents and incidents that occurred in the previous week are discussed and feedback provided. Means of improvements are identified, documented and assessed to establish corrective actions. The Employer's Representative is invited to participate at all health and safety meetings. Meeting reports are provided to the Employer's Representative.The Contractor organises daily (or at another frequency approved by the Employer's Representative) health and safety meetings per team at all Project Areas, prior to the start of the daily work. The meeting establishes the health and safety risks associated with the day’s tasks and activities, and means of prevention and protection to be implemented. Minutes of the meetings shall be recorded. |
| Equipment and operating standards | The facilities and equipment used by the Contractor are installed, maintained, revised, inspected and tested pursuant to the manufacturer’s recommendations. The recommendations are available in the language of communication defined under Sub‑Clause 1.4 of the CC (or any other language approved by the Employer's Representative).The Contractor lists and describes in the Health and Safety Plan the national and international standards, guidelines and industry codes of practice, applied during the execution of works. |
| Work permit | Unless otherwise provided in the Contract, or unless otherwise instructed by the Employer's Representative, work requiring work permits are defined in the Health and Safety Plan. Work permits will be documented and saved.The Contractor puts in place a work permit procedure to manage risks through the implementation of prevention and protection measures prior to the starting of work. This procedure is subject to validation by the Employer's Representative. |
| Personal protective equipment | The Contractor ensures that all personnel, visitors or third parties entering a Project Area are equipped with Personal Protection Equipment (PPE) pursuant to the practices and standards specified in Clause 9.The Contractor describes in the Health and Safety Plan the PPE to be used per Project Area and per activity.Personnel and visitors to Project Areas are equipped with a safety helmet, safety shoes and a reflective jacket as a minimum.Adequate quantities of PPE are available on the Project Areas. Storage conditions must be compatible with usage pursuant to the provisions of Sub-Clause 23.1 of the ESHS Specifications.Contractor personnel are trained in how to use and care for PPE and the Employer's Representative must be able to obtain the training reports. |
| Dangerous substances | A substance is considered dangerous if one or several of its properties render it dangerous, as defined in Appendix 2 to the ESHS Specifications. The Contractor identifies and manages dangerous substances planned for use on the Project Area in the manner described in the present Clause 26.Details of risks and related prevention and protection measures are included in the Health and Safety Plan.The assessment of the impact of the toxicity of dangerous substances on the reproductive functions of women and men must be taken into account.The transport to the Project Area and use of dangerous substances requires prior authorisation from the Employer's Representative.The Contractor obtains all necessary authorisations and/or licenses for the storage and use of dangerous substances from local authorities. A copy of the authorisations is provided to the Employer's Representative.For each dangerous substance used, the Contractor will implement the recommendations described (i) in the Material Safety Data Sheets (MSDS), and (ii) by the Globally Harmonized System of Classification and Labelling of Chemicals established by the United Nations for hazardous chemicals.Copies of MSDSs are kept on the Project Area, and made available to personnel. The Contractor's staff is aware of the health and safety risks related to hazardous materials. The Contractor provides the Employer's Representative with copies of all MSDSs and training reports.Storage of dangerous substancesStorage area are designed and equipped by the Contractor based on the chemical and physical properties of the substances, on the types of containers stored, the number of people requiring access, the ventilation requirements, the quantities of the substance used and potential chemical reaction with other substances (see Sub‑Clause 26.8.5 of the ESHS Specifications).Pursuant to Sub-Clause 15.6 of the ESHS Specifications, the Contractor anticipates and plans for the storage and management of hazardous waste.Storage areas for dangerous substances are subject to strict rules, which are regularly checked by the ESHS Manager appointed pursuant to Sub‑Clause 4.1.4 of the ESHS Specifications. The rules include the following as a minimum:  1. Access to the storage area is limited to trained and authorised individuals; 2. An inventory is maintained up‑to‑date; 3. MSDSs must be available for all stored dangerous substances, and the substances must be clearly labelled; 4. A strict and methodical storage system is implemented (storage plan posted, large or heavy packaging may not be stored at heights, equipment and tools may not be stored in the dangerous substance storage room); 5. Compliance with product expiry dates and implementation of a disposal procedure for substances which are not needed or which have expired; 6. Entrances, exits and access to emergency equipment are kept clear at all times.  Storage areas are clearly identified with warning signs at the entrance. The Contractor displays the storage plan (location of the different products, maximum inventory), a summary of labelling system and information on chemical incompatibilities.Chemicals which could react together (leading to explosions, fire, projections or the emission of dangerous gases) are physically separated.Products that react violently with water are stored so as to prevent contact with water, even in the event of flooding.Inflammable products are stored separately in a dedicated area with adequate ventilation at all times.Buildings used to store large quantities of dangerous substances are isolated from other buildings to avoid the spreading of fire. Such buildings are constructed using solid and non-combustible building materials, and are equipped with evacuation systems and the appropriate firefighting equipment. Access to the buildings is clear, allowing for rapid evacuation in the event of an accident. The electrical systems are reduced to the essential minimum, and access points are equipped with adequate lighting (300 lux).All storage areas are equipped with secondary retentions. Each storage area acts as a general secondary retention. Suitable absorbents (neutralising and non-combustible) are available in the storage area to clean up any spills and leaks.The Contractor maintains the storage area at a suitable temperature for storing dangerous substances at an appropriate level to avoid any deterioration of the containers. |
| Planning for emergency situation | The emergency plan required in application of Sub-Clause 21.2 of the ESHS Specifications covers the following emergency situations as a minimum:  1. Fire or explosion; 2. Structural failure; 3. Loss of the containment of dangerous substances; 4. Safety incident or malicious act; 5. Natural disasters.  The Contractor details the emergency plan in the Health and Safety Plan.The Contractor ensures that all personnel are informed and aware of how to react in an emergency situation, and responsibilities are defined. Information and awareness training is documented, and available on all Project Areas.The Contractor organises and documents emergency simulation exercises within 3 months of the physical start of the Works, and subsequently once every 12 months up to the issue of the Commissioning Certificate. The Employer's Representative is invited to participate in each of these exercises.Fire extinguishers are made available in each building at clearly identified locations. |
| Medical check‑ups | The Contractor organises medical check-ups for all Contractor’s Personnel prior to the initial mobilisation to the Project Area to check aptitude for the work. Medical check-ups are adapted to the anticipated occupied positions and carried out pursuant to the recommendations of the International Labour Organization. Subsequent to the check-up, a written medical certificate is issued declaring the aptitude of the worker for the allocated tasks.Hearing tests are conducted for the Contractor’s personnel exposed to specific risks (such as noise levels above 80 dB(A), exposure to hazardous materials, etc.) in order to establish an initial state of health. Annual tests are carried out to monitor any changes and detect any deterioration.The Employer's Representative can request additional medical examinations for the Contractor’s Personnel if considered necessary, and all associated costs shall be borne by the Contractor.A medical examination is carried out on any Contractor’s Personnel returning to work after leave caused by a work related accident. A written medical certificate is issued confirming the Contractor’s Personnel’s aptitude to return to work at the designated workstation.The Contractor can produce a copy of its Contractor’s Personnel’s work aptitude certificates at the request of the Employer's Representative or any competent authority.Specific arrangements for tasks’ assignments or workstations shall be made for pregnant Personnel. |
| First aid | The Contractor ensures that at least one first aid officer is present at any one time during working hours, per Project Area and per team of 10 to 50 workers present, and one extra first aid officer for each additional 100 workers.The Project Area must be equipped with a communication system available immediately and primarily for the purposes of communication with the first aid services. Information on how to communicate with the first aid services is clearly indicated near the communications equipment. |
| Health care centre & medical personnel | For Project Areas with more than 35 workers present at any one time and where it is not possible to reach a hospital, medical clinic or the Contractor’s health centre within a period of 45 minutes, by land and in normal conditions:The Contractor sets up a health care centre at its own cost. This centre is:  1. Operational and easy to access all times; 2. Kept clean and in good condition; 3. Equipped with appropriate heating or air‑conditioning; 4. Equipped with sanitary facilities and drinking water; 5. Equipped with instruments, equipment, medicines and material required to examine and treat injured or sick workers in emergency conditions; 6. Equipped with the supplies and furnishing required to allow medical personnel to provide first aid and fulfil their other functions.  A doctor is present on‑site at any one time, working full-time during normal day hours. The doctor is on-call when more than 20 workers are working simultaneously outside of normal day hours.The doctor has the following profile:  1. At least 5 years’ experience on large-scale construction works at sites located at a distance from a hospital; 2. Trained in infectious diseases, waterborne and epidemiological diseases prevalent in the Employer’s country; 3. Able to lead training sessions on occupational health and first aid; 4. Trained in management and logistics for a remote health care centre; 5. Able to speak the same working language used by most members of personnel fluently (communication in emergency situations); 6. In good physical condition, able to access remote working areas.  The Contractor allocates a road or air vehicle for first aid purposes to the first aid station pursuant to standard NF EN 1789/2007.The Contractor ensures the presence of at least one nurse to assist the doctor per team with 200 ‑ 800 workers allocated, and one extra nurse for each additional 600 workers allocated to this team. Over and above 500 workers per shift, the Contractor ensures the presence of an extra doctor for each additional 500 workers allocated to this team. |
| First aid kits | Each Project Area must be equipped with an adequate number of first aid kits to ensure that all workers can access these kits in approximately 5 minutes. Kits must be available at all times.Each vehicle is equipped with a first aid kit.First aid equipment complies with attached specifications. |
| Emergency medical evacuations | The Contractor establishes, and provides the Employer's Representative within one month of the physical start of works a copy of an agreement with a specialised company for the handling of personnel in the event of a serious accident requiring an emergency medical evacuation, which cannot be organised using the first aid vehicle specified in Sub‑Clause 30.1.4 of the ESHS Specifications without endangering the life of the patient.The agreement includes a convention with a referring hospital where the member of personnel evacuated in emergency conditions will be treated.The agreement covers the use of air transportation in order to evacuate the injured patient(s) to the referring hospital. |
| Access to health care | The Contractor guarantees access to health care as defined in Clause 30 for all personnel in necessary cases of accident or illness occurring during the execution of the Works, i.e.:  1. Medical check‑ups: initial (recruitment), annual and upon returning to work after sick leave; 2. Screening, vaccinations and preventive healthcare; 3. General healthcare during the execution of the Works; 4. Medical assistance in the event of an accident and assistance for emergency evacuations.  Subcontractor’s personnel, other contractors, the Employer or the Employer's Representative, present at the Project Area, must never be refused medical assistance, under the pretext that they are not directly employed by the Contractor. The Contractor may however define a unit rate cost per medical act for personnel, other than its own Contractor’s Personnel, display this rate in the healthcare centre and forward the information to the Employer's Representative.In the event of accident or serious illness, medical personnel must be trained, available and equipped with the necessary material, medicines and consumables to provide first aid for the patient, stabilise their condition, until the patient is:  1. Either treated or discharged; or 2. Hospitalized at the camp or in a larger hospital; or 3. Evacuated to a medical centre which is well equipped for intensive care, if necessary. |
| Health monitoring | The Contractor cannot recruit workers in poor health.The initial pre‑recruitment examination must confirm that applicants carry no infectious diseases and are physically able to carry out the tasks required for the position.The detection of pregnancy during the initial pre-recruitment examination of female applicants shall not constitute grounds for declining recruitment, unless medical risk is proven.The Contractor organises annual medical check-ups for its Contractor’s Personnel and keeps up to date a medical record for each Contractor’s Personnel. The presence of Contractor’s Personnel for medical check-ups, treatment and hospitalisation is incorporated into the Contractor's planning.The Contractor provides the Contractor’s Personnel with prophylaxis and vaccinations against local diseases and vectors. In particular, the Contractor will promote the use of impregnated mosquito nets by its Contractor’s Personnel in camps or off‑site lodging, and distributes these nets appropriately.The Health and Safety Plan includes a Contractor’s Personnel health risk assessment based on exposure to specific risks (such as noise levels above 80dB(A), exposure to hazardous materials, etc.) and describes the medical monitoring implemented. |
| Sanitary repatriation | The Contractor is responsible for the sanitary repatriation of Contractor’s Personnel in the event of a serious injury or illness. The Contractor will take out the necessary insurance to cover the cost of the sanitary repatriation of its Contractor’s Personnel. |
| Hygiene, accommodation and food | Drinking water:Pursuant to Sub-Clause 6.14 of the CC, the Contractor provides personnel with drinking water at all Project Areas. The quantity and quality of this water complies with the standards of the World Health Organization at supply points.Unless the supply of drinking water is provided by a certified supplier, the quality of the drinking water provided to workers is tested at least at the start of the Works and then on a monthly basis. The protocol for taking and analysing samples is based on the recommendations of the World Health Organization. The results shall be documented and made available on the Project Areas.Accommodation conditions:The accommodation provided for non-resident Personnel in a camp or an alternative structure outside of the Project Areas, such as a hotel or rented house, will comply with the conditions of Sub‑Clause 36.2 of the ESHS Specifications in pursuance of Sub-Clause 6.6 of the CC.Unless specified otherwise in the Contract, or instructed otherwise by the Employer's Representative, Personnel are housed in rooms. Rooms do not host more than 4 individuals, with no bunk beds, and with 0.5 m3 of storage space available per person.Rooms shall not be mixed: separate rooms must be made available for both men and women.Rooms are lit and equipped with power sockets, beds and windows fitted with mosquito nets. Flooring is of a hard and impervious material.The temperature in rooms and common areas shall be kept at an appropriate level during occupied hours.Night-time noise levels to which personnel are exposed comply with the limits recommended by the World Health Organization.The Contractor provides one drinking water tap per 10 Contractor’s Personnel, one shower per 10 Contractor’s Personnel as a minimum, one individual toilet for 15 Contractor’s Personnel as a minimum, and one urinal per 25 Contractor’s Personnel at accommodation camps. Separate showers, toilets and locker‑rooms must be made available for women.The Contractor constructs and maintains a shared leisure area in each camp and a sports field for use by Personnel.Hygiene in shared areas:Sanitary areas (showers, sinks, urinals, toilets) are cleaned and disinfected by the Contractor’s cleaning service at least once every 24 hours. Cleaning operations are documented.The canteen, kitchen and kitchen utensils are cleaned after each meal service.The number and location of toilets on Project Areas shall be adapted to the number of employees and the configuration of the Project Areas (distance, isolated area, etc.).Food:In application of Sub-Clause 6.13 of the CC and Sub‑Clause 41.1 of the ESHS Specification, the Contractor provides meals at a reasonable cost to its Contractor’s Personnel in a canteen area and according to a procurement system which complies with the provisions of Sub‑Clause 36.4 of the ESHS Specifications.The Contractor defines and implements actions in order to guarantee (i) the quality and quantities of food stuffs, (ii) compliance with health rules when preparing meals, (iii) fitting out and servicing premises and equipment, both in the kitchen and food storage areas.The Contractor inspects the cleanliness of food transport vehicles, temperature control and the cold chain, as well as best before dates, and takes the necessary corrective actions. The temperatures of chillers are regularly checked.The Contractor checks that health requirements are met for food storage conditions in the kitchen or other locations, food cooking times and temperatures, and the conditions in which prepared products are left prior to consumption, to ensure no health risks. No food remains are to be reused.The Contractor recruits trained canteen personnel and ensures that supervisors monitor compliance with sanitary instructions. The Contractor ensures that canteen personnel have means of ensuring compliance with health rules (changing rooms, linen, hand washers, the condition of flooring and paint, and the existence of a cleaning plan).The ESHS Manager carries out an audit on all Project Areas every 3 months, and documents the results, and includes the conditions of hygiene in which meals are prepared and food conserved. The results of this audit are provided to the Employer's Representative.The ESHS Manager regularly informs Contractor’s Personnel on appropriate behaviour in terms of workplace hygiene. This information is documented and saved. |
| Substance abuse | Pursuant to Sub-Clause 6.16 of the CC, the use, possession, distribution or sale of illegal drugs, controlled substances (as per local regulations) and alcohol is totally prohibited on the Project Areas. The Contractor implements a zero tolerance policy for the consumption of these substances.Any person suspected by the Employer's Representative to be under the influence of alcohol or controlled substances on any Project Area is immediately suspended from his position by the Contractor, pending the results of medical tests. |
| 1. Local Labour and Relations with Local Communities | |
| Labour conditions | The Contractor should ensure decent labour conditions for workers and notably compliance with applicable law and regulations in the country of implementation of the contract, and with the fundamental conventions of the International Labour Organisation (ILO). This includes workers’ rights related to wages, working hours, rest and leave, overtime, minimum age, regular payment, compensation and benefits. The Contractor should respect and facilitate workers' rights to organise and provide a grievance mechanism for all direct and indirect workers. The Contractor should implement non-discrimination and equal opportunity practices, and ensure prohibition of child or forced labour. |
| Local recruitment | Local recruitment is defined as the number of positions actually allocated to people residing in the region of the Works, which must be defined by the Contractor in its offer according to relevant criteria by giving priority to populations living in the area of influence or in the immediate proximity of the Project Area.Pursuant to Sub-Clause 6.1 of the CC, the Contractor implements a voluntary local recruitment policy for its personnel for the duration of the Works and shall enforce this policy to its Subcontractors.The Contractor demonstrates the effective implementation of this voluntary policy to the Employer's Representative in its monthly activity report as defined in Sub-Clause 6.3 of the ESHS Specifications.Pursuant to Clause 8 of the ESHS Specifications, the Contractor shall develop a training programme. This training programme must be open to women and men and be adapted to their level of education and needs of each group to occupy the positions proposed during the Works.Local labour needs are estimated prior to the start of Works and described in the Worksite ‑ ESMP with the following information:  1. Identification of positions that could be filled by local staff and the level of qualification required; 2. Definition of the planned procedure for the effective recruitment of these members of staff; 3. Establishment of mechanisms to ensure non-discrimination of women in accessing recruitment procedures. This mechanism must cover the definition of the positions, the methods of communication on the positions to be filled, etc.; 4. Deployment schedule for these positions; 5. Initial training to be provided by the Contractor for each job description.  In order to prevent outsiders from entering the Project Area, local recruitment at the Project Area, including at the entrance, is prohibited.Local recruitment office:Prior to the start of Works, the Contractor establishes a local recruitment office in the district where the main Project Area is located, at a location pre-approved by the Employer's Representative.A representative of the Contractor is present in this office at least two mornings each week, from the start of the works to a date pre-approved by the Employer's Representative.The representative provides information on job vacancies with the Contractor for the execution of the works (required qualifications, duration, and location) and on the information to be provided in applications.Lists of local candidates are drafted by the representative allocated to the office and forwarded to the Contractor’s humans resources manager on a weekly basis.The Contractor’s Human Resources manager selects candidates listed by the local recruitment office based on requirements for the Works and the Contractor’s recruitment procedures. A written contract between the Contractor and the local Contractor’s Personnel is drafted, signed and archived by the Contractor.If the Project Areas are located near to several different communities, the Human Resources manager ensures a fair distribution of local recruitment between the different communities, by giving priority to the people affected by the project.The Human Resources manager will ensure that recruitment campaigns in local communities have been spread to women and that the latter have not been discriminated in recruitments.Pursuant to Sub-Clause 6.22 of the CC, the Contractor maintains one record per local Contractor’s Personnel indicating the hours worked per person allocated to the works, the type of tasks carried out, the wages paid and any training taken. Records are available at the main Project Area at all times, so the Employer's Representative and the authorised representatives of the government can assess the content. |
| Transport & accommodation | Unless specified otherwise in the Contract, or instructed otherwise by the Employer's Representative, the Contractor provides or enables access to daily transport for Contractor’s Personnel living more than 15 minutes' walk from the Project Area and more than one hour by land transport.The transport is organised under conditions which comply with local regulations and which ensure the safety of the people transported.The Contractor organises collective transport: pick-up times and locations are defined and services organised appropriately.If the Project Area is moved during the working season and if the Contractor retains the local personnel trained at the start of the works, the accommodation of the Contractor’s Personnel is managed by the Contractor:  1. Within a mobile camp with the other non‑local Contractor’s Personnel; or 2. In villages located near to the mobile Project Area, in this case, each local Contractor’s Personnel will receive a housing allowance in addition to his wages. |
| Meals | Food supplies for the meals of the Contractor personnel will exclude any meat obtained from hunting or poaching, with the exception of fish.The Contractor provides at least two meals per day to local Contractor’s Personnel pursuant to the hygiene conditions specified in Clause 36 of the ESHS Specifications, at reasonable price. |
| Damage to people and property | The Contractor shall not disturb or interfere with the inhabitants of local communities close to or in the Project Area, and shall respect their houses, cultures, animals, properties, customs and practices.Pursuant to Sub‑Clauses 4.14 and from 17.9 to 17.11 of the CC, the Contractor is responsible for damages to people and property caused by the execution of the Works or the procedures used for execution.Access to the Project Areas is prohibited to unauthorized persons. The Contractor is responsible for the security and access control of the Project Areas.The Employer's Representative is informed of any damage caused to people, or the property of individuals, other than the Contractor’s personnel, within 6 hours of the event, regardless of the value of the prejudice.Housing existing before the start of the Works, located within a minimum radius of 800 m around the perimeter of the quarries and within a minimum radius of 500 m around the other Project Areas that will be subject to blasting, will be examined by a bailiff unless agreed upon otherwise with the Employer's Representative.The bailiff’s sworn statement is prepared and provided to the Employer's Representative with the EPP.Should any problems be detected due to the intensity of blasting, the Employer's Representative is entitled to request that the Contractor carry out seismic measurements of the intensity of the vibrations induced by the blasting, at variable distances from the blasting points, under the supervision of the Employer's Representative, and at the cost of the Contractor. |
| Land acquisition and land take | Pursuant to Sub-Clause 7.8 of the CC, the Contractor will cover (i) occupancy indemnities for the extraction or use of construction materials and (ii) the cost of acquiring or temporarily occupying the necessary land to stockpile excess backfill material.The Contractor provides compensation for any prejudice suffered by the owners and users of this land, if these users are not the same parties as the owners.The Contractor demonstrates to the Employer's Representative (i) who are the owner and the users, if different parties have been identified, and (ii) a written agreement governing the temporary occupancy or acquisition of this land has been negotiated and duly paid up to the two parties, if different. |
| Traffic | The Contractor defines a Traffic Management Plan in Worksite ‑ ESMP (section 11 as defined in Appendix 1 to the ESHS Specifications) (the "Traffic Management Plan").The Traffic Management Plan:includes the characteristics of its fleet of vehicles and site machinery; anddefines the itineraries used on a map for each route between the different Project Areas that must be validated by the Employer's Representative.The Contractor requests that the Employer obtain the authorisations of the competent administrative authorities if public roads are used. Any Employer's Representative’s instruction to update the Traffic Management Plan shall be implemented.Within one month of the physical start of Works, the Contractor informs the administrative authorities of areas crossed by the Contractor’s vehicles, of the itinerary and characteristics (frequency of passing, size and weight of trucks, materials carried) of the Contractor's fleet of vehicles.If public roads are used, and unless approved otherwise by the Employer's Representative, the Contractor mandates a bailiff to make a sworn report regarding the state of the road prior to use by the Contractor's vehicles. The report is annexed to the Traffic Management Plan.The Contractor describes in the Traffic Management Plan the expected traffic created by its fleet of vehicles (frequency of trips between Project Areas, working hours, convoys).The Contractor also describes the number and positioning of flagmen.Unless specified otherwise in the Contract or instructed otherwise by the Employer's Representative, heavy vehicles (i.e. with a GVWR of more than 3.5 tons) may not be used at night between 22:00 and 06:00.Speed limits:The Contractor takes action to limit and check the speed of all vehicles and machinery used to execute the works.The maximum speed of all machinery and vehicles of the Contractor comply with the lowest of the following: the speed limit defined according to the Employer’s country regulations or the following limits.  1. 10 km/h within the Project Area; 2. 30 km/h in villages or hamlets, in towns, from 100 m before the first house; 3. 80 km/h on unpaved roads outside of towns, villages, hamlets and camps.  Pursuant to Sub-Clause 4.15 of the CC, and in coordination with the competent Employer’s country authorities, the Contractor provides and installs signs for the fleet of vehicles along public roads, when public signs are inadequate.The Contractor provides each of its drivers with a map at the appropriate scale of the roads authorised for the execution of the Works, clearly indicating the maximum speeds authorised, and ensures their understanding.It is strictly prohibited to transport people, equipment or products other than those required for the Works and the management of Project Areas, on board any of the Contractor's vehicles. This provision also applies to the transport of live animals and meat obtained from hunting, fishing or poaching.The trailers and skips used to carry materials which could be projected (sand, crushed material, aggregates, selected materials) are covered with a tarpaulin for the entire itinerary between two Project Areas.The Contractor carries out regular inspections along the roads used by its fleet of vehicles to ensure compliance with the provisions of Clauses 44.8 to 44.11 of the ESHS Specifications. The Contractor records these inspections and the results and transmits a summary of checks carried out for the previous month to the Employer's Representative on a monthly basis. |

APPENDIX 1 – Contents of Worksite ‑ ESMP

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| **1.** | **Environmental policy** | * Declaration of ESHS policy signed by the managing director of the Contractor and clearly defining the commitment of the Contractor in terms of (i) ESHS management for its construction sites and (ii) compliance with the ESHS Specifications of the Contract. |
| **2.** | **Worksite ‑ESMP** | * Target and content of the Worksite Environmental and Social Management Plan * Preparation and updating schedule * Quality assurance and validation |
| **3.** | **ESHS resources** | * Human resources: * ESHS Manager * ESHS Supervisors * Person in charge of relations with stakeholders * Medical personnel * Logistics & communications: * ESHS vehicles * IT stations * In situ noise, air and water measuring equipment * Analysis laboratory used * Reporting: * Weekly inspections * Monthly * Accident / Incident |
| **4.** | **ESHS regulations** | * Definition of standards for the applicable national ESHS regulations and the ESHS recommendations of institutions affiliated to the United Nations (WHO, ILO, IMO, IFC), applicable to the execution of works: * Discharge standards * Minimum wage * Day and/or night traffic restrictions * Other * Definition of ESHS standards for the industry applied |
| **5.** | **ESHS operational inspection resources** | * Site tracking procedure: * Frequency * Personnel * Assessment criteria * Non‑conformity handling and detection procedure: * Distribution information * Notification depending on the level of importance allocated to non‑conformities * Tracking of the closing of the non-conformities * Management of data on tracking and non-conformities: * Archiving * Use as a performance indicator |
| **6.** | **Project Areas** | * Description of Project Areas (as per definition in Sub-Clause 1.3 of the ESHS Specifications): * Number * Location on a topographical map * Activities * Opening & closing schedule * Access * Reference to the Appendix: an Environment Protection Plan (EPP) for each Project Area |
| **7.** | **Health and Safety Plan** | * Identification and characterisation of health and safety risks, including the exposure of personnel to chemicals, biological hazards and radiation * Description of working methods to minimise hazards and control risks * List of the types of work for which a work permit is required. * Personal protection equipment. * Presentation of the medical facilities at Project Areas: * Healthcare centre, medical equipment and allocation of medical staff * Medical acts that can be carried out on‑site * Ambulance, communications * Referring hospital * Evacuation procedure for medical emergencies. * Description of the internal organisation and action to be taken in the event of an accident or incident. |
| **8.** | **Training plan** | * Basic training for non‑qualified staff * Health & safety training |
| **9.** | **Labour Conditions** | * Description of Human Resource Policy for construction works of direct and indirect workers |
| **10.** | **Local recruitment** | * Local labour requirements: * Job descriptions and the levels of qualifications required * Recruitment procedure and deployment schedule * Initial training to be provided by the Contractor for each job description * Location and management of the local recruitment office(s) |
| **11.** | **Traffic Management Plan** | * Description of the fleet of vehicles/machinery used for the execution of the works * Deployment (Project Area & schedule) and maintenance sites for each vehicle and machine * Mapping of itineraries, travel times, and areas where speeds are limited * Dust suppression: * Mapping or road sections where dust reduction initiatives apply * Water points identified or to be created for refuelling tanker trucks * Capacity of the tanker trucks used and calculation of the number of trucks required * Width of the track to determine if one watering run or equivalent is adequate (narrow track) or if two runs are required (wide track) * Number of watering or equivalent operations proposed per day depending on the climate |
| **12.** | **Dangerous products** | * Inventory of dangerous products per Project Area and per period * Transport and storage conditions and chemical incompatibility |
| **13.** | **Effluents** | * Characterisation of effluents discharged to the receiving environment * Facilities for the treatment or pre-treatment of effluents * Measures for reducing the sediment content of rainwater runoff * Measures for monitoring the efficiency and performance of facilities for reducing sediment content of rainwater runoff * Resources and methods for monitoring effluent and rainwater runoff quality |
| **14.** | **Noise and vibrations** | * Estimation of the frequencies, duration, days of the week and noise levels per Project Area |
| **15.** | **Waste** | * Inventory of waste per Project Area and per period * Collection, intermediate storage, handling and treatment methods for ordinary or inert waste * Storage and handling methods for dangerous waste |
| **16.** | **Clearing and revegetation** | * Methods & schedule for clearing vegetation and earthwork activities * Methods, species and schedule for the revegetation of Project Areas disturbed by the works |
| **17.** | **Biodiversity** | * Schedule for adequate fauna and flora management * Measures for minimizing impact on fauna and flora species based on the Contracting Authority procedures * Measures for monitoring the efficiency and performance of the plan in place * Measures for limiting IAS * Measures for monitoring the efficiency and performance of the plan in place |
| **18.** | **Prevention of erosion** | * Location of zones suffering from erosion * Methods and schedule for the implementation of anti-erosive actions, including topsoil storage |
| **19.** | **Documentation on the Project Area condition** | * List and cover of viewpoints * Imaging method * Archiving photographs |
| **20.** | **Rehabilitation** | * Method and schedule for Project Area rehabilitation |
| **21.** | **Appendices** | * Environment Protection Plans (number and location specified in Section 6 “Project Areas” above): * Marking out of the Project Area perimeter on a map * Definition of zones for vegetation clearing, zones for the storage of usable timber, zones for burning of green waste * Definition of on‑site activities: construction, storage areas, accommodation areas, offices, workshops, concrete making units * Layout of activity areas on the Project Area: construction works, production/operation areas, rehabilitation and closure * Zones for the storage of topsoil, spoil from earthworks, materials * Access routes and checkpoints * Project Area occupancy schedule * Organisation of Project Area preparation * Liquid discharge outlet points * Proposed sampling points for monitoring water quality * Atmospheric emission outlet points * Location of the storage site for dangerous products * Location and mapping of waste treatment facilities when handled by an external service provider * Any other information relating to the environmental management of the Project Area * Emergency plan: * Description of facilities * Characterisation of hazards * Emergency situations * Organisation structure - roles and responsibilities * Emergency procedures * Human and material resources * Triggering of the plan * Reporting * Bailiff’s sworn reports as specified in Sub‑Clauses 10.5, 42.4 and 44.5 of the ESHS Specifications. |

APPENDIX 2 – Properties rendering a product dangerous[[58]](#footnote-58)

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| **1.** | **Explosive** | substances and preparations which could explode in the presence of a flame or which are more sensitive to impacts and friction than dinitrobenzene. |
| **2.** | **Combustive** | substances and preparations which, when in contact with other substances, particularly inflammable substances, undergo strongly exothermic reactions. |
| **3.** | **Easily inflammable** | substances and preparations (i) in liquid phase (including extremely inflammable liquids), with a flash point below 21°C, or which can heat up to the extent of spontaneous combustion in ambient air; or (ii) in solid phase, which can burst into flames easily in the brief presence of a source of inflammation and which will continue to burn after the removal of the source of inflammation or (iii) in gaseous phase, which are inflammable in air at normal pressure; or (iv) - which, when in contact with moist air or water, produce dangerous quantities of gases which are easily inflammable. |
| **4.** | **Inflammable** | liquid substances and preparations, with a flash point equal to or above 21°C and less than or equal to 55°C. |
| **5.** | **Irritant** | non-corrosive substances and preparations which, when in immediate, extended or repeated contact with the skin and mucosa, can cause inflammation. |
| **6.** | **Harmful** | substances and preparations which, in case of inhaling, swallowing or cutaneous penetration, can lead to risks of limited severity. |
| **7.** | **Toxic** | substances and preparations (including highly toxic substances and preparations), which, in case of inhaling, swallowing or cutaneous penetration, can lead to serious, acute or chronic risks, and even death. |
| **8.** | **Carcinogenic** | substances and preparations which, in case of inhaling, swallowing or cutaneous penetration, can lead to or increase the frequency of cancer. |
| **9.** | **Corrosive** | substances and preparations which, in case of contact with living tissues, can destroy the latter. |
| **10.** | **Infectious** | substances containing viable micro-organisms or their toxins, for which it is known or we have good reasons to believe that they cause disease in humans or other living organisms. |
| **11.** | **Harmful to reproduction function** | substances and preparations which, in case of inhaling, swallowing or cutaneous penetration, can induce or increase the frequency of undesirable non-hereditary effects in offspring or have a negative effect on reproductive functions and abilities. |
| **12.** | **Mutagenic** | substances and preparations which, in case of inhaling, swallowing or cutaneous penetration, can lead to hereditary genetic disorders or increase the frequency of these disorders. |
| **13.** | **React with water** | substances and preparations which, in case of contact with water, air or an acid, release a toxic or highly toxic gas. |
| **14.** | **Sensitising** | substances and preparations which, in case of inhaling or cutaneous penetration, can lead to a hypersensitisation, so that renewed exposure to the substance or preparation will cause characteristic harmful effects. This property can only be considered if test methods are available. |
| **15.** | **Ecotoxic** | substances and preparations with inherent or potential immediate or deferred risks for one or several environmental components. |
| **16.** | **Dangerous for the environment** | substances and preparations which are likely, after elimination, to lead to another substance, by any means, e.g. a lixiviation product, with one of the above characteristics. |

***[Insert in case of Works located in an area labelled as orange or red by the French Ministry of European and Foreign Affairs[[59]](#footnote-59); otherwise delete.***

*In order to finalize these specifications, the Employer will complete the required information and select the relevant options (highlighted in yellow in the text)****]***

**Security Specifications**

1. **Preamble**

*[Add a description of the security context and, in particular, describe relevant recent events and any warnings issued by local or French authorities or by international institutions.]*

***[Describe the roles and responsibilities, tasks and resources provided by the Employer to ensure the security of persons and property: escorts, accommodations, security guards, transport and communication arrangements, etc.]***

*[If applicable, describe the roles and responsibilities of the lead contractor with respect to security management in the case of contracts divided into lots.]*

The Contractor must show the care it exercises to protect its employees who perform Works in the country. Therefore, it must identify the risks and, in light of this analysis, define prevention and protection resources, incorporating additional resources therein, which may be organisational, technical or human resources. These elements shall be described in a methodology, which for each of the headings below must address and describe what the Contractor has planned.

**Disclaimers:**

1 ‑  Although the specified admissibility requirements endeavour to correlate with the potential risks to which the Contract may be exposed, they are intended to be used solely to evaluate Bids in order to eliminate Bids that do not meet a minimum set of requirements. They are in no event to be understood to constitute sufficient measures to ensure the security of persons and property in connection with the Contract. **The risk assessment and security measures to be defined in consequence thereof are the responsibility of the Contractor, who shall explain them in its security methodology.**

2 ‑  **A methodology that fails to meet any one of the admissibility requirements set out in the sections below will be declared non-compliant and the Bid of the Contractor will be rejected.**

1. **Analysis of security issues and threats**

The Contractor shall describe its view of the security environment and threats in the area where the Contract will be performed and/or the danger area, and present a security analysis for the relevant area and for the activities it will perform therein. It shall specify the method and references used to perform this analysis and describe the main threat scenarios that can be identified at the bidding stage.

In addition, it shall at all times be able to share information learned from its country watch by its local organisation or head office.

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| **Admissibility requirements:**   * Document describing the method used to carry out this analysis; * At least one identifiable reference source must be used; * Identification and evaluation of security threats in relation to the contract; * Description of measures planned to monitor local security. |

1. **General security organisation**

The Contractor shall define the general security roles and responsibilities within its organisation and the allocation of the associated tasks for this Contract (including subcontractors and co-contractors), and shall designate a security reference person. It shall define the planned organisation and resources. In the event of a Joint Venture (JV), the leader shall designate a security officer as the JV’s sole contact for this Contract.

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| **Admissibility requirements:**   * Description of the organisation; * The Contractor (and each member in the case of a JV) shall provide the name of the company’s internal security officer, who shall be responsible for defining and monitoring the measures implemented for the Contract. |

1. **Specific security measures planned**

Based on its own security analysis and the main threat scenarios it may have identified, the Contractor shall plan specific and appropriate measures. These measures shall cover at least the following matters:

4.1 Security organisation

The Contractor shall describe its local security organisation in the country where the Works will be performed. In particular, it shall specify whether this organisation relies on internal resources, using its own resources already existing in the country, or whether it uses a local partner, a security services provider or a "Security Officer" dedicated to the Contract, or whether it relies on the country’s State resources and whether it can request them directly. It shall describe the respective roles planned for each participant operating locally.

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| **Admissibility requirements:**   * Description of the organisation and resources mobilised in the country of the Contract; * The Contractor (and each member in the case of a JV) shall provide the name of the person who will be its contact for all security issues in relation to the Contract. This person may be the same person identified in Article 3 above; * In the event of a JV, describe the coordination and distribution of responsibilities among the members; * *[Check Option N°1 in a* ***very degraded security context****; otherwise check Option N°2]*   + Option N°1:   Designation:   * + - of a "security officer" (CV to be provided); **AND**     - a security service provider (references to be provided), with experience in the region where the Contract will be performed.   + Option N°2:   Designation:   * + - of a "security officer" (CV to be provided); **OR**     - a security service provider (references to be provided), with experience in the region where the Contract will be performed. |

* 1. Travel within the country and to the relevant area

Depending on the security analysis, special measures may be required to ensure secure travel within the country. These means may include the use of aircraft of national companies or private aircraft, the use of passenger vehicles, or maritime or inland waterways.

The Contractor shall describe the resources and measures planned to protect itself against security risks (crime, kidnapping, etc.) during these trips. These provisions may be technical, organisational or human. It shall distinguish between measures concerning protective actions and measures deemed forward-looking actions.

The Contractor shall describe the planned transport logistics, including human, technical and organisational resources and mechanisms for monitoring travel. It shall also define its requirements for maintenance management and rules of conduct.

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| **Admissibility requirements:**   * Description of modes of travel, the physical means of travel and the security measures planned in connection with such travel; * Distribution of roles and measures planned for the Contractor itself, for external participants and those expected from the Employer and local authorities, identifying each actor; * *[insert in the case of* ***escorts deemed necessary and not supported by the******Employer****; otherwise delete]* Identification of the service provider responsible for arranging escorts. |

* 1. Accommodation during assignments

If the accommodation and security measures of the Contractor are not provided by the Employer, the Contractor shall describe the type of accommodation and the measures planned to ensure the security of teams (security guards, physical means, etc.).

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| **Admissibility requirements:**   * Description of the accommodation selection criteria and security measures planned for each overnight stay; * Provision of the names and addresses of hotels or accommodation venues planned for overnight stays; * *[insert in the event of a* ***very degraded security context****; otherwise, delete]* Description of the additional protective measures (security, specific accommodation for long-term stays ("panic room", etc.). |

* 1. Accommodation and security on project sites and worksites

The Contractor shall ensure the security of project sites (living camps, technical base, quarries, etc.), and worksites by describing the security system applicable to each of these sites.

The Contractor shall describe the passive security measures and means planned to protect itself from security risk (fencing, embankments, alternating entry/exit, safe haven, etc.) as well as active means and measures (security guards, defence forces, etc.).

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| **Admissibility requirements:**   * Identification and location of each project site (living camp, technical base, quarry, etc.), with a description of the active and passive measures that are planned to be implemented at each site; * *[insert in the event of a* ***very degraded security context****; otherwise, delete]* Provision of a plan (sketch) for each site showing the planned security measures. |

* 1. Communication

The Contractor shall implement a communication and exchange process between the various Contract participants, to ensure reporting of security events, and that preventive or corrective actions deemed necessary are properly carried out. It shall describe the means enabling it to ensure effective communication.

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| **Admissibility requirements:**   * Description of the planned means of communication and measures taken to ensure their reliability; * *[insert in the event of a* ***very degraded security context****; otherwise, delete]* Proof of subscription (or quote) for a satellite communication service. |

1. **Information, awareness-raising and training before departure**

The Contractor shall make arrangements to inform, raise awareness and train its employees prior to departure on assignment. These arrangements shall be in the form of formal communication actions. It shall describe the provisions specifically planned for this Contract, in the form of "service orders" or similar documents.

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| **Admissibility requirements:**   * Description of essential instructions provided to employees (welcoming, briefings, updating of instructions booklets, etc.); * Provision of the list of emergency numbers (local numbers and service providers, repatriation, head office on-call security service) furnished for the Contract’s assignments; * *[insert in the event of a* ***very degraded security context****; otherwise, delete]* List of possible travel restrictions, modes of transport within cities, forbidden neighbourhoods, etc. |

1. **Alert management and crisis management**

The Contractor shall prove that it has set up a crisis management process involving the local organisation and its head office. It shall describe the main procedures for triggering this process and its key operating procedures.

For this purpose, the Contractor shall describe the alert process, from the local organisation to its head office, and the interaction with the Employer.

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| **Admissibility requirements:**   * Summary of the crisis management procedure dedicated to security, describing triggers, roles and responsibilities. |

PART 3 – Conditions of Contract and Contract Forms

Section VIII – General Conditions of Contract  
(GCC)

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

**For the 2008 Gold Book:**

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The Conditions of Contract are the *"General Conditions"* which form part of the *"Conditions of Contract for Design, Build and Operate Projects first edition 2008"* published by the Fédération Internationale Des Ingénieurs – Conseils (FIDIC) and the following *"Particular Conditions"* which comprise of AFD’s amendments and additions to such General Conditions.

An original copy of the above FIDIC publication i.e. *"Conditions of Contract for Design, Build and Operate Projects"* must be obtained from FIDIC.

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

APPENDIX A –   
General Conditions of Dispute Board Agreement

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| Definition | Each "Dispute Board Agreement" is a tripartite agreement by and between:   1. The "Employer"; 2. The "Contractor"; and 3. The "Member" who is defined in the Dispute Board Agreement as being: 4. The sole member of the DB ("Dispute Board") or the Operation Service DB (as appropriate), and, where this is the case, all references to the "Other Members" do not apply, or 5. One of the three persons who are jointly called the "DB" and, where this is the case, the other two persons are called the Other Members".   The Employer and the Contractor have entered (or intend to enter) into a contract, which is called the "Contract" and is defined in the Dispute Board Agreement, which incorporates this Appendix. In the Dispute Board Agreement, words and expressions which are not otherwise defined shall have the meanings assigned to them in the Contract. |
| General Provision | Unless otherwise stated in the Dispute Board Agreement, it shall take effect on the latest of the following dates:   1. The Commencement Date defined in the Contract; 2. When the Employer, the Contractor and the Member have each signed the Dispute Board Agreement; or 3. When the Employer, the Contractor and each of the Other Members (if any) have respectively each signed a Dispute Board Agreement.   This employment of the Member is a personal appointment. At any time, the Member may give not less than 70‑days’ Notice of resignation to the Employer and to the Contractor, and the Dispute Board Agreement shall terminate upon the expiry of this period.  The language to be used in all communications, reports, decisions and during all meetings and hearings relating to the business of either the DB or the Operation Service DB shall be the language for communications stated in the Contract Data. |
| Warranties | The Member warrants and agrees that he/she is and shall be impartial and independent of the Employer, the Contractor and the Employer's Representative. The Member shall promptly disclose, to each of them and to the Other Members (if any), any fact or circumstance which might appear inconsistent with his/her warranty and agreement of impartiality and independence.  When appointing the Member, the Employer and the Contractor relied upon the Member’s representations that he/she is:   1. Experienced in the work which the Contractor is to carry out under the Contract; 2. Experienced in the interpretation of contract documentation; and 3. Fluent in the language for communications defined in the Contract.   If there is a challenge of a DB Member by either Party or, in the case of a three-person DB, jointly by the Other Members, for lack of independence, notwithstanding any disclosure made or not made by that Member under Clause 4 *[General Obligations of the Member]* of these General Conditions of Dispute Board Agreement, the challenging Party or Members (as the case may be) may refer the alleged lack of independence to the appointing entity named in the Contract Data under Sub-Clause 20.4 *[Failure to Agree Dispute Board]* of the General Conditions of Contract. If the appointing entity considers it to be prudent or necessary, it may refer the matter to an independent professional person or body (such as the International Chamber of Commerce) to review and assess the challenge. If such person or body is of the opinion that the Member in question is no longer independent as required by the terms of the Dispute Board Agreement, the Member shall be removed from the DB and the appointing entity shall, without delay, appoint a new Member. Any costs or fees due to the independent person or body shall be shared equally between the Parties. |
| General Obligations of the Member | The Member shall:   1. Have no interest financial or otherwise in the Employer, the Contractor or Employer's Representative, nor any financial interest in the Contract except for payment under the Dispute Board Agreement; 2. Not previously have been employed as a consultant or otherwise by the Employer, the Contractor or the Employer's Representative, except in such circumstances as were disclosed in writing to the Employer and the Contractor before they signed the Dispute Board Agreement; 3. Have disclosed in writing to the Employer, the Contractor and the Other Members (if any), before entering into the Dispute Board Agreement and to his/her best knowledge and recollection, any professional or personal relationships with any director, officer or employee of the Employer, the Contractor or the Employer's Representative, and any previous involvement in the overall project of which the Contract forms part; 4. Not, for the duration of the Dispute Board Agreement, be employed as a consultant or otherwise by the Employer, the Contractor or the Employer's Representative, except as may be agreed in writing by the Employer, the Contractor and the Other Members (if any); 5. Comply with the annexed "Procedural Rules for Dispute Board Members" ("Rules") and with Sub‑Clause 20.5 *[Avoidance of Disputes]* of the General Conditions of Contract; 6. Not give advice to the Employer, the Contractor, the Employer’s Personnel or the Contractor’s Personnel concerning the conduct of the Contract, other than in accordance with the annexed procedural Rules; 7. Not while a Member enter into discussions or make any agreement with the Employer, the Contractor or the Employer's Representative regarding employment by any of them, whether as a consultant or otherwise, after ceasing to act under the Dispute Board Agreement; 8. Ensure his/her availability for all Site visits and hearings as are necessary; 9. Become conversant with the Contract and with the progress of the Works (and of any other parts of the project of which the Contract forms part) by studying all documents received which shall be maintained in a current working file; 10. Treat the details of the Contract and all the DB’s activities and hearings as private and confidential, and not publish or disclose them without the prior written consent of the Employer, the Contractor and the Other Members (if any); and 11. Be available to give advice and opinions, on any matter relevant to the Contract when requested by both the Employer and the Contractor, subject to the agreement of the Other Members (if any). |
| General Obligations of the Employers and the Contractor | The Employer, the Contractor, the Employer’s Personnel and the Contractor’s Personnel shall not request advice from or consultation with the Member regarding the Contract, otherwise than in the normal course of the DB’s activities under the Contract and the Dispute Board Agreement. The Employer and the Contractor shall be responsible for compliance with this provision, by the Employer’s Personnel and the Contractor’s Personnel respectively.  The Employer and the Contractor undertake to each other and to the Member that the Member shall not, except as otherwise agreed in writing by the Employer, the Contractor, the Member and the Other Members (if any):   1. Be appointed as an arbitrator in any arbitration under the Contract; 2. Be called as a witness to give evidence concerning any Dispute before arbitrator(s) appointed for any arbitration under the Contract; or 3. Be liable for any claims for anything done or omitted in the discharge or purported discharge of the Member’s functions, unless the act or omission is shown to have been in bad faith.   The Employer and the Contractor hereby jointly and severally indemnify and hold the Member harmless against and from claims from which he is relieved from liability under the preceding paragraph.  Whenever the Employer or the Contractor refers a Dispute to the DB or the Operation Service DB under Sub-Clause 20.6 *[Obtaining Dispute Board’s Decision]* or Sub-Clause 20.10 *[Disputes Arising during the Operation Service Period]* of the General Conditions of Contract, which will require the Member to make a Site visit and attend a hearing, the referring Party shall provide appropriate security for a sum equivalent to the reasonable expenses to be incurred by the Member. No account shall be taken of any other payments due or paid to the Member. |
| Payment | The Member shall be paid as follows, in the currency named in the Dispute Board Agreement:   1. A retainer fee per calendar month, which shall be considered as payment in full for: 2. Being available on 28 days’ notice for all Site visits and hearings; 3. Becoming and remaining conversant with all project developments and maintaining relevant files, in accordance with sub‑paragraph (i) of Clause 4 hereof *[General Obligations of the Member]*; 4. (All office and overhead expenses including secretarial services, photocopying and office supplies incurred in connection with his duties; and 5. All services performed hereunder except those referred to in sub-paragraphs (b) and (c) of this Clause.   The retainer fee shall be paid with effect from the last day of the calendar month in which the Dispute Board Agreement becomes effective; until the last day of the calendar month in which the Commissioning Certificate is issued for the whole of the Works.  During the periods when the Operation Service DB is acting, the retainer fee shall be paid monthly until the end of the month in which the appointment expires or is otherwise terminated, or the Member resigns.   1. A daily fee which shall be considered as payment in full for: 2. Each day or part of a day up to a maximum of two days’ travel time in each direction for the journey between the Member’s home and the Site, or another location of a meeting with the Other Members (if any); 3. Each working day on Site visits, hearings or preparing decisions; and 4. Each day spent reading submissions in preparation for a hearing; 5. All reasonable expenses including necessary travel expenses (air fare in less than first class, hotel and subsistence and other direct travel expenses, including visa charges) incurred in connection with the Member’s duties, as well as the cost of telephone calls, courier charges and faxes: a receipt shall be required for each item in excess of five percent (5%) of the daily fee referred to in sub-paragraph (b) of this Clause; 6. Any taxes properly levied in the Country on payments made to the Member (unless a national or permanent resident of the Country) under this Clause 6.   The retainer and daily fees shall be as specified in the Dispute Board Agreement. Unless it specifies otherwise, these fees shall remain fixed for the first 24 calendar months, and shall thereafter be adjusted by agreement between the Employer, the Contractor and the Member, at each anniversary of the date on which the Dispute Board Agreement became effective.  If the parties fail to agree on the retainer fee or the daily fee, the appointing entity or official named in the Contract Data shall determine the amount of the fees to be used.  The Member shall submit invoices for payment of the monthly retainer and air fares quarterly in advance. Invoices for other expenses and for daily fees shall be submitted following the conclusion of a Site visit or hearing. All invoices shall be accompanied by a brief description of activities performed during the relevant period and shall be addressed to the Contractor.  The Contractor shall pay each of the Member’s invoices in full within 56 calendar days after receiving each invoice and shall apply to the Employer (in the Statements under the Contract) for reimbursement of one-half of the amounts of these invoices. The Employer shall then pay the Contractor in accordance with the Contract.  If the Contractor fails to pay to the Member the amount to which he/she is entitled under the Dispute Board Agreement, the Employer shall pay the amount due to the Member and any other amount which may be required to maintain the operation of the DB; and without prejudice to the Employer’s rights or remedies. In addition to all other rights arising from this default, the Employer shall be entitled to reimbursement of all sums paid in excess of one-half of these payments, plus all costs of recovering these sums and financing charges calculated at the rate specified in Sub-Clause 14.9 *[Delayed Payment]* of the Conditions of Contract.  If the Member does not receive payment of the amount due within 70 days after submitting a valid invoice, the Member may (i) suspend his/her services (without Notice) until the payment is received, and/or (ii) resign his/her appointment by giving notice under Clause 7 hereof. |
| Default and Termination | At any time: (i) the Employer and the Contractor may jointly terminate the Dispute Board Agreement by giving 42 days’ Notice to the Member; or (ii) the Member may resign as provided for in Clause 2.  If the Member fails to comply with the Dispute Board Agreement, the Employer and the Contractor may, without prejudice to their other rights, terminate it by Notice to the Member. The Notice shall take effect when received by the Member.  If the Employer or the Contractor fails to comply with the Dispute Board Agreement, the Member may, without prejudice to his other rights, terminate it by Notice to the Employer and the Contractor. The Notice shall take effect when received by them both.  Any such Notice, resignation and termination shall be final and binding on the Employer, the Contractor and the Member. However, a Notice by the Employer or the Contractor, but not by both, shall be of no effect.  If the Member fails to comply with any of his obligations under Clause 4 (a) - (d) above, he shall not be entitled to any fees or expenses hereunder and shall, without prejudice to their other rights, reimburse each of the Employer and the Contractor for any fees and expenses received by the Member and the Other Members (if any), for proceedings or decisions (if any) of the DB or the Operation Service DB which are rendered void or ineffective by the said failure to comply.  If the Member fails to comply with any of his obligations under Clause 4 (e) - (k) above, he shall not be entitled to any fees or expenses hereunder from the date and to the extent of the non-compliance and shall, without prejudice to their other rights, reimburse each of the Employer and the Contractor for any fees and expenses already received by the Member, for proceedings or decisions (if any) of the DB which are rendered void or ineffective by the said failure to comply. |
| Disputes | Any Dispute or claim arising out of or in connection with this Dispute Board Agreement, or the breach, termination or invalidity thereof, shall be finally settled by institutional arbitration. If no other arbitration institute is agreed, the arbitration shall be conducted under the Rules of Arbitration of the International Chamber of Commerce by one arbitrator appointed in accordance with these Rules of Arbitration. |

**PROCEDURAL RULES FOR DISPUTE BOARD MEMBERS**

1. Unless otherwise agreed by the Employer and the Contractor, the DB shall visit the Site at intervals of not more than 140 days, including times of critical construction events, at the request of either the Employer or the Contractor. Unless otherwise agreed by the Employer, the Contractor and the DB, the period between consecutive visits shall not be less than 70 days, except as required to convene a hearing as described below.
2. The timing of and agenda for each Site visit shall be as agreed jointly by the DB, the Employer and the Contractor, or in the absence of agreement, shall be decided by the DB. The purpose of Site visits is to enable the DB to become and remain acquainted with the progress of the Works and of any actual or potential problems or claims, and, as far as reasonable, to endeavour to prevent potential problems or claims from becoming Disputes.
3. Site visits shall be attended by the Employer, the Contractor and the Employer's Representative and shall be co‑ordinated by the Employer in co-operation with the Contractor. The Employer shall ensure the provision of appropriate conference facilities and secretarial and copying services. At the conclusion of each Site visit and before leaving the Site, the DB shall prepare a report on its activities during the visit and shall send copies to the Employer and the Contractor.
4. The Employer and the Contractor shall furnish to the DB one copy of all documents which the DB may request, including Contract documents, progress reports, variation instructions, certificates and other documents pertinent to the performance of the Contract. All communications between the DB and the Employer or the Contractor shall be copied to the other Party. If the DB comprises three persons, the Employer and the Contractor shall send copies of these requested documents and these communications to each of these persons.
5. If any Dispute is referred to the DB in accordance with Sub-Clause 20.6 [Obtaining Dispute Board’s Decision] or Sub-Clause 20.10 *[Disputes Arising during the Operation Service Period]* of the General Conditions of Contract, the DB shall proceed in accordance with the said Sub-Clauses 20.6 and 20.10, and these Rules, or as otherwise agreed by the Employer and the Contractor in writing. Subject to the time allowed to give Notice of a decision and other relevant factors, the DB shall:
   1. Act fairly and impartially as between the Employer and the Contractor, giving each of them a reasonable opportunity of putting his case and responding to the other’s case; and
   2. Adopt procedures suitable to the Dispute, avoiding unnecessary delay or expense.
6. The DB may conduct a hearing on the Dispute, in which event it will decide on the date and place for the hearing and may request that written documentation and arguments from the Employer and the Contractor be presented to it prior to or at the hearing.
7. If, within 14 days after giving its decision, the members of the DB find and agree that such decision contained errors of fact or principle, the Chairman of the DB (or the sole Member if applicable) shall advise the Employer and the Contractor of the error and issue an addendum to its decision in writing to both Parties.
8. If, within 14 days of receiving a decision from the DB, either Party believes that such decision contains an ambiguity, that Party may seek clarification from the DB in writing with a copy of such request to the other Party. Within 14 days of receiving such a request, the DB shall respond with a copy to the other Party, and if the DB is of the opinion that the decision did contain an error or ambiguity, it may correct its decision by issuing an addendum to its original decision.
9. Except as otherwise agreed in writing by the Employer and the Contractor, the DB shall have power to adopt an inquisitorial procedure, to refuse admission to hearings or audience at hearings to any persons other than representatives of the Employer, the Contractor and the Employer's Representative, and to proceed in the absence of any party who the DB is satisfied received Notice of the hearing; but shall have discretion to decide whether and to what extent this power may be exercised.
10. The Employer and the Contractor empower the DB, among other things, to:
11. Establish the procedure to be applied in deciding a Dispute;
12. Decide upon the DB’s own jurisdiction, and as to the scope of any Dispute referred to it;
13. Conduct any hearing as it thinks fit, not being bound by any rules or procedures other than those contained in the Contract and these Rules;
14. Take the initiative in ascertaining the facts and matters required for a decision;
15. Make use of its own specialist knowledge, if any;
16. Decide upon the payment of financing charges in accordance with the Contract;
17. Decide upon any provisional relief such as interim or conservatory measures; and
18. Open up, review and revise any certificate, decision, determination, instruction, opinion or valuation of the Employer's Representative, relevant to the Dispute.
19. The DB shall not express any opinions during any hearing concerning the merits of any arguments advanced by the Parties. Thereafter, the DB shall make and give its decision in accordance with Sub-Clause 20.6 *[Obtaining Dispute Board's Decision]*, or as otherwise agreed by the Employer and the Contractor in writing. If the DB comprises three persons:
20. It shall convene in private after a hearing, in order to have discussions and prepare its decision;
21. It shall endeavour to reach a unanimous decision: if this proves impossible the applicable decision shall be made by a majority of the Members, who may require the minority Member to prepare a written report for submission to the Employer and the Contractor; and
22. If a Member fails to attend a meeting or hearing, or to fulfil any required function, the other two Members may nevertheless proceed to make a decision; unless:
23. Either the Employer or the Contractor does not agree that they do so; or
24. The absent Member is the chairman and he/she instructs the other Members not to make a decision.

APPENDIX B –   
AFD Policy – Prohibited Practices - Environmental and social responsibility

*[The content of this Appendix B depends on the signing date of the AFD Financing Agreement that covers all or part of the financing of this Contract.*

* *For all contracts financed by AFD through a Financing Agreement signed before the 1st of February 2024, the Contracting Authority will select the content of OPTION A and remove the OPTION B;*
* *For all contracts financed by AFD through a Financing Agreement signed on or after the 1st of February 2024, the Contracting Authority will select the content of OPTION B and remove the OPTION A. ]*

*[****OPTION A – Version to be maintained for any Contract financed with an AFD Financing Agreement signed before the 1st of February 2024.***

*(Otherwise, delete this section and keep only the OPTION B below)*

1. **Corrupt and Fraudulent Practices**

The Contracting Authority and the suppliers, contractors, subcontractors, consultants or subconsultants must observe the highest standard of ethics during the procurement process and performance of the contract. The Contracting Authority means the Purchaser, the Employer, the Client, as the case may be, for the procurement of goods, works, plants, consulting services or non-consulting services.

By signing the Statement of Integrity the suppliers, contractors, subcontractors, consultants or subconsultants declare that (i) “it did not engage in any practice likely to influence the contract award process to the Contracting Authority’s detriment, and that it did not and will not get involved in any anti-competitive practice”, and that (ii) “the procurement process and the performance of the contract did not and shall not give rise to any act of corruption or fraud”.

Moreover, AFD requires including in the Procurement Documents and AFD‑financed contracts a provision requiring that suppliers, contractors, subcontractors, consultants or subconsultants will permit AFD to inspect their accounts and records relating to the procurement process and performance of the AFD‑financed contract, and to have them audited by auditors appointed by AFD.

AFD reserves the right to take any action it deems appropriate to check that these ethics rules are observed and reserves, in particular, the rights to:

1. Reject a proposal for a contract award if it is established that during the selection process the bidder or consultant that is recommended for the award has been convicted of corruption, directly or by means of an agent, or has engaged in fraud or anti-competitive practices in view of being awarded the Contract;
2. Declare misprocurement when it is established that, at any time, the Contracting Authority, the suppliers, contractors, subcontractors, consultants or subconsultants their representatives have engaged in acts of corruption, fraud or anti-competitive practices during the procurement process or performance of the contract without the Contracting Authority having taken appropriate action in due time satisfactory to AFD to remedy the situation, including by failing to inform AFD at the time they knew of such practices.

AFD defines, for the purposes of this provision, the terms set forth below as follows:

1. Corruption of a Public Officer means:

* The act of promising, offering or giving to a Public Officer, directly or indirectly, an undue advantage of any kind for himself or for another Person[[60]](#footnote-60) or entity, for such Public Officer to act or refrain from acting in his official capacity; or
* The act by which a Public Officer solicits or accepts, directly or indirectly, an undue advantage of any kind for himself or for another Person or entity, for such Public Officer to act or refrain from acting in his official capacity.

1. A Public Officer shall be construed as meaning:

* Any person who holds a legislative, executive, administrative or judicial mandate (within the country of the Contracting Authority) regardless of whether that natural Person was nominated or elected, regardless of the permanent or temporary, paid or unpaid nature of the position and regardless of the hierarchical level the natural Person occupies;
* Any other natural Person who performs a public function, including for a State institution or a State‑owned company, or who provides a public service;
* Any other natural Person defined as a Public Officer by the national laws of the country of the Contracting Authority.

1. Corruption of a Private Person[[61]](#footnote-61) means:

* The act of promising, offering or giving to any Private Person, directly or indirectly, an undue advantage of any kind for himself or for another Person or entity, for such Private Person to perform or refrain from performing any act in breach of its legal, contractual or professional obligations; or;
* The act by which any Private Person solicits or accepts, directly or indirectly, an undue advantage of any kind for himself or for another Person or entity, for such Private Person to perform or refrain from performing any act in breach of its legal, contractual or professional obligations.

1. Fraud means any dishonest conduct (act or omission), whether or not it constitutes a criminal offence, deliberately intended to deceive others, to intentionally conceal items, to violate or vitiate consent, to circumvent legal or regulatory requirements and/or to violate internal rules in order to obtain illegitimate profit.
2. Anti‑competitive practices mean:

* Any concerted or implied practices which have as their object or effect the prevention, restriction or distortion of competition within a marketplace, especially where they (i) limit access to the marketplace or free exercise of competition by other undertakings, (ii) prevent free, competition-driven price determination by artificially causing price increases or decreases, (iii) restrict or control production, markets, investments or technical progress; or (iv) divide up market shares or sources of supply;
* Any abuse by one undertaking or a group of undertakings which hold a dominant position on an internal market or on a substantial part of it;
* Any practice whereby prices are quoted or set unreasonably low, the object of which is to eliminate an undertaking or any of its products from a market or to prevent it from entering the market.

1. **Environmental and social responsibility**

In order to promote sustainable development, AFD seeks to ensure that internationally recognised environmental and social standards are complied with. Suppliers, contractors, subcontractors, consultants or subconsultants for AFD‑financed contracts shall consequently undertake in the Statement of Integrity to:

1. Comply with and ensure that all their subcontractors or subconsultants comply with international environmental and labour standards, consistent with applicable law and regulations in the country of implementation of the contract, including the fundamental conventions of the International Labour Organisation (ILO) and international environmental treaties;
2. Implement environmental and social risks mitigation measures when specified in the environmental and social management plan (ESMP) provided by the Contracting Authority.

*End of OPTION A]*

*[****OPTION B – Version to be maintained for any Contract financed with an AFD Financing Agreement signed on or after the 1st of February 2024.***

*(Otherwise, delete this section and keep only the OPTION A above)*

* + - 1. **Prohibited Practices**

The Contracting Authority and the suppliers, contractors, subcontractors, consultants or subconsultants shall respect the highest ethical principles during the procurement and performance of Contracts.

For the purpose of this provision, AFD introduces the concept of Prohibited Practices, reffering to acts as defined in the “General Policy to Prevent and Combat Prohibited Practices”[[62]](#footnote-62) available on the AFD website and in the document titled “Procurement Guidelines for AFD-Financed Contracts in Foreign Countries”[[63]](#footnote-63).

By signing the Statement of Integrity the suppliers, contractors, subcontractors, consultants or subconsultants declare that they have not engaged, nor will they engage, in any Prohibited Practices during the procurement and execution of the Contract.

A Person[[64]](#footnote-64) or any of its subcontractors, Directors[[65]](#footnote-65), employees or agents (be it declared or not), may not be awarded an AFD‑financed Contract if on the date of submission of its Application, Bid, Proposal or Quotation, or at any time between this date and that of the corresponding Contract award, it has engaged in a Prohibited Practice, directly or by means of an agent (be it declared or not), for the purpose of being awarded this Contract.

Moreover, AFD requires including in the procurement documents and AFD‑financed contracts a provision requiring that applicants, bidders, suppliers, contractors, subcontractors, consultants or subconsultants will permit AFD to investigate, including the inspection of their accounts and records relating to the procurement process and performance of the AFD‑financed contract, and to have them audited by auditors appointed by AFD.

For the purpose of detecting and effectively combating Prohibited Practices, AFD has established a whistleblowing mechanism open to third parties: anyone can thereby directly report an allegation of a Prohibited Practice to AFD’s Investigations Function, either:

* By e-mail, to the address [investigationsGroupeAFD@tutanota.com](mailto:investigationsGroupeAFD@tutanota.com), or
* By sending a letter to AFD’s Compliance Department, 5 rue Roland Barthes, 75012 Paris.

## **Environmental, Social, Health and Safety (ESHS) Responsibility, and Security**

In order to promote sustainable development, AFD seeks to ensure that internationally recognized ESHS standards are complied with in the Contracts it finances. Consequently, the applicants, bidders, consultants and their subcontractors shall undertake, by signing the Statement of Integrity, to:

1. Comply with the environmental standards recognized by the international community, including the international conventions for the protection of the environment and, in particular, take all reasonable steps to avoid or limit negative effects on vegetation, biodiversity, soils, groundwater and surface water, and on persons and property resulting from pollution, noise, vibration, traffic and other effects resulting from our activities, in accordance with the laws and regulations applicable in the country of performance of the Contract.
2. Implement measures to mitigate environmental and social risks when they are indicated in the environmental and social management plan provided by the Contracting Authority, and ensure that the emissions, surface discharge and effluents produced by our activities respect the limits, specifications or requirements applicable to the Contract.
3. Respect the rights of workers related to wages, working hours, rest periods and vacations, overtime, minimum age, regular payments, compensation and benefits, in accordance with the standards recognized by the international community, including the fundamental conventions of the International Labour Organization (ILO), in accordance with the laws and regulations applicable in the country of performance of the Contract; indicate these elements in a document annexed to the employment contracts of our employees and made available to the Contracting Authority; and respect and facilitate the rights of workers to organize themselves and set up a complaints management mechanism for direct or indirect workers.
4. Implement practices for non-discrimination and equal opportunities, and ensure the prohibition of child labor and forced labor.
5. Keep a record for each member of the local staff recording the hours worked by each person, the type of work, the wages paid and the training undertaken, and ensure that these records are available at all times to be inspected by the Contracting Authority and the authorized representatives of the government, in accordance with the laws and regulations applicable to the protection of personal data in the country of performance of the Contract.

*End of OPTION B]*

APPENDIX C –   
Eligibility Criteria

**Eligibility in AFD‑Financed Procurement**

*[The content of this Appendix C – Eligibility Criteria depends on the signing date of the AFD Financing Agreement that covers all or part of the financing of this Contract.*

* *For all contracts financed by AFD through a Financing Agreement signed before the 1st of February 2024, the Contracting Authority will select the content of OPTION A and remove the OPTION B;*
* *For all contracts financed by AFD through a Financing Agreement signed on or after the 1st of February 2024, the Contracting Authority will select the content of OPTION B and remove the OPTION A. ]*

*[****OPTION A – Version to be maintained for any Contract financed with an AFD Financing Agreement signed before the 1st of February 2024.***

*(Otherwise, delete this section and keep only the OPTION B below)*

1. Financing allocated by AFD to a Contracting Authority has been entirely untied since 1st January 2002. To the exception of any equipment or any sector which is subject to an embargo by the United Nations, the European Union or France, all goods, works, plants, consulting services and non-consulting services are eligible for AFD financing regardless of the country of origin of the supplier, contractor, subcontractor, consultant or subconsultant inputs or resources used in the implementation processes. The Contracting Authority means the Purchaser, the Employer, the Client, as the case may be, for the procurement of goods, works, plants, consulting services or non-consulting services.
2. Natural or legal Persons[[66]](#footnote-66) (including all members of a joint venture or any of their suppliers, contractors, subcontractors, consultants or subconsultants) shall not be awarded an AFD‑financed contract if, on the date of submission of an application, a bid or a proposal, or on the date of award of a contract, they:

2.1 Are bankrupt or being wound up or ceasing their activities, are having their activities administered by the courts, have entered into receivership, or are in any analogous situation arising from a similar procedure;

2.2 Have been:

1. convicted, within the past five years by a court decision, which has the force of res judicata in the country where the contract is implemented, of fraud, corruption or of any other offense committed during a procurement process or performance of a contract, unless they provide supporting information together with their Statement of Integrity (Form available as Appendix to the Application, Bid or Proposal Submission Form) which shows that this conviction is not relevant in the context of the Contract;
2. subject to an administrative sanction within the past five years by the European Union or by the competent authorities of the country where they are constituted, for fraud, corruption or for any other offense committed during a procurement process or performance of a contract, unless they provide supporting information together with their Statement of Integrity (Form available as Appendix to the Application, Bid or Proposal Submission Form) which shows that this sanction is not relevant in the context of the Contract;
3. convicted, within the past five years by a court decision, which has the force of res judicata, of fraud, corruption or of any other offense committed during the procurement process or performance of an AFD‑financed contract;

2.3 Are listed for financial sanctions by the United Nations, the European Union and/or France for the purposes of fight-against-terrorist financing or threat to international peace and security;

2.4 Have been subject within the past five years to a contract termination fully settled against them for significant or persistent failure to comply with their contractual obligations during contract performance, unless this termination was challenged and dispute resolution is still pending or has not confirmed a full settlement against them;

2.5 Have not fulfilled their fiscal obligations regarding payments of taxes in accordance with the legal provisions of either the country where they are constituted or the Contracting Authority's country;

2.6 Are subject to an exclusion decision of the World Bank and are listed on the website <http://www.worldbank.org/debarr>, unless they provide supporting information together with their Statement of Integrity (Form available as Appendix to the Application, Bid or Proposal Submission Form) which shows that this exclusion is not relevant in the context of the Contract;

2.7 Have created false documents or committed misrepresentation in documentation requested by the Contracting Authority as part of the procurement process of the Contract.

1. State-owned entities may compete only if they can establish that they (i) are legally and financially autonomous, and (ii) operate under commercial law. To be eligible, a state-owned entity shall establish to AFD’s satisfaction, through all relevant documents, including its Charter and other information AFD may request, that it: (i) is a legal entity separate from their state (ii) does not currently receive substantial subsidies or budget support; (iii) operates like any commercial enterprise, and, inter alia, is not obliged to pass on its surplus to their state, can acquire rights and liabilities, borrow funds and be liable for repayment of its debts, and can be declared bankrupt.

*End of OPTION A]*

*[****OPTION B – Version to be maintained for any Contract financed with an AFD Financing Agreement signed on or after the 1st of February 2024.***

*(Otherwise, delete this section and keep only the OPTION A above)*

1. Financing allocated by AFD to a Contracting Authority has been entirely untied since 1st January 2002. To the exception of any equipment or any sector which is subject to an embargo by the United Nations, the European Union or France, all goods, works, plants, consulting services and non-consulting services are eligible for AFD financing regardless of the country of origin of the supplier, contractor, subcontractor, consultant or subconsultant inputs or resources used in the implementation processes.
2. A Person[[67]](#footnote-67) may not be awarded an AFD‑financed Contract if, on the date of submission of its Application, Bid, Proposal or Quotation, or at any time between this date and that of the corresponding Contract award, it or any of its subcontractors, Directors[[68]](#footnote-68), employees or agents (be it declared or not):
   1. Is bankrupt, being wound up or ceasing its activities, is having its activities administered by the courts, has entered into receivership, or is in any analogous situation arising from any similar procedure;
   2. Has, within the past five years, been subject to a final administrative sanction, a final conviction issued by a competent authority, or any other non-court resolution[[69]](#footnote-69) having notably an extinctive effect on public action, either (i) in the country of constitution of the Person, (ii) in the country of performance of the Contract, (iii) in the context of the procurement or performance of an AFD-financed Contract, (iv) pronounced by a European Union institution or (v) pronounced by a competent authority in France, for:
3. Prohibited Practices[[70]](#footnote-70), or any other offence committed in the context of the procurement or performance of a Contract, subject to additional information, such as a compliance program, that such Person (or, respectively, their subcontractor, Director, employee or agent) may consider useful to provide in the context of the Statement of Integrity, that would give grounds to consider that this sanction, conviction or other resolution is not relevant in the context of the present Contract;
4. Participation in a criminal organization, terrorist offences or offences related to terrorist activities, child labor, or other offences related to human trafficking;
5. Having created an entity in a different jurisdiction with the intention of avoiding tax or social obligations, or any other legal obligation applicable in the jurisdiction where it has its registered office, its central administration or its principal place of business, or for being an entity created with the intention of avoiding such obligations;
   1. Has been subject to a termination fully settled against it within the past five years due to a significant or persistent breach of its contractual obligations during the performance of a Contract, unless (i) such termination was challenged and (ii) dispute resolution is still pending or has not confirmed a full settlement against it.;
   2. Has been declared ineligible by one of the multilateral development banks signatories to the Mutual Recognition Agreement of 9 April 2010.[[71]](#footnote-71) In the event of such ineligibility, the Person may attach additional information to the Statement of Integrity that would give grounds to consider that this ineligibility is not relevant in the context of this Contract;
   3. Has not fulfilled their obligations relating to the payment of their taxes or social contributions, in accordance with the legal provisions of their country of incorporation, or those of the country of the Contracting Authority;
   4. Has produced falsified documents or has been guilty of misrepresentation when providing the information requested by the Contracting Authority in the context of the procurement and award process for this Contract.

3. In addition, a Person may not be awarded an AFD‑financed Contract if, on the date of submission of its Application, Bid, Proposal or Quotation, or at any time between this date and that of the corresponding Contract award, it or any of its subcontractors, Directors, employees, agents (be it declared or not), direct or indirect shareholders, or subsidiaries, acting with its knowledge or consent:

3.1 Is directly or indirectly subject to, controlled by a person or an entity subject to, or acting in the name or on behalf of a person or entity subject to individual sanctions measures adopted by the United Nations, the European Union and/or France;

3.2 Is directly or indirectly subject to, controlled by a person or an entity subject to, or acting in the name or on behalf of a person or entity subject to sectoral sanctions measures adopted by the United Nations, the European Union and/or France;

3.3 Is ineligible for the implementation of the Project by way of any other international sanctions measures pronounced by the United Nations, the European Union or France.

1. State-owned entities may compete only if they can establish that they (i) are legally and financially autonomous, and (ii) operate under commercial law. To be eligible, a state-owned entity shall establish to AFD’s satisfaction, through all relevant documents, including its Charter and other information AFD may request, that it: (i) is a legal entity separate from their state (ii) does not currently receive substantial subsidies or budget support; (iii) operates like any commercial enterprise, and, inter alia, is not obliged to pass on its surplus to their state, can acquire rights and liabilities, borrow funds and be liable for repayment of its debts, and can be declared bankrupt.

*End of OPTION B]*

Section IX – Particular Conditions of Contract  
(PCC)

**INTRODUCTION**

The **Conditions of Contract comprise the "General Conditions"**, which form part of the "Conditions of Contract for Design, Build and Operate Projects First Edition 2008" published by the Fédération Internationale des Ingénieurs-Conseils (FIDIC), **"Particular Conditions Part A - Contract Data" and "Particular Conditions Part B – Special Provisions"**, which include amendments and additions to the General Conditions.

The provisions in the Particular Conditions Part B – Special Provisions take precedence over the equivalent provisions under the same Sub-Clause number(s) in the General Conditions, and the provisions of the Particular Conditions Part A – Contract Data take precedence over the Particular Conditions Part B – Special Provisions. Any other parts of the General Conditions not referred to in the following Particular Conditions Part B – Special Provisions, shall remain unchanged and valid for the application of the Contract.

**Table of Contents**

Part A – Contract Data 156

Part B – Specific Provisions 164

Part A – Contract Data

| **Conditions** | **Sub‑Clause** | **Data** |
| --- | --- | --- |
| **Contract name and identification** | N/A | *[insert the Contract name and identification number]* |
| **Contractor’s Key Personnel names and contact details:** | 1.1.21 & 6.9 | *[insert the name, email address and telephone number of each of the Contractor’s Key Personnel to the extent agreed by the Employer prior to Contract signature]* |
| **Cut‑Off Date (number of days after the Time for Completion of Design-Build):** | 1.1.26 | \_\_\_\_\_\_\_ days *[insert number of days]* |
| **Employer's name and address:** | 1.1.32 | *[insert the full name and address (street, number, city or town, country]* |
| **Employer’s Representative’s name and address:** | 1.1.35 |  |
| * **For the Design Build Period:** |  | *[insert the full name and address (street, number, city or town, country]* |
| * **For the Operation Service Period:** |  | *[insert the full name and address (street, number, city or town, country]* |
| **Parts of the Works that shall be designated a Section for the purposes of the Contract:** | 1.1.70 | If Sections are to be used, refer to Table: Summary of Sections below. |
| **Time for Completion of Design‑Build:** | 1.1.78 & 9.2 | \_\_\_\_\_\_\_\_ days *[insert number of days]* |
| **Time for completion of each Section:** | 1.1.78 & 9.2 | If Sections are to be used, refer to Table: Summary of Sections below. |
| **ESHS Specifications:** | 1.1.88 | **ESHS Specifications are applicable:**  **Yes 🗹** / No 🞏  *[An AFD agreement is required to check "No".*  *ESHS Specifications are not applicable for works with minor environmental, social, health and safety impact and risk.]* |
| **Agreed systems of electronic transmission:** | 1.3 | *[insert electronic transmission systems authorized under the Contract, such as e-mails, or any electronic document management system]* |
| **Employer’s Representative contact details for communications:** | 1.3 |  |
| * **For the Design‑Build Period:** |  | *[insert name, title of Employer's Representative, email address and telephone number]* |
| * **For the Operation Service Period:** |  | *[insert name, title of Employer's Representative, email address and telephone number]* |
| **Contractor's name and address for communications:** | 1.3 | *[insert the full name and address of Contractor (street, number, city or town, country]* |
| **Governing Law:** | 1.4 | Contract shall be governed by the law of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *[insert the country].* |
| **Ruling Language:** | 1.4 | *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [Insert the ruling language]* |
| **Language for communications:** | 1.4 | *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [Insert the language for communications]* |
| **Time for access to the Site:** | 2.1 | No later than the Commencement Date, except for the following parts (if applicable), with detailed description of the parts concerned:\_\_\_\_\_\_\_\_\_\_\_\_ days after Commencement Date.  *[specify the right of access to the Site regarding special elements, with details of their time and manner.]*  *[If several Sections are used, and if one single time for access to all is not possible, indicate here the different times for access (one time per Section is recommended as a maximum), or in the Summary of Sections below by adding one extra column.]* |
| **Employer's Representative's Duties and Authority:** | 3.1 | *[The Employer may decide to limit the authority of the Employer's Representative by possibly selecting one or several of the options below, and/or adding further restrictions to the extent deemed necessary:]*  The Employer's Representative shall obtain the specific approval of the Employer in the following instances (checked boxes):   * Issuing any instruction resulting in substantial changes to the Works, or an increase of the Contract Price and/or an extension of the Time for Completion; * Proceeding to Determination under Sub‑Clause 3.5; * Issuing Interim Payment Certificate under Sub‑Clause 14.7; * Issuance of a Commissioning Certificate under Clause 10; * Instructing a Variation under Sub‑Clause 13.1, and/or approving a proposal for Variation under Sub‑Clause 13.3 submitted by the Contractor in accordance with Sub‑Clause 13.1 or 13.2; * Specifying the amount payable in each of theapplicable currencies under Sub‑clause 13.4; * Acting under Sub‑Clause 10.4; * Instruction for use of Provisional Sums under Sub‑Clause 13.5. |
| **Performance Security:** | 4.2 | The Performance Security will be in the form of a demand guarantee in the amount(s) of *[insert related figure, between 5 and 10]* percent of the Accepted Contract Amount for the Design Build and in the same currency(ies) of the Accepted Contract Amount. |
| **Reduction in Performance Security at the end of the Retention Period:** | 4.2 | *[Insert percentage, normally 50%]* |
| **Subcontractors:** | 4.4 | Direct payment of Subcontractors is allowed:  🞏 yes / 🞏 no *[select the appropriate option]*  *[Provisions for direct payment by the Employer for work carried out by Subcontractors ensure the said Subcontractors that they will be paid in the same manner as the Contractor when they have completed the tasks assigned to them. The sub-contracted work for which direct payment is foreseen may be identified in the bid. When a Subcontractor is appointed after Contract signing, its approval by the Employer and the agreed terms of direct payment require to be recorded in an amendment or addendum to the Contract.]* |
| **Nominated Subcontractors** | 4.5 | The Employer intends to have certain specific parts of the Works executed by the following nominated Subcontractors*: [list the specific parts of the Works and the respective Subcontractors, otherwise specify "None"]* |
| **Employer's Equipment and Free-Issue Materials** | 4.20 | Details, arrangements, prices, and responsibility of the Employer's Equipment available for the use of the Contractors are:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Free‑issue materials supplied by the Employer are (if any):\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  *[if not applicable, delete entire Sub‑Clause]* |
| **Period for notification of errors, faults and other defects in the Employer's Requirements:** | 5.1 | \_\_\_\_\_\_\_\_\_\_\_\_ *[insert the number of days, at least 90 days]* days after the Commencement Date. |
| **Contractor's Documents requiring approval.** | 5.2 | *[The Employer may decide to require the provision of documents by selecting one or several of the following documents and/or adding documents as appropriate and as specified in the Employer's Requirements; otherwise, delete.]*  In addition to the documents listed in the Employer's Requirements, the Contractor shall provide the following documents as part of the Contract:   1. Shop drawings to be approved by the Employer's Representative prior to starting the Works; 2. As-built drawings to be approved by the Employer's Representative prior to completion of the Works; and 3. Operation and maintenance manuals. |
| **Normal working hours on the Site:** | 6.5 | \_\_\_\_\_\_\_\_\_\_ *[insert the normal working hours]* |
| **Locally recognized days of rest** | 6.5 | \_\_\_\_\_\_\_\_\_\_\_\_ *[insert the locally recognized days of rest]* |
| **Royalties** | 7.8 | *[insert if different from GCC 7.8, otherwise delete]*  The Contractor shall pay royalties, rents and other payments for:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Operation Service Period:** | 8.2 | \_\_\_\_\_\_\_\_ months *[insert number of months].*  *[These Conditions of contract allow for Operation Service Period up to 60 months, i.e. 5 years]* |
| **Extension of Time for Completion of Design-Build / Exceptionally adverse climatic conditions** | 9.3 | The following climate conditions are considered as exceptionally adverse for the purpose of an extension of the Time for Completion:   * Rainfall: *[Specify intensity and duration]* * Wind speed*: [Specify intensity and duration]* * Temperature: *[Specify intensity and duration]* * Etc. *[add additional items as appropriate]*   *[In order to establish whether such climatic conditions occurred, it may be appropriate to compare the adverse climatic conditions with the frequency with which events of similar adversity have previously occurred at or near the Site. An exceptional degree of adversity might, for example, be regarded as one which has a probability of occurrence of four or five times the Time for Completion of the Design-Build of the Works (for example, once every eight to ten years for a two-year Time for Completion).]* |
| **Amount of delay damages** | 9.6 | \_\_\_\_\_\_\_\_ % *[insert percentage, usually around 10/00]* of the Accepted Contract Amount for Design-Build. |
| **Maximum amount of delay damages:** | 9.6 | *[10]*% of the Accepted Contract Amount for Design‑Build. |
| **Commencement of Operation Service** | 10.2 | *[insert if different from GCC 10.2, otherwise delete]*  The Commencement of the Operation Service shall be*:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* |
| **Maximum amount of compensation payable by Contractor:** | 10.6(a) | \_\_\_\_\_\_\_\_\_\_\_\_ *[insert the amount, usually 100% of the Accepted Contract Amount]* |
| **Maximum amount of compensation payable by Employer:** | 10.6(b) | \_\_\_\_\_\_\_\_\_\_\_\_ *[insert the amount, usually 100% of the Accepted Contract Amount]* |
| **Period after the Employer may act according to Sub‑Clause 10.7(b)** | 10.7 | *\_\_\_\_\_\_\_\_\_\_\_\_ [insert the number of days if different from 84, otherwise delete]* |
| **Percentage rate to be applied to Provisional Sums:** | 13.5 | *[If there are Provisional Sums, insert a percentage for overhead charges and profit]*  *[15]%.* |
| **Contract Price and Rates and Prices to be adjusted for changes in cost as further detailed in the Schedule of Payments:** | 13.8 |  |
| 1. **Design‑Build** |  | 🞏 Yes / 🞏 No *[select the appropriate option]* |
| 1. **Operation Service** |  | 🞏 Yes / 🞏 No *[select the appropriate option]* |
| **The Contract Price:** | 14.1 | The following taxes, duties and fees exemptions apply to the Contract: *[Insert if applicable in accordance with BDS 17.10].*  *[Insert if relevant, otherwise delete:]*  Notwithstanding the provisions of the previous paragraph, Contractor's Equipment, including essential spare parts therefor, imported by the Contractor for the sole purpose of executing the Contract shall be exempt from the payment of import duties and taxes upon importation. |
| **Amount of Advance Payment (percent of Accepted Contract Amount for the Design-Build):** | 14.2 | Percentage of the Accepted Contract Amount for the Design‑Build payable in the currencies and proportions in which the Accepted Contract Amount for the Design-Build is payable:  *[Insert number between 10 and 20 and timing of instalments if applicable]* |
| **Percentage deductions for the repayment of the Advance Payment:** | 14.2 | \_\_\_\_\_% *[Twice the percentage of the Advance Payment]* |
| **Requirements for submission of Statements if different from the GCC and PCC:** | 14.3 | *\_\_\_\_\_\_\_\_ [insert the number of copies if different to 5 copies + digital copy if relevant]* |
| **Percentage of Retention:** | 14.3 | *\_\_\_\_\_\_\_% [Insert percentage of retention, between 5 and 10].* |
| **Limit of Retention Money:** | 14.3 | \_\_\_\_\_\_\_% of the Accepted Contract Amount *[insert percentage so that the aggregate amount of the Performance Security and the Retention Money shall not exceed 15% of the Accepted Contract Amount].* |
| **Minimum Amount of Interim Payment Certificate applicable for the Design-Build:** | 14.7(b) | \_\_\_\_\_\_\_ % of the Accepted Contract Amount *[Generally 1 to 2% of the Accepted Contract Amount]* |
| **Financing charges for delayed payment:** | 14.9 | The interest rate for payments in local currency is as per GCC 14.9.  The interest rate for payments in foreign currency is *[insert LIBOR + 200 bp].* |
| **Currencies, proportions and rates of exchange of Contract Price:** | 14.17 | *["As stated in the Appendix 1 to the Contract Agreement – Schedule of Payments or in the Price Schedules of this Contract."]* |
| **Currencies of Payment of damages shall be:** | 14.17 |  |
| * **During the Design-Build** |  | *["As stated in the Appendix 3 to the Contract Agreement –Performance Damages"]* |
| * **During the Operation Service:** |  | *["As stated in the Appendix 3 to the Contract Agreement –Performance Damages"]* |
| **Maximum total liability of the Contractor shall not exceed:** | 17.8 | \_\_\_\_\_\_\_\_\_\_\_\_ *[the default position is 100% of the Accepted Contract Amount]* |
| **Exceptional Risks:** | 18.1 | Events of high Influent turbidity in which the suspended solids exceed the value *[specify value]* are: *[insert events if any, otherwise delete].* |
| **Insurance for the Works ‑ Permitted deductible limits:** | 19.2(a)(i) | \_\_\_\_\_\_\_\_\_\_\_\_ *[insert the amount]* |
| **Insurance for the Works – Employer's Risks:** | 19.2(a)(4) | Employer’s Risks under GCC Sub‑Clause 17.1(b)(iii) to form part of the insurance cover provided by the Contractor:    *[List those operation of the forces of nature which are to be covered by the Contractor’s insurance for the Works; otherwise state "None"]* |
| **Insurance for the Works – Exceptional Risks:** | 19.2(a)(5) | Exceptional Event under GCC Sub‑Clause 18.1(f) to form part of the insurance cover provided by the Contractor:    *[List those natural catastrophes which are to be covered by the Contractor’s insurance for the Works; otherwise state "None"]* |
| **Insurance of Contractor’s Equipment (minimum amount required):** | 19.2(b) | *\_\_\_\_\_\_\_\_\_\_\_\_\_ [insert minimum amount of insurance]* |
| **Minimum amount of professional liability insurance required during the Design‑Build Period:** | 19.2(c) | *\_\_\_\_\_\_\_\_\_\_\_\_\_ [insert minimum amount of insurance]* |
| **Period for which professional liability insurance required during the Design‑Build Period:** | 19.2(c) | *\_\_\_\_\_\_\_\_\_\_\_\_\_ [insert Contract Period in years ‑ (Design‑Build Period + Operation Service Period) + the limitation in years defined by the governing law – as an example if the Contract Period is 7 years, and the local statute of limitation specifies that an action can be made within 5 years from a breach of contract, then the total period should be 7+5 = 12 years]* |
| **Minimum amount of insurance required for injury to persons and damage to property:** | 19.2(d) | *\_\_\_\_\_\_\_\_\_\_\_\_\_ [insert minimum amount of insurance]* |
| **Other insurances required by Law and by local practice from the Contractor during Design‑Build Period:** | 19.2(f) | *[insert details of the other insurances required, otherwise delete]* |
| **Minimum amount of fire extended cover insurance required:** | 19.3(a) | *\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [insert minimum amount of insurance]* |
| **Minimum amount of insurance required to cover injury to any person and damage to property:** | 19.3(b) | *\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [insert minimum amount of insurance]* |
| **Other insurances required by Law and by local practice from the Contractor during the Operation Service Period:** | 19.3(d) | *[insert details of the other insurances required otherwise delete]* |
| **Other optional operational insurances:** | 19.3(e) | *[insert details of the other insurances required such as Machinery Breakdown / Business Interruption, Loss of Profits, etc. - otherwise delete]* |
| **Minimum amount of professional liability insurance required during the Operation Service Period:** | 19.3(f) | *\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [insert minimum amount of insurance]* |
| **Period for which professional liability insurance required during the Operation Service Period:** | 19.3(f) | *\_\_\_\_\_\_\_\_\_\_\_\_\_ [insert Contract Period in years (Design‑Build Period + Operation Service Period) + the limitation in years defined by the governing law – as an example if the Contract Period is 7 years, and the local statute of limitation specifies that an action can be made within 5 years from a breach of contract, then the total period should be 7+5 = 12 years]* |
| **Date of appointment of the Dispute Board (or DB):** | 20.3 | 28 days after the Commencement Date. |
| **The DB shall be comprised of:** | 20.3 | *[Either:]* one sole Member  *[Or:]* three Members |
| **List of potential DB sole members:** | 20.4 | *[only when the Dispute Board is to be comprised of one sole member, list names of potential sole members; if no potential sole members are to be included, insert: "none"]* |
| **Appointing entity (official) for DB members, if not agreed between Parties:** | 20.4 | *[Insert name of the appointing entity or official ‑ by default this is the President of FIDIC, or a person appointed by him/her.]* |
| **Institution and rules administering the arbitration** | 20.8(a) | *[Insert institution and rules of arbitration if different from the International Chamber of Commerce]* |
| **The place of arbitration:** | 20.8(a) | *[Insert a neutral location, i.e. not located in the Employer’s country nor in the Contractor’s country]* |

**Table: Summary of Sections**

|  |  |  |
| --- | --- | --- |
| **Section Name/Description (Sub-Clause 1.1.70)** | **Time for Completion of Design Build (Sub-Clause 1.1.78)** | **Damages for Delay (Sub-Clause 9.6)** |
|  |  |  |
|  |  |  |
|  |  |  |

Part B – Specific Provisions

|  |  |  |
| --- | --- | --- |
| **CLAUSE 1: GENERAL PROVISIONS** | | |
| **Sub-Clause 1.1 ‑ Definitions** | | |
| **Sub‑Clause 1.1.1: Accepted Contract Amount** | | *Delete reference to* "Asset Replacement Fund". |
| **Sub-Clause 1.1.2: Asset Replacement Fund** | | *This Sub-Clause is not applicable, to be deleted.* |
| **Sub-Clause 1.1.3: Asset Replacement Schedule** | | *This Sub-Clause is not applicable, to be deleted.* |
| **Sub-Clause 1.1.4: Auditing Body** | | *This Sub-Clause is not applicable, to be deleted.* |
| **Sub-Clause 1.1.11: Contract Agreement** | | *Delete* "(if any)" *from the definition.* |
| **Sub-Clause 1.1.21: Key Personnel** | | *The following is added at the end of the sub-clause:* "Contractor’s Personnel includes Key Personnel as named in Part A - Contract Data." |
| **Sub‑Clause 1.1.24: Cost Plus Profit** | | *Add the following new paragraph to the end of the Sub-Clause:*  "In these Conditions, provisions including the expression "Cost plus profit" require this profit to be one-twentieth (5%) of this Cost." |
| **Sub-Clause 1.1.27: DAB** | | *The whole Sub-Clause is replaced with:*  "DB means the person or three persons appointed under Sub-Clause 20.3 *[Appointment of the Dispute Board]* or Sub-Clause 20.4 *[Failure to Agree on the Composition of the Dispute Board]* or Sub-Clause 20.10 *[Disputes Arising under the Operation Service Period]*". |
| **Sub-Clause 1.1.33: Employer's Equipment** | | *Delete* "Employer's Requirements" *and replace with* "Particular Conditions of Contract". |
| **Sub-Clause 1.1.49: Letter of Tender** | | *Insert* "or Letter of Bid" *after* "Letter of Tender". |
| **Sub-Clause 1.1.51: Maintenance Retention Fund and Maintenance Retention Guarantee** | | *This Sub-Clause is not applicable, to be deleted.* |
| **Sub-Clause 1.1.62: Plant** | | *Add to the end:* "…including vehicles purchased for the Employer and relating to the construction or operation of the Works." |
| **Sub‑Clause 1.1.66: Retention Period** | | *The following Sub-Clause is modified as follows:*  "**Retention Period**" means the period of 1 year after the date stated in the Commissioning Certificate. |
| **Sub-Clause 1.1.72: Site** | | *After* "are to be executed", ", including storage and working areas," *is added*. |
| **New Sub-Clause 1.1.84: Accepted Contract Amount for the Design Build** | | *The following is added as a new Sub-Clause:*  "1.1.84 **"Accepted Contract Amount for the Design Build"** means the amount accepted in the Letter of Acceptance for the Design-Build of the Works;" |
| **New Sub-Clause 1.1.85: Accepted Contract Amount for the Operation Service** | | *The following is added as a new Sub-Clause:*  "1.1.85 **"Accepted Contract Amount for the Operation Service"** means the amount accepted in the Letter of Acceptance for the provision of the Operation Service;" |
| **New Sub-Clause 1.1.86: AFD** | | *The following is added as a new Sub-Clause:*  "1.1.86 **"AFD"** means *Agence Française de Développement*, being specified that, according to French laws and regulations, AFD is not a bank but a Specialized Financial institution ("Institution Financière Spécialisée")". |
| **New Sub-Clause 1.1.87: EPP** | | *The following is added as a new Sub-Clause:*  "1.1.87 **"EPP"** stands for stands for Environmental Protection Plan, and has the meaning defined in the ESHS Specifications." |
| **New Sub-Clause 1.1.88: ESHS Specifications** | | *The following is added as a new Sub-Clause:*  "1.1.88 **"ESHS Specifications"** means the document entitled environmental, social, health and safety specifications, as included in the Employer's Requirements, and any additions and modifications to it in accordance with the Contract. Such document specifies the environmental, social, health and safety obligations of the Contractor." |
| **New Sub-Clause 1.1.89: Existing Facilities** | | *The following is added as a new Sub-Clause:*  "1.1.89 **"Existing Facilities"** means the existing plant, equipment, buildings and other assets at the Site to be taken oven and operated by the Contractor as further described in the Employer's Requirements." |
| **New Sub-Clause 1.1.90: Influent** | | *The following is added as a new Sub-Clause:*  "1.1.90 **"Influent"** means the untreated water/ wastewater entering the Works at the delivery point to the Works)." |
| **New Sub-Clause 1.1.91: Influent Baseline** | | *The following is added as a new Sub-Clause:*  "1.1.91 **"Influent Baseline"** means the quality characteristics of the untreated Influent as set out in the Employer's Requirements, used as the baseline for the design of the Works;" |
| **New Sub-Clause 1.1.93: Performance Guarantees** | | *The following is added as a new Sub-Clause:*  "1.1.93 **"Performance Guarantees"** means the standards to be achieved by the Contractor during the Operation Service Period and includes the standards specified in the Schedule of Performance Guarantees." |
| **New Sub-Clause 1.1.94: Project Area** | | *The following is added as a new Sub-Clause:*  "1.1.94 **"Project Area"** has the meaning defined in the ESHS Specifications." |
| **New Sub-Clause 1.1.95: Schedule of Performance Guarantees** | | *The following is added as a new Sub-Clause:*  "1.1.95 **"Schedule of Performance Guarantees"** means the schedule set out in Appendix 2 to the Contract Agreement specifying the core Performance Guarantees to be met by the Works and achieved by the Contractor at commissioning and throughout the whole Operation Service Period;" |
| **New Sub-Clause 1.1.96: Worksite ‑ ESMP** | | *The following is added as a new Sub-Clause:*  "1.1.96 **"Worksite ‑ ESMP"** stands for Worksite Environmental and Social Management Plan, and has the meaning defined in the ESHS Specifications." |
| **Sub-Clause 1.2: Interpretation** | | *The following is added at the beginning of the Sub-Clause:*  "Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of the Parties thereunder shall be prescribed by Incoterms. Incoterms means international rules for interpreting trade terms published by the International Chamber of Commerce (latest edition), 38 Cours Albert 1er, 75008 Paris, France".  *Add to the end of listing new items (g), (h) and (i):*  (g) "the word "Tender" is synonymous with "Bid" and "Tenderer" with "Bidder" and the words "Tender Documents" with "Bidding Documents";  (h) the words "Schedule of Guarantees" are synonymous with "Schedule of Performance Guarantees" under the Contract;  (i) the words "Contractor's Proposal" are synonymous with "Contractor's Technical Bid"." |
| **Sub-Clause 1.3: Notices and Other Communications** | | *In the first paragraph, delete* "…and requests…" *and replace with* "…requests and discharges…".  *Add the following at the end of item (c), after "Contract Data" and before ";":*  ". In case of electronic transmission, these communications shall be in the form of an un-editable record attached to an electronic mail, such as a PDF document for instance, and any other communication transmitted in a different manner, such as the email body text, shall not be construed as communication under the Contract;"  *Before the last paragraph, add the following sentence:*  "Delivery of communications, by any authorized method of transmission, shall be made against receipt." |
| **Sub-Clause 1.5: Priority of Documents** | | *At the end of sub-paragraph (a), delete* "(if any)". |
| **Sub-Clause 1.6: Contract Agreement** | | *In the first sentence delete* "…they agree otherwise." *and replace with:* "…these Particular Conditions establish otherwise." |
| **Sub-Clause 1.7: Operating License** | | *Delete the first two paragraphs and replace with the following:*  "In consideration of the Contractor’s performance of the Operation Service, from the date of commencement of the Operation Service the Employer grants to the Contractor for the Operation Service Period, the exclusive right, license and authority to occupy, use and enjoy the Site free of charge for the purposes of carrying the Operation Services.  Together with the Letter or Acceptance, the Employer shall, where necessary, issue, or cause to be issued, to the Contractor the Operating License or equivalent legal authorization to enable the Contractor to operate and maintain the Works during the Operation Service Period."  This Operating License shall come into full force and effect upon the issue of the Commissioning Certificate required under Clause 11.7 and shall remain in force during the Operation Service Period.” |
| **Sub-Clause 1.8: Assignment** | | *The whole sub-clause is replaced with the following:*  "(a) Except as provided in (b) and (c) below, neither Party shall assign the whole or any part of the Contract or any benefit or interest in or under the Contract without the consent of the other Party.  (b) The Contractor may as security in favour of a bank or financial institution, assign its right to any monies due, or to become due, under the Contract.  (c) During the Operation Service Period, the Employer may assign the whole of the Contract to any third party, subject to the following:  (i) The Employer shall provide at least 90 days’ written Notice to the Contractor of its intention to assign the Contract. Such Notice shall specify the financial arrangements that have been made for payment of the Contract Price to the Contractor.  (ii) The Employer shall not assign the Contract until reasonable evidence has been provided to the Contractor that financial arrangements have been made, and will be maintained, which will enable the third party to pay the Contract Price at the times and in the manner prescribed by the Contract. |
| **Sub-Clause 1.9: Care and Supply of Documents** | | *Delete the 2nd sentence of the 1st paragraph in its entirety, and replace it by:*  "The Contractor shall supply to the Employer's Representative each of the Contractor’s Documents in one (1) soft (digital) copy and two (2) hard (paper) copies".  *In the 1st sentence of the 2nd paragraph, delete* "Employer's Requirements" *and replace with* "Particular Conditions of Contract".  *In the last paragraph delete* "…of a technical nature…". |
| **Sub-Clause 1.13: Confidential Details** | | *Sub-Clause 1.13 is replaced with the following in its entirety:*  "1.13 **Confidential Details**  The Contractor’s Personnel and the Employer’s Personnel shall disclose all such confidential and other information as may be reasonably required in order to verify compliance with the Contract and allow its proper implementation.  Each of them shall treat the details of the Contract as private and confidential, except to the extent necessary to carry out their respective obligations under the Contract or to comply with applicable Laws. Each of them shall not publish or disclose any particulars of the Works prepared by the other Party without the previous agreement of the other Party. However:   1. The Contractor shall be permitted to disclose any publicly available information, or information otherwise required to establish his qualifications to compete for other projects; 2. The Employer shall be permitted to disclose any detail that the Contractor has not classified as confidential; and 3. Such restrictions shall not relate to the Employer, when exercising his rights under Sub-Clause 15.2 *[Termination for Contractor's Default]*." |
| **Sub-Clause 1.14: Compliance with Laws** | | *At the end of sub-paragraph (b) delete* "; and" *and add*: "…, unless the Contractor is impeded to accomplish these actions and shows evidence of its diligence; and" |
| **New Sub-Clause 1.16: Inspections and Audit by AFD** | | *The following is added as a new Sub-Clause:*  "1.16 **Inspections and Audit by AFD**  Pursuant to paragraph 2.2 e. of Appendix B to the General Conditions, the Contractor shall permit and shall cause its Subcontractors and subconsultants to permit, AFD and/or persons appointed by AFD to inspect the Site and/or the accounts and records relating to the procurement process, selection and/or Contract execution, and to have such accounts and records audited by auditors appointed by AFD if requested by AFD." |
| **New Sub‑Clause 1.17: Non Waiver** | | *The following is added as a new Sub-Clause:*  "1.17 **Non Waiver**  Except as otherwise specifically provided for in the Contract, no failure or delay by either Party in exercising any right or remedy provided by the Laws or pursuant to the Contract will impair such right or remedy or operate or be construed as a waiver or variation of it or preclude its exercise at any subsequent time and no single or partial exercise of any such right or remedy will preclude any other or further exercise of it or the exercise of any other right or remedy." |
| **New Sub‑Clause 1.18: Survival of Obligations** | | *The following is added as a new Sub-Clause:*  "1.18 **Survival of Obligations**  Obligations under the Contract, which by their nature would continue beyond the termination or expiration hereof, including, by way of illustration only and not limitation, those in Clause 1 *[General Provisions]*, Clause 12 *[Defects]*, Clause 17 *[Risk Allocation]*, Clause 19 *[Insurance]*, and Clause 20 *[Claims and Disputes]* shall survive the termination or expiration of the Contract." |
| **New Sub‑Clause 1.19: Severability** | | *The following is added as a new Sub-Clause:*  "1.19 **Severability**  The Parties expressly declare that each section, clause or paragraph of this Contract will be considered separate in terms of its validity and enforceability. Therefore, if, for any reason, any provision of this Contract is declared null and void, or if a ruling states that any part of it runs contrary to governing law, said declaration will in no way affect the validity and enforceability of the other stipulations, which may be construed, understood and executed independently of the portion declared null and void. Thus, every part of this Contract not declared null and void in any way will be valid, enforceable and binding on the Parties.  Likewise, if any provision of this Contract or its application to any individual or company or in a given circumstance is declared null and void, or if its enforceability is in any way limited, the other provisions herein, as well as also the application of the doubtful provision to other people or in other circumstances, will not be affected thereby, and they will be applied to the extent permitted by governing law.  Notwithstanding the above, the Parties undertake to negotiate in good faith the terms of a mutually satisfactory provision to replace any clause that may be declared null and void or whose enforceability is in any way restricted." |
| **New Sub‑Clause 1.20: No Partnership or Agency** | | *The following is added as a new Sub-Clause:*  "1.20 **No Partnership or Agency**  Nothing contained in this Contract shall be construed to either constitute a partnership or constitute either Party an agent or employee of the other Party." |
| **New Sub‑Clause 1.21: Amendment** | | *The following is added as a new Sub-Clause:*  "1.21 **Amendment**  This Contract may not be altered, varied, changed, supplemented or amended except by a written instrument duly signed and executed by the Parties and expressly stated to be an amendment to this Contract. For the sake of clarity, any Variation under Clause 13 *[Variations and Adjustments]* which is leading to a substantial change to the Works, an increase of the Contract Price and/or to an extension of the Time for Completion shall be reflected in an amendment to this Contract." |
| **CLAUSE 2: THE EMPLOYER** | | |
| **Sub‑Clause 2.1: Right of Access to the Site** | *In the 6th line of the 1st paragraph, delete* "Employer's Requirements" *and replace with* "Particular Conditions of Contract".  *Delete at the end of the last paragraph:* "…or cost." *and replace with:* "…, or Cost Plus Profit." | |
| **Sub-Clause 2.4: Employer’s Financial Arrangements** | *Sub-Clause 2.4 is replaced with the following in its entirety:*  "2.4 **Employer’s Financial Arrangements**  The Employer shall submit, before the Commencement Date and thereafter within 28 days after receiving any request from the Contractor, reasonable evidence that financial arrangements have been made and are being maintained which will enable the Employer to pay the Contract Price (as estimated at that time) in accordance with Clause 14 *[Contract Price and Payment]*. Before the Employer makes any material change to his financial arrangements, the Employer shall give Notice to the Contractor with detailed particulars.  In addition, if AFD has notified to the Employer that AFD has suspended disbursements under its loan, which finances in whole or in part the execution of the Works, the Employer shall give Notice of such suspension to the Contractor with detailed particulars, including the date of such notification, with a copy to the Employer’s Representative, within 7 days of the Employer having received the suspension notification from AFD. If alternative funds will be available in appropriate currencies to the Employer to continue making payments to the Contractor beyond a date 60 days after the date of AFD's notification of the suspension, the Employer shall provide reasonable evidence in his Notice of the extent to which such funds will be available." | |
| **CLAUSE 3: THE EMPLOYER'S REPRESENTATIVE** | | |
| **Sub-Clause 3.1: Employer’s Representative’s Duties and Authority** | *Delete the 4th paragraph, starting with "The Employer undertakes…" and replace it with the following provision:*  "The Employer shall promptly inform the Contractor of any change to the authority attributed to the Employer’s Representative."  *The following shall be added to paragraph 3.1(c):*  "and  (d) any act by the Employer’s Representative in response to a Contractor’s request except as otherwise expressly specified shall be notified in writing to the Contractor within twenty-eight (28) days of receipt."  *The following shall be added to the end of the Sub‑Clause:*  "Notwithstanding the obligation, as set out above, to obtain approval, if, in the opinion of the Employer’s Representative, an emergency occurs affecting the safety of life or of the Works or of adjoining property, he may, without relieving the Contractor of any of his duties and responsibility under the Contract, instruct the Contractor to execute all such work or to do all such things as may, in the opinion of the Employer’s Representative, be necessary to abate or reduce the risk. The Contractor shall forthwith comply, despite the absence of approval of the Employer, with any such instruction of the Employer’s Representative. As the case may be, the Employer’s Representative shall determine an addition to the Contract Price, in respect of such instruction, in accordance with Clause 13 and shall notify the Contractor accordingly, with a copy to the Employer." | |
| **Sub-Clause 3.2: Delegation by the Employer’s Representative** | *Delete the following text in the first paragraph:* "…(other than the Auditing Body)…". | |
| **Sub-Clause 3.3: Instructions of the Employer’s Representative** | *The last sentence in the second paragraph stating:* "These instructions shall be given in writing." *is replaced with:* "Whenever practicable, their instructions shall be given in writing. If the Employer’s Representative or a delegated assistant:   1. gives an oral instruction, 2. receives a written confirmation of the instruction, from (or on behalf of) the Contractor, within two working days after giving the instruction, and 3. does not reply by issuing a written rejection and/or instruction within two working days after receiving the confirmation,   then the confirmation shall constitute the written instruction of the Employer’s Representative or delegated assistant (as the case may be)." | |
| **Sub-Clause 3.4: Replacement of the Employer’s Representative** | *Sub-Clause 3.4 is replaced with the following in its entirety:*  "3.4 **Replacement of the Employer’s Representative**  If the Employer intends to replace the Employer’s Representative, the Employer shall, not less than 21 days before the intended date of replacement, give Notice to the Contractor of the name, address and relevant experience of the intended replacement Employer’s Representative. If the Contractor considers the intended replacement Employer’s representative to be unsuitable, he has the right to raise objection against him by Notice to the Employer, with supporting particulars, and the Employer shall give full and fair consideration to this objection." | |
| **Sub-Clause 3.5: Determinations** | *Delete the second paragraph, and replace with:*  "The Employer’s Representative shall give Notice to both Parties of each agreement or determination, with supporting particulars, within twenty-eight (28) days from the receipt of the corresponding claim or request except when otherwise specified. Each Party shall give effect to each agreement or determination unless and until revised under Clause 20 *[Claims, Disputes and Arbitration]*." | |
| **CLAUSE 4: THE CONTRACTOR** | | |
| **Sub-Clause 4.1: Contractor’s General Obligations** | *Insert the following at the end of the 2nd paragraph:*  "The Contractor commits to meet the AFD's eligibility criteria as listed under Appendix C to the General Conditions."  *Insert in the fifth paragraph after the sentence "The Contractor shall, whenever required by the Employer’s Representative, submit details of the arrangements and methods which the Contractor proposes to adopt for the execution of the Works.":*  "The Contractor shall not commence any Works, including mobilization and/or pre-construction activities (e.g. limited clearance for haul roads, site accesses and work site establishment, geotechnical investigations or investigations to select ancillary features such as quarries and borrow pits), unless the Employer’s Representative is satisfied that appropriate measures are in place to address environmental, social, health and safety risks and impacts. As defined in the ESHS Specifications (if any), the Contractor shall submit, on a continuing basis, for the Employer’s Representative’s prior approval, a Contractor’s Worksite Environmental and Social Management Plan (Worksite ‑ ESMP) to manage the ESHS risks and impacts of the Works on any Project Area. The Worksite ‑ ESMP and the annexed Environmental Protection Plan (EPP) corresponding to a Project Area shall be approved prior to the commencement of construction activities (e.g. excavation, earth works, bridge and structure works, stream and road diversions, quarrying or extraction of materials, concrete batching and asphalt manufacture). The approved Worksite ‑ ESMP shall be reviewed, periodically (but not less than every 6 months), and updated in a timely manner, as required, by the Contractor to ensure that it contains measures appropriate to the Works activities to be undertaken. The updated Worksite ‑ ESMP shall be subject to prior approval by the Employer’s Representative." | |
| **Sub-Clause 4.2: Performance Security** | *Delete the second paragraph, and replace with the following paragraph:*  "The Contractor becomes entitled to a reduction of the amount of the Performance Security, as stated in the Contract Data:   1. after the Employer’s Representative certified, that the Contractor has carried out all minor outstanding work and defects as referred to under Sub-Clause 11.5 (i), or 2. on the last day of the period referred under the last paragraph of Sub‑Clause 11.5, in case the Commissioning Certificate is deemed to have been issued."   *In the third paragraph, delete* "…by an entity…" *and replace with* "…by a reputable bank or financial institution selected by the Contractor…"  *In sub-paragraph (a), delete* "…or, in case of an earlier reduction, the reduced…"  *Add the following paragraph to the end of the Sub-Clause:*  "Without limitation to the provisions of the rest of this Sub-Clause, whenever the Employer’s Representative determines an addition or a reduction to the Contract Price as a result of a change in cost and/or legislation, or as a result of a Variation, amounting to more than twenty five percent (25%) of the portion of the Contract Price payable in a specific currency, the Contractor shall at the Employer’s Representative's request promptly increase, or may decrease, as the case may be, the value of the Performance Security in that currency by an equal percentage." | |
| **Sub-Clause 4.3: Contractor’s Representative** | *The following sentence is added at the end of the Sub-Clause:*  "If the Contractor’s Representative’s delegates are not fluent in the said language, the Contractor shall make competent interpreters available during all working hours in a number deemed sufficient by the Employer’s Representative." | |
| **Sub-Clause 4.4: Subcontractors** | *The following is added at the beginning of the Sub-Clause:*  "The Contractor shall only employ Subcontractors meeting the AFD's eligibility criteria as listed under Appendix C to the General Conditions.  In case of failure by the Contractor to comply with this requirement, and irrespective of whether the Employer’s Representative has given prior consent under this Sub-Clause, the Contractor shall forthwith cease any business dealing with any ineligible Subcontractor and replace such Subcontractor by an eligible one, all at the Contractor’s risk and cost. Otherwise, the Employer shall be entitled to terminate the Contract in accordance with Sub-Clause 15.2 *[Termination by Employer]*."  *In (a),* "solely" *is added after:* "suppliers".  *The following is added at the end of the Sub-Clause:*  "The Contractor shall ensure that the requirements imposed on the Contractor by Sub-Clause 1.13 *[Confidential Details]* apply equally to each Subcontractor. Where practicable, the Contractor shall give fair and reasonable opportunity for contractors from the Country to be appointed as Subcontractors."  **If the option for direct payment of Subcontractors has been selected in Sub-Clause 4.4 of the Contract Data, then the following provisions shall apply:**  A Subcontractor named in the Contract or designated after Contract signing with the Employer’s consent may be paid directly by the Employer for work done, and/or supplies or services provided by the said Subcontractor for which the Contractor has not been already paid, if (a) the Employer and the relevant authorities whose approval of the Contract is required so agree, or (b) the Employer’s country laws and regulations so require.  In such case, the Contractor shall furnish a statement to the Employer, prior to any commencement of the subcontracted work including the following:   1. The nature and scope of work or activities intended to be subcontracted; 2. The name, registration information and address of the proposed Subcontractor; and 3. The payment terms and conditions intended in the subcontract agreement, and the intended amount of the subcontract, including the date of establishment of the price, and if applicable, the modalities for price variation, advance payment, progress payment mechanism, price reductions, bonuses and penalties.   Within one (1) month of their receipt the Employer shall either accept all supporting documents relating to direct payment or reject them in full or in part with justification to the Contractor, failing which the Employer shall be deemed to have accepted all supporting documents which the Employer did not explicitly rejected. | |
| **Sub-Clause 4.5: Nominated Subcontractors** | *In the 2nd sentence of the paragraph, delete* "Employer's Requirements" *and replace with* "Particular Conditions of Contract". | |
| **Sub-Clause 4.6: Co‑operation** | *In the second paragraph* "to suffer Unforeseeable delays and/or" *is added before* "to incur Unforeseeable Cost." | |
| **Sub‑Clause 4.8: Safety Procedures** | *At the end of the Sub-clause add:*  "These provisions are complemented by those listed under the ESHS Specifications which the Contractor must ensure full compliance with." | |
| **Sub-Clause 4.12: Unforeseeable Physical Conditions** | *The last paragraph is replaced with:*  "The Employer’s Representative shall take account of any evidence of the physical conditions foreseen by the Contractor when submitting the Tender, which shall be made available by the Contractor, but shall not be bound by the Contractor’s interpretation of any such evidence." | |
| **Sub-Clause 4.15: Access Route** | "at Base Date" *is added at the end of the first sentence*. | |
| **Sub-Clause 4.18: Protection of the Environment** | These provisions are complemented by those listed under the ESHS Specifications which the Contractor must ensure full compliance with. | |
| **Sub-Clause 4.20: Employer's Equipment and Free‑Issue Materials** | *In the 1st and 3rd paragraphs, delete* "Employer's Requirements" *and replace with* "Particular Conditions of Contract". | |
| **Sub-Clause 4.21: Progress Reports** | *Add to the end of sub-paragraph (a):*  "…and including these stages for work by each nominated Subcontractor (as defined in Sub-Clause 4.5 *[Nominated Subcontractors]*),"  *Sub-Clause 4.21(g) is replaced by the following:*  "4.21(g) the Environmental, Social, Health and Safety (ESHS) activity report specified in Clause 6 of the ESHS Specifications of the Employer's Requirements;"  *At the end of, and as part of Sub-Clause 4.21 add a new paragraph as follows:*  "The Contractor shall provide immediate notification to the Employer’s Representative of incidents in the following categories. Full details of such incidents shall be provided to the Employer’s Representative within the timeframe agreed with the Employer’s Representative:   1. confirmed or likely violation of any law or international agreement; 2. any fatality or serious injury; 3. significant adverse effects or damage to private property (e.g. vehicle accident, damage from fly rock, working beyond the boundary) 4. major pollution of drinking water aquifer or damage or destruction of rare or endangered habitat (including protected areas) or species; or 5. any allegation of gender-based violence (GBV), sexual harassment or sexual misbehaviour, child abuse, defilement, or other violations involving children." | |
| **New Sub-Clause 4.26: Demolition** | *The following is added as a new Sub-Clause:*  "4.26 **Demolition**  The Contractor shall not demolish any building or structure except where specified in the Employer’s Requirements, or with the prior written approval of the Employer’s Representative.  The conditions for the re-use, sale and disposal of demolished materials shall be as specified in the Employer's Requirements." | |
| **New Sub-Clause 4.27: Existing Facilities** | *The following is added as a new Sub-Clause:*  "4.27 **Existing Facilities**  The Contractor shall take over, rehabilitate, upgrade, operate and maintain the Existing Facilities to the extent specified in the Employer’s Requirements.  Unless stated otherwise in the Employer’s Requirements, the Contractor shall provide, and pay for, all labour, equipment, materials (including spare parts and consumables), and electricity necessary to operate and maintain the Existing Facilities.  Throughout the Contract Period,   1. the Contractor shall use all reasonable endeavours to meet the standards of performance specified for the Existing Facilities in the Employer’s Requirements; 2. The Employer shall indemnify and hold harmless the Contractor against any and all claims made against it in respect of the operation of the Existing Facilities to the extent that the Unforeseeable condition of the Existing Facilities renders them unable to meet the applicable Performance Guarantees."   As at the date of commencement of the Operation Service the Existing Facilities, unless specified otherwise in the Employer’s Requirements, will be deemed to form part of the Works, and all references in the Contract to Works, Permanent Works, Plant and Site etc. shall be deemed to include the Existing Facilities." | |
| **New Sub-Clause 4.28: On‑Site Log Book** | *The following is added as a new Sub-Clause:*  "The Contractor shall maintain on Site a log book, in a form approved by the Employer’s Representative and which shall integrate the fields required in the Employer’s Requirements. It will be used to record the Contractor’s activities on a daily basis, and any instruction from the Employer’s Representative given on Site. The Employer’s Personnel shall have the right of access to this document at all times, and one copy of each daily record shall be promptly provided by the Contractor to the Employer’s Representative." | |
| **CLAUSE 5: DESIGN** | | |
| **Sub-Clause 5.1: General Design Obligations** | *Add to the end of the last sentence in the first paragraph:*  "…within 21 days after Contractor’s receipt of the Letter of Acceptance. All the designers and design Subcontractors shall have their seat of incorporation / origin in any eligible source country as per AFD's eligibility criteria as listed under Appendix C to the General Conditions." | |
| **Sub‑Clause 5.5: As‑Built Documents** | *In the last paragraph, delete* "the Employer's Requirements" *and replace with* "Sub‑Clause 1.9 of the Particular Conditions of Contract". | |
| **CLAUSE 6: STAFF AND LABOUR** | | |
| **Sub-Clause 6.1: Engagement of Staff and Labour** | *Sub-Clause 6.1: Delete and replace with:*  "Except as otherwise stated in the Employer’s Requirements, the Contractor shall make arrangements for the engagement of all staff and labour, local or otherwise, and for their payment, feeding, transport, and, when appropriate, housing.  The Contractor shall, to the extent practicable and reasonable, employ staff and labour with appropriate qualifications and experience from sources within the Country." | |
| **Sub-Clause 6.2: Rates of Wages and Conditions of Employment** | *Add the following new paragraph at the end of the Sub-Clause:*  "The Contractor shall inform the Contractor’s Personnel about their liability to pay personal income taxes in the Country in respect of such of their salaries, wages, allowances and any benefits as are subject to tax under the Laws of the Country for the time being in force, and the Contractor shall perform such duties in regard to such deductions thereof as may be imposed on him by such Laws." | |
| **Sub-Clause 6.7: Health and Safety** | *Add to the end of the Sub-Clause:*  "HIV-AIDS Prevention. The Contractor shall conduct an HIV-AIDS awareness programme via an approved service provider, and shall undertake such other measures as are specified in this Contract to reduce the risk of the transfer of the HIV virus between and among the Contractor’s Personnel and the local community, to promote early diagnosis and to assist affected individuals.  The Contractor shall throughout the contract (including the Operation Service Period): (i) conduct Information, Education and Communication (IEC) campaigns, at least every other month, addressed to all the Site staff and labour (including all the Contractor's employees, all Subcontractors and any other Contractor’s or Employer’s personnel employees, and all truck drivers and crew making deliveries to Site for construction activities) and to the immediate local communities, concerning the risks, dangers and impact, and appropriate avoidance behaviour with respect to, of Sexually Transmitted Diseases (STD) - or Sexually Transmitted Infections (STI) in general and HIV/AIDS in particular; (ii) provide male or female condoms for all Site staff and labour as appropriate; and (iii) provide for STI and HIV/AIDS screening, diagnosis, counselling and referral to a dedicated national STI and HIV/AIDS programme, (unless otherwise agreed) of all Site staff and labour.  The Contractor shall include in the programme to be submitted for the execution of the Works under Sub-Clause 8.3 *[Programme]* an alleviation programme for Site staff and labour and their families in respect of Sexually Transmitted Infections (STI) and Sexually Transmitted Diseases (STD) including HIV/AIDS. The STI, STD and HIV/AIDS alleviation programme shall indicate when, how and at what cost the Contractor plans to satisfy the requirements of this Sub-Clause and the related Employer's Requirements. For each component, the programme shall detail the resources to be provided or utilised and any related sub-contracting proposed. The programme shall also include provision of a detailed cost estimate with supporting documentation.  These provisions are complemented by those listed under the ESHS Specifications which the Contractor must ensure full compliance with." | |
| **Sub-Clause 6.9: Contractor's Personnel** | *"Or" at the end of (c) is deleted and the following is added as (e) and (f):*  "(e) based on reasonable evidence, is determined to have engaged in Prohibited Practices, as defined in Appendix B to these General Conditions, during the execution of the Works; or  (f) Commits serious misconduct (e.g. spreading communicable diseases, sexual harassment, gender-based violence (GBV), illicit activity or crime, or any activity listed in Sub-Clauses 7.5 and 7.6 of the ESHS Specifications of the Employer's Requirements)."  *After the sentence:* "If appropriate, the Contractor shall then appoint (or cause to be appointed) a suitable replacement person."  *the following is added as a new paragraph:*  "The Contractor’s Personnel includes Key Personnel. If the Contractor intends to replace a Key Personnel, the Contractor shall, not less than thirty (30) days before the intended date of replacement, give Notice to the Employer’s Representative of the name, address, academic qualifications and relevant experience of the intended replacement Key Personnel. Except in case of illness, death or resignation of a Key Personnel, the Contractor shall not, without the prior consent of the Employer’s Representative, revoke the appointment of the Key Personnel or appoint a replacement." | |
| **New Sub-Clause 6.12: Foreign Personnel** | *Add the following new Sub-Clause:*  "6.12 **Foreign Personnel**  The Contractor may bring in to the Country any foreign personnel who are necessary for the execution of the Works to the extent allowed by the applicable Laws. The Contractor shall ensure that these personnel are provided with the required residence visas and work permits. The Employer will, if requested by the Contractor, use his best endeavours in a timely and expeditious manner to assist the Contractor in obtaining any local, state, and national or government permission required for bringing in the Contractor’s personnel.  The Contractor shall be responsible for the return of these personnel to the place where they were recruited or to their domicile. In the event of the death in the Country of any of these personnel or members of their families, the Contractor shall similarly be responsible for making the appropriate arrangements for their return or burial. | |
| **New Sub-Clause 6.13: Supply of Foodstuffs** | *Add the following new Sub-Clause:*  "6.13 **Supply of Foodstuffs**  The Contractor shall arrange for the provision of a sufficient supply of suitable food as may be stated in the Employer’s Requirements at reasonable prices for the Contractor’s Personnel for the purposes of or in connection with the Contract." | |
| **New Sub-Clause 6.14: Supply of Water** | *Add the following new Sub-Clause:*  "6.14 **Supply of Water**  The Contractor shall, having regard to local conditions, provide on the Site an adequate supply of drinking and other water for the use of the Contractor’s Personnel." | |
| **New Sub-Clause 6.15: Measures against Insect and Pest Nuisance** | *Add the following new Sub-Clause:*  "6.15 **Measures against Insect and Pest Nuisance**  The Contractor shall at all times take the necessary precautions to protect the Contractor’s Personnel employed on the Site from insect and pest nuisance, and to reduce the danger to their health. The Contractor shall comply with all the regulations of the local health authorities, including use of appropriate insecticide." | |
| **New Sub-Clause 6.16: Alcoholic Liquor of Drugs** | *Add the following new Sub-Clause:*  "6.16 **Alcoholic Liquor of Drugs**  The Contractor shall not, otherwise than in accordance with the Laws of the Country, import, sell, give, barter or otherwise dispose of any alcoholic liquor or drugs, or permit or allow importation, sale, gift, barter or disposal thereof by Contractor's Personnel." | |
| **New Sub-Clause 6.17: Arms and Ammunition** | *Add the following new Sub-Clause:*  "6.17 **Arms and Ammunition**  The Contractor shall not give, barter, or otherwise dispose of, to any person, any arms or ammunition of any kind, or allow Contractor's Personnel to do so." | |
| **New Sub-Clause 6.18: Festivals and Religious Customs** | *Add the following new Sub-Clause:*  "6.18 **Festivals and Religious Customs**  The Contractor shall respect the Country's recognized festivals, days of rest and religious or other customs." | |
| **New Sub-Clause 6.19: Funeral Arrangements** | *Add the following new Sub-Clause:*  "6.19 **Funeral Arrangements**  The Contractor shall be responsible, to the extent required by local regulations, for making any funeral arrangements for any of his local employees who may die while engaged upon the Works." | |
| **New Sub-Clause 6.20: Prohibition of Forced or Compulsory Labour** | *Add the following new Sub-Clause:*  "6.20 **Prohibition of Forced or Compulsory Labour**  The Contractor shall not employ forced labour, which consists of any work or service, not voluntarily performed, that is exacted from an individual under threat of force or penalty, and includes any kind of involuntary or compulsory labour, such as indentured labour, bonded labour or similar labour‑contracting arrangements." | |
| **New Sub-Clause 6.21: Prohibition of Harmful Child Labour** | *Add the following new Sub-Clause:*  "6.21 **Prohibition of Harmful Child Labour**  The Contractor shall not employ children in a manner that is economically exploitative, or is likely to be hazardous, or to interfere with, the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral, or social development. Where the relevant labour laws of the Country have provisions for employment of minors, the Contractor shall follow those laws applicable to the Contractor. Children below the age of 18 years shall not be employed in dangerous work." | |
| **New Sub-Clause 6.22: Employment Records of Workers** | *Add the following new Sub-Clause:*  "6.22 **Employment Records of Workers**  The Contractor shall keep complete and accurate records of the employment of labour at the Site. The records shall include the names, ages, genders, hours worked and wages paid to all workers. These records shall be summarized on a monthly basis and submitted to the Employer’s Representative. These records shall be included in the details to be submitted by the Contractor under Sub-Clause 6.10 *[Records of Contractor’s Personnel and Equipment]*." | |
| **New Sub-Clause 6.23: Workers' Organisations** | *Add the following new Sub-Clause:*  "6.23 **Workers' Organisations**  In countries where the relevant labour laws recognise workers' rights to form and to join workers’ organisations of their choosing without interference and to bargain collectively, the Contractor shall comply with such laws. Where the relevant labour laws substantially restrict workers' organisations, the Contractor shall enable alternative means for the Contractor's Personnel to express their grievances and protect their rights regarding working conditions and terms of employment. In either case described above, and where the relevant labour laws are silent, the Contractor shall not discourage the Contractor's Personnel from forming or joining workers’ organisations of their choosing or from bargaining collectively, and shall not discriminate or retaliate against the Contractor’s Personnel who participate, or seek to participate, in such organisations and bargain collectively. The Contractor shall engage with such workers' representatives. Workers' organisations are expected to fairly represent the workers in the workforce." | |
| **New Sub-Clause 6.24: Non‑Discrimination and Equal Opportunity** | *Add the following new Sub-Clause:*  "6.24 **Non‑Discrimination and Equal Opportunity**  The Contractor shall not make employment decisions on the basis of personal characteristics unrelated to inherent job requirements. The Contractor shall base the employment relationship on the principle of equal opportunity and fair treatment, and shall not discriminate with respect to aspects of the employment relationship, including recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, promotion, termination of employment or retirement, and discipline. In countries where the relevant labour laws provide for non-discrimination in employment, the Contractor shall comply with such laws. When the relevant labour laws are silent on non-discrimination in employment, the Contractor shall meet this Sub-Clause's requirements. Special measures of protection or assistance to remedy past discrimination or selection for a particular job based on the inherent requirements of the job shall not be deemed discrimination." | |
| **CLAUSE 7: PLANT, MATERIALS, AND WORKMANSHIP** | | |
| **Sub-Clause 7.4: Testing** | *The second paragraph shall start as:* "Except as otherwise specified in the Contract, the Contractor shall…". | |
| **Sub-Clause 7.7: Ownership of Plant and Materials** | *In each of point (b) and (c),* "when the Contractor is paid the value of the Plant and Materials…" *is replaced with:* "when the Contractor is paid the corresponding value…".  *The following is added at the end of the Sub-Clause:*  "Unless otherwise specified in the Employer's Requirements, vehicles, trucks, mobile plant and Site equipment (other than temporary mobile plant and temporary Site equipment brought onto the Site to undertake specific remedial tasks), tools, office equipment, software and office consumables used by the Contractor for the Operation Service shall become the property of the Employer. Vehicles used for personal transportation of the Contractor’s Personnel and computers and mobile devices allocated for the personal use of the Contractor’s Personnel shall be Contractor’s Equipment.  The Contractor shall maintain up-to-date inventories of the Contractor’s Equipment, Materials and Temporary Works throughout the term of the Contract." | |
| **Sub-Clause 7.8: Royalties** | *In the 1st paragraph, delete* "Employer's Requirements" *and replace with* "Particular Conditions of Contract". | |
| **CLAUSE 8: COMMENCEMENT DATE, COMPLETION AND PROGRAMME** | | |
| **Sub-Clause 8.1: Commencement Date** | *Delete the text of the whole Sub-Clause and replace with the following:*  "Except as otherwise specified in the Contract, the Commencement Date shall be the date at which the following conditions precedent have all been fulfilled and the Employer’s Representative's notification recording the agreement of both Parties on such fulfilment and instructing to commence the Work is received by the Contractor:   1. signature of the Contract Agreement by both Parties, and if required, approval of the Contract by relevant authorities of the Country; 2. effective access to and possession of the Site given to the Contractor together with such permission(s) under (a) of Sub-Clause 1.14 *[Compliance with Laws]* as required for the commencement of the Works.   If the said Employer’s Representative’s notification is not received by the Contractor within 180 days from his receipt of the Letter of Acceptance, the Contractor shall be entitled to terminate the Contract under Sub-Clause 16.2 *[Termination by Contractor],* unless the Contractor has caused, or contributed in any respect to, any non‑fulfilment of one or all of these conditions precedent. | |
| **Sub-Clause 8.3: Programme** | *Add to the end of sub-paragraph (a):*  "… and each of these stages for work by each nominated Subcontractor (as defined in Sub-Clause 4.5 *[Nominated Subcontractors]*);" | |
| **CLAUSE 9: DESIGN-BUILD** | | |
| **Sub‑Clause 9.1: Commencement of Design‑Build** | *Delete the text of the whole Sub-Clause and replace with the following:*  "The Contractor shall commence the design and execution of the Works as soon as is reasonably practicable after the Commencement Date, and shall then proceed with the Design-Build with due expedition and without delay.  Notwithstanding the above, there shall be no work authorized to proceed on any Project Area until such time the Contractor has:   1. effected the insurances defined under Sub-Clause 19.2 *[Insurances to be provided by the Contractor during the Design-Build Period]* in accordance with the provisions under Sub-Clause 19.1 *[General Requirements]; and* 2. obtained the approval of the Employer’s Representative of the Contractor’s Worksite Environmental and Social Management Plan (Worksite ‑ ESMP) for the corresponding Project Area." | |
| **Sub-Clause 9.3: Extension of Time for Completion of Design-Build** | *At the end of sub-paragraph (c) add:* "…, as defined under Sub-Clause 9.3 of the Contract Data."  *At the end of sub-paragraph (e) delete:* "…on the Site". | |
| **Sub-Clause 9.5: Rate of Progress** | *The following is added as the last paragraph of the Sub-Clause:*  "Additional costs of revised methods including acceleration measures, instructed by the Employer’s Representative to reduce delays resulting from causes listed under Sub-Clause 9.3 *[Extension of Time for Completion of Design‑Build]* shall be paid by the Employer, without generating, however, any other additional payment benefit to the Contractor." | |
| **Sub‑Clause 9.7: Suspension of Work** | *Add the following after the last sentence of the Sub-Clause:*  "As an example, and without limitation to other possible causes, any suspension of work caused by any failure from the Contractor to comply with the obligations stated:   1. Under the ESHS Specifications (if any), in the event of a level 3 non-compliance; 2. Under Sub-Clause 4.8 as to safety procedures; 3. Under Sub-Clause 4.9 as to the quality assurance; 4. Under Sub-Clause 4.18 as to the protection of the environment; or 5. Under Sub-Clause 6.7 as to health and safety;   shall be considered as cause of suspension which is the responsibility of the Contractor." | |
| **Sub-Clause 9.11: Resumption of Work** | *The following is added at the end of the sub-clause after "suspension":*  "after receiving from the Employer’s Representative an instruction to this effect." | |
| **CLAUSE 10: OPERATION SERVICE** | | |
| **Sub-Clause 10.1: General Requirements** | *Add the following, in the first paragraph, after "Operation Management Requirements":* ", and Performance Guarantees,"  *Replace the second paragraph with the following:*  "The Contractor shall follow the requirements of the operation and maintenance manuals and any additional Operation Service plans and manuals, prepared by the Contractor in accordance with the Operation Management Requirements. No significant alteration to such arrangements and methods shall be made without the prior approval of the Employer's Representative." | |
| **Sub-Clause 10.2: Commencement of Operation Service** | *Replace the first paragraph with the following:*  "Unless otherwise stated in the Contract Data, the date of commencement of the Operation Service shall be the date seven days following the date of issuance of the Commissioning Certificate issued under Sub-Clause 11.7 *[Commissioning Certificate]*, or such earlier date the Parties may agree to."  *The following is added after the second paragraph:*  "The Operation Service shall not commence until such time the Contractor has effected the insurances defined under Sub-Clause 19.3 [Insurances to be provided by the Contractor during the Operation Service Period] in accordance with the provisions under Sub-Clause 19.1 *[General Requirements]*." | |
| **Sub‑Clause 10.3: Independent Compliance Audit** | *This Sub-Clause is not applicable, to be deleted.* | |
| **Sub-Clause 10.4: Delivery of Raw Materials** | *Add the following text at the end of the Sub-Clause:*  "**Change in Influent quality:**  In case an Unforeseeable change, against the Influent Baseline, occurs in the characteristics of the Influent received at the delivery point to the Works and the Contractor incurs Cost as a result of such Unforeseeable change, then the Contractor shall be entitled, subject to Sub-Clause 20.1 *[Contractor’s Claims]* and Sub-Clause 3.5 *[Determinations]*, to the payment of any such Cost.  In case the Unforeseeable change is held to persist in time and be sustainable, the Employer’s Representative shall be entitled, at his sole and absolute discretion, to:   1. request a proposal from the Contractor for overcoming such change in accordance with the last paragraph of Sub-Clause 13.1 *[Right to Vary]*. Any resulting Variation may include a change to the to the Works in order to ensure sustained compliance with the Performance Guarantees; and/or 2. adjust the Performance Guarantees, subject to Sub-Clause 3.5 *[Determinations]*, so that the Contractor does not incur Cost which would have not been incurred had such change against the Influent Baseline not occurred.   The Contractor may also submit a proposal in accordance with Sub-Clause 13.2 *[Value Engineering]*." | |
| **Sub-Clause 10.7: Failure to Reach Productions Outputs** | *Replace entire sub-clause with the following:*  "In the event that the Contractor fails to achieve the Performance Guarantees required under the Contract, the Parties shall jointly establish the cause of such failure.   1. If the failure is due to the Employer or any of his servants or agents, then, after consultation with the Contractor, the Employer shall give written instruction to the Contractor of the measures which the Employer requires the Contractor to take.   If the Contractor suffers any additional cost as a result of the failure or the measures instructed by the Employer, the Employer, subject to Sub‑Clause 3.5 *[Determinations]* and Sub-Clause 20.1 *[Contractor's Claims]*, shall pay the Contractor his Cost Plus Profit.   1. If the failure is due to the Contractor then, after due consultation with the Employer, the Contractor shall at its own expense make any changes, modifications or additions to the Works, to its operating procedures, and/or to the Contractor’s Personnel, as may be necessary to bring the Works and Operation Service into compliance with the Performance Guarantees set out under the Schedule of Performance Guarantees.   If the failure relates to a Performance Guarantee for which damages are specified in the Appendix 3 to the Contract Agreement (Performance damages), then he Contractor, subject to Sub-Clause 3.5 *[Determinations]*, shall pay the Employer the performance damages specified in the Appendix 3 to the Contract Agreement. The Employer shall be entitled to recover the amount due by making corresponding deductions from the payments due to the Contractor.  These performance damages shall be the only damages due from the Contractor for such failure, other than in the event of termination under Clause 15 *[Termination by Employer]* and of failure to pass Tests Prior to Contract Completion under Sub‑Clause 11.11 *[Failure to Pass Tests Prior to Contract Completion]*.  The payment of such performance damages shall not relieve the Contractor of any duties, obligations or responsibilities he has under the Contract, including, for the avoidance of doubt, the obligation to ensure that the Works remain in accordance with the Contract during the Operation Service Period.  Unless otherwise stated in the Contract Data, if the failure continues for a period of more than 84 days and the Contractor is unable to achieve the required Performance Guarantee(s) set out under the Schedule of Performance Guarantees, the Employer may either:   1. continue with the Operation Service at a reduced level of compensation determined in accordance with Sub-Clause 3.5 [Determinations]; or 2. if the production outputs fail to reach the minimum values required in the Contract Data, give Notice to the Contractor not less than 56 days prior to terminating the Contract, in accordance with Sub-Clause 15.2 [Termination for Contractor's Default]. In such an event, the Employer shall be free to continue the Operation Service himself or by others." | |
| **CLAUSE 11: TESTING** | | |
| **Sub-Clause 11.1: Testing of the Works** | *Delete the fifth paragraph and replace with the following:*  "During trial operation, when the Works are operating under stable conditions, the Contractor shall give Notice to the Employer's Representative that the Works are ready for any other Tests on Completion of Design-Build, including performance tests to demonstrate whether the Works conform with criteria specified in the Employer's Requirements and comply with the production outputs specified in the Schedule of Performance Guarantees." | |
| **Sub‑clause 11.4: Failure to Pass Tests on Completion of Design‑Build** | *Replace this Sub-Clause in its entirety by the following:*  "If the Works, or a Section, fail to pass the Tests on Completion of Design-Build repeated under Sub-Clause 11.3 *[Retesting of the Works]* the Employer's Representative shall be entitled to:   1. order further repetition of Tests on Completion of Design-Build under Sub-Clause 11.3 [Retesting of the Works]; 2. issue a Notice under Sub-Clause 15.1 [Notice to Correct]; or 3. issue the Commissioning Certificate to the Contractor subject to the payment of performance damages as per the provisions of Sub‑Clause 10.7 *[Failure to Reach Production Outputs]*, in which case the Employer shall also be entitled to forthwith apply the provisions found under Sub-Clause 10.7(b)(ii) without waiting for the prescribed period expiry." | |
| **Sub-Clause 11.5: Completion of the Works and Sections** | *Delete the last paragraph and replace with the following:*  "If the Employer's Representative does not issue the Completion Certificate or reject the Contractor's application within this period of 28 days, and the Works or Section (as the case may be) are substantially in accordance with the Contract, the Works or Section shall be deemed to have been completed in accordance with the Contract on the fourteenth day after the Employer’s Representative receives the Contractor’s Notice of application and the Completion Certificate shall be deemed to have been issued on the same day.” | |
| **Sub-Clause 11.8: Joint Inspection Prior to Contract Completion** | *In the beginning of the first sentence of the first paragraph delete:* "Not less than two years…" *and replace with* "Not less than a half year…".  *Delete the third paragraph and replace with:*  "Following receipt of the Contractor's report, the Employer's Representative may, throughout the remainder of the Operation Service Period, instruct the Contractor to carry out all or part of the works identified in the Contractor's report. Such works shall be carried out at the Contractor's cost." | |
| **Sub‑Clause 11.11: Failure to Pass Tests Prior to Contract Completion** | *Replace sub-paragraph(c) in its entirety by the following*  "(c) issue a Contract Completion Certificate, if the Employer so requires. The Contractor, subject to Sub-Clause 3.5 [Determinations] and to Contractor’s adjustments or modifications as laid down below, shall pay the Employer the performance damages specified in Appendix 3 to the Contract Agreement for this failure. These performance damages shall be the only damages due from the Contractor for such failure, other than in the event of termination under Clause 15 *[Termination by Employer]*." | |
| **CLAUSE 13: VARIATIONS AND ADJUSTMENTS** | | |
| **Sub-Clause 13.1: Right to Vary** | *Delete:* "…(iii) it will have an adverse impact on the achievement of the Schedule of guarantee; or (iv) it will have an adverse effect on the provision of the Operation Service under the Contract." *and replace with the following:* "…(iii) it will have an adverse impact on the achievement of the Schedule of Performance Guarantees; (iv) it triggers a substantial change in the sequence or progress of the Works; or (v) it will have an adverse effect on the provision of the Operation Service under the Contract."  *Insert after the second paragraph (before the last paragraph):*  "The Contractor shall not make any alteration and/or modification of the Permanent Works, neither deviate from the Employer’s Requirements, unless and until the Employer’s Representative instructs or approves a Variation." | |
| **Sub‑Clause 13.2: Value Engineering** | *Add to the end of the Sub-Clause:*  "If a Contractor’s value engineering proposal, which is approved by the Employer's Representative, results in a reduction in the Contract Price, the Employer's Representative shall proceed in accordance with Sub-Clause 3.5 *[Determinations]* to agree or determine a fee, which shall be included in the Contract Price. This fee shall be half (50%) of the difference between the following amounts:   1. such reduction in Contract Price, resulting from the approved value engineering, excluding adjustments under Sub-Clause 13.6 *[Adjustments for Changes in Legislation]*, Sub-Clause 13.7 *[Adjustments for Changes Technology]*, and Sub-Clause 13.8 *[Adjustments for Changes in Cost]*, and 2. the reduction (if any) in the value to the Employer of the varied Works, taking account of any reductions in quality, anticipated life or operational efficiencies.   However, if amount (i) is less than amount (ii), there shall not be a fee." | |
| **Sub-Clause 13.3: Variation Procedure** | *Add the following to the end of Sub-Clause 13.3(a):*  "… and sufficient ESHS information to enable an evaluation of ESHS risks and impacts;"  *In the last sentence of the last paragraph, delete the following:* "…include reasonable profit…", *and replace with:* "…include the Profit as set out under Sub-Clause 1.1.24 in Particular Conditions Part B…". | |
| **Sub-Clause 13.5: Provisional Sums** | *Delete the first sentence of sub-paragraph (b) and replace with the following:*  "(b) Plant, Materials or services to be purchased by the Contractor from a nominated Subcontractor (as defined in Sub-Clause 4.5 *[Nominated Subcontractors]*) or otherwise; and, for which there shall be included in the Contract Price:"  *Add the following at the end of this Sub‑Clause:*  "As an exception to the above, the Provisional Sum for the cost of the DB, if any, shall be used to pay the Contractor of the Employer's one-half share of the invoices of the DB for its fees and expenses, in accordance with Clause 20 *[Claims, Disputes and Arbitration]*. No prior instruction of the Employer’s Representative shall be required with respect to the work of the DB. The Contractor shall produce the DB invoices and satisfactory evidence of having paid the entirety of such invoices as part of the substantiation of those Statements submitted under Sub-Clause 14.3 *[Application for Interim Payment Certificates]*. The Employer’s Representative certification of such Statements shall be based upon such invoices and such evidence of their payment by the Contractor. No sum for Contractor’s overhead charges and profit shall apply in addition to the DB invoices amounts." | |
| **Sub-Clause 13.6: Adjustments for Change in Legislation** | *The following is added at the end of the Sub-Clause:*  "Notwithstanding the foregoing, the Contractor shall not be entitled to an extension of time if the relevant delay has already been taken into account in the determination of a previous extension of time and such Cost shall not be separately paid if the same shall already have been taken into account in the indexing of any inputs to the table of adjustment data in accordance with the provisions of Sub-Clause 13.8 *[Adjustments for Changes in Cost]*." | |
| **CLAUSE 14: CONTRACT PRICE AND PAYMENT** | | |
| **Sub-Clause 14.1: The Contract Price** | *Delete the first paragraph and replace with:*  "The Contract Price shall be the lump-sum amount or amounts submitted by the Contractor for the Design-Build and the amount or amounts submitted for the Operation Service priced at the Base Date, and due to be paid to the Contractor in accordance with the Contract together with any adjustments as provided for under Clause 13 *[Variation and Adjustments]* or arising as a result of claims under Clause 20 *[Claims, Disputes and Arbitration]*." | |
| **Sub-Clause 14.2: Advance Payment** | *Delete the first paragraph of Sub-Clause an replace with:*  "The Employer shall make an advance payment, as an interest-free loan for the Design-Build Period, when the Contractor submits an advance payment guarantee in accordance with this Sub-Clause The amount of the advance payment and the applicable currencies shall be as stated in the Contract Data."  *Delete the last sentence of the third paragraph and replace with the following:*  "This guarantee shall be issued by a reputable bank or financial institution and from within a country (or other jurisdiction), as selected by the Contractor and approved by the Employer, and shall be based on the sample form included in the Tender Documents or in another form approved by the Employer."  *Delete sub-paragraph (b) and replace with the following:*  "(b) deductions shall be made at the amortisation rate of twice the percentage amount of the Advance Payment (expressed in percent of Accepted Contract Amount) deducted from the sum of each Interim Payment Certificate (excluding the advance payment and deductions and repayments of retention) issued during the Design-Build Period." | |
| **Sub-Clause 14.3: Application for Advance and Interim Payment Certificates** | *Add to the end of the second paragraph:*  "The Contractor shall prepare separate Statements for the Design-Build and for the Operation Service."  *Delete sub-paragraphs (h) and (i).* | |
| **Sub-clause 14.5: Asset Replacement Schedule** | This Sub-Clause is not applicable. To be deleted. | |
| **Sub‑Clause 14.6: Payment for Plant and Materials intended for the Works** | This Sub‑Clause is not applicable. To be deleted. | |
| **Sub-Clause 14.7: Issue of Advance and Interim Payment Certificates** | *In the third sentence of the first paragraph*, after "issue to the Employer" *add the following* ", with a copy to the Contractor," | |
| **Sub-Clause 14.8: Payment** | *Add the following at the end of the Sub‑Clause:*  *"*The payment period defined above can be suspended for reasons defined in the Contract, in particular in the event of an unresolved level 3 non-compliance specified in the ESHS Specifications if any. Such suspension shall not entitle the Contractor to any additional payment under Sub-Clause 14.9 *[Delayed Payment]* or otherwise.  If the option for direct payment of Subcontractors has been selected in Sub‑Clause 4.4 of the Contract Data, then the following provisions shall apply:  Payment for work by a Subcontractor which is entitled to be paid directly by the Employer shall be made in accordance with the Contract.  When a Subcontractor is entitled to be paid directly by the Employer, the Subcontractor must submit to the Contractor a direct payment request with supporting documents. Within fifteen (15) days from the date of receipt of the latter documents, the Contractor shall either:   1. give his acceptance of the direct payment request and supporting documents; or 2. notify his refusal, with justification, of full or part of the direct payment request and supporting documents   to the Subcontractor and the Employer, failing which:   1. the Contractor shall be deemed to have accepted whichever supporting documents he did not expressly accept or reject; and 2. the Subcontractor is entitled to send a copy of the direct payment request directly to the Employer, together with a copy of the proof of receipt of the original by the Contractor.   Thereafter the Employer shall (i) promptly request the Contractor to submit evidence within fifteen (15) days that the Contractor rejected the said request for direct payment with justification within the time specified above, and (ii) inform the Subcontractor accordingly. If the Contractor fails to provide the requested evidence within 15 days, the Employer may directly pay the Subcontractor, up to the amount due to the Contractor under the relevant Payment Certificates.  When a Subcontractor is entitled to be paid directly by the Employer, the Contractor must furnish, together with:   * the application for Interim Payment Certificate as per Sub-Clause 14.3; * the application for Final Payment Certificate Design Build as per Sub-Clause 14.11; or * the application for Final Payment Certificate Operation Service as per Sub-Clause 14.13,   a Statement indicating the amount to be deducted from the Payment Certificate and to be paid directly by the Employer to the said Subcontractor, as well as the various payment currencies and amounts. Payments to the Subcontractor shall be made on the basis of the Statement submitted by the Contractor as mentioned here above, and as accepted by the Contractor as due to the Subcontractor.  The aggregate amount of direct payments to a Subcontractor, calculated under the conditions prevailing at the Base Date, may not exceed the amount of the subcontract as shown in the Contract.  Upon receipt of the Contractor Statement requesting direct payment of the Subcontractor, the Employer shall directly notify the Subcontractor of the date of receipt and the amounts accepted by the Contractor for direct payment. Direct payments of the Subcontractor must be effected within the time specified in this Sub-Clause 14.8 for payment of the Contractor. A notification of the direct payment shall be issued by the Employer to the Contractor and the Subcontractor." | |
| **Sub-Clause 14.9: Delayed Payment** | *Delete the second paragraph and replace with the following:*  "Unless otherwise stated in the Contract Data, these financing charges shall be calculated at the annual rate of three percentage points above the discount rate of the central bank in the country of the currency (or currencies if more than one) of payment, or if not available, the interbank offered rate, and shall be paid in such currencies." | |
| **Sub-Clause 14.10: Payment of Retention Money** | *Delete the second paragraph and replace with the following:*  "The Contractor shall be entitled to include the second half of the Retention Money in the Final Statement Operation Service.  Unless otherwise stated in the Contract, when the Commissioning Certificate has been issued for the Works and the first half of the Retention Money has been certified for payment by the Employer’s Representative, the Contractor shall be entitled to substitute a guarantee for the second half of the Retention Money. The guarantee shall be based on the sample form included in the Tender Documents, or in another form approved by the Employer, and issued by a reputable bank or financial institution selected by the Contractor. The Contractor shall ensure that the guarantee is in the amounts and currencies of the second half of the Retention Money and is valid and enforceable until the Contractor has been entitled to receive the Contract Completion Certificate. On receipt by the Employer of the required guarantee, the Employer’s Representative shall certify and the Employer shall pay the second half of the Retention Money. The release of the second half of the Retention Money against a guarantee shall then be in lieu of the release under the second paragraph of this Sub-Clause. The Employer shall return the guarantee to the Contractor within 21 days after receiving a copy of the Contract Completion Certificate." | |
| **Sub-Clause 14.12: Issue of Final Payment Certificate Design-Build** | *Delete sub‑paragraph (a) and replace with the following*: "the amount which he fairly determines is finally due for the Design Build; and". | |
| **Sub-Clause 14.13: Application for Final Payment Certificate Operation Service** | *Delete sub-paragraphs (a) and (b) and replace with the following:*  "(a) the value of all work done in respect of the Operation Service;  (b) the second half of the Retention Money, if not replaced by a Retention Guarantee; and  (c) any further sums which the Contractor considers to be due to him under the Contract." | |
| **Sub-Clause 14.15: Issue of Final Payment Certificate Operation Service** | *Delete sub‑paragraphs (a) and (b) and replace with the following*:   1. "the amount which he fairly determines is finally due for the Operation Service; and 2. the amount which he fairly determines is finally due for the Contract; and" | |
| **Sub-Clause 14.17: Currencies of Payment** | *In the second sentence of the first paragraph*, "Unless otherwise stated in the Particular Conditions," *is deleted*. | |
| **Sub-clause 14.18: Asset Replacement Fund** | This Sub-Clause is not applicable, to be deleted. | |
| **Sub-Clause 14.19: Maintenance Retention Fund** | This Sub-Clause is not applicable, to be deleted. | |
| **CLAUSE 15: TERMINATION BY EMPLOYER** | | |
| **Sub-Clause 15.2: Termination for Contractor's Default** | *In the first paragraph, the following is added as (h), (i) and (j), and the existing paragraph (h) is renumbered (k):*  "(h) based on reasonable evidence, has engaged in Prohibited Practices as defined in the Appendix B to these General Conditions, in competing for or in executing the Contract;  (i) substantially fails to comply with the ESHS Specifications;  (j) in breach of Sub‑Clause 4.4 *[Subcontractors]*,subcontracts any work to any ineligible person as defined by AFD's criteria set out in Appendix C to the General Conditions;"  *Further in the second paragraph,* "or (h) or (i) or (j)" *are added after* "or (g)". | |
| **Sub-Clause 15.5: Termination for Employer's Convenience** | *The last paragraph shall be replaced with the following:*  "The Employer shall not terminate the Contract under this Sub-Clause in order to execute or operate the Works (or any part thereof) himself, or arrange for the Works (or any part thereof) to be executed or operated by another contractor, or to avoid a termination of the Contract by the Contractor under Clause 16.2 *[Termination by Contractor]*" | |
| **CLAUSE 16: SUSPENSION AND TERMINATION BY CONTRACTOR** | | |
| **Sub-Clause 16.1: Contractor's Entitlement to Suspend Work** | *Insert the following paragraph after the first paragraph:*  "Notwithstanding the above, if AFD has suspended disbursements under the loan or credit from which payments to the Contractor are being made, in whole or in part, for the execution of the Works, and no alternative funds are available as provided for in Sub-Clause 2.4 *[Employer's Financial Arrangements]*, the Contractor may by Notice suspend work or reduce the rate of work at any time, but not less than 7 days after the Employer having received the suspension notification from AFD." | |
| **Sub-Clause 16.2: Termination by Contractor** | *Add to the end of sub-paragraph (d):*  "…in such manner as to materially and adversely affect the economic balance of the Contract and/or the ability of the Contractor to perform the Contract,"  *After sub-paragraph (g), add the following new sub-paragraph:*  "(h) the Contractor does not receive the Employer's Representative's instruction recording the agreement of both Parties on the fulfilment of the conditions for the Commencement of Works under Sub-Clause 8.1 *[Commencement of Works]*." | |
| **Sub-Clause 16.3: Cessation of Work and Removal of Contractor's Equipment** | *In paragraph (b), add after* "received payment" ", including those items listed in the Employer’s Requirements". | |
| **Sub-Clause 16.4: Payment on Termination** | *Delete sub-paragraph (b) and replace with the following:*  "(b) pay the Contractor in accordance with Sub-Clause 18.5 *[Optional Termination, Payment and Release]*; and" | |
| **CLAUSE 17: RISK ALLOCATION** | | |
| **Sub-Clause 17.8: Limitation of Liability** | *Delete Sub-Clause and replace with the following:*  "Neither Party shall be liable to the other Party for loss of use of any Works, loss of profit, loss of any contract or for any indirect or consequential loss or damage which may be suffered by the other Party in connection with the Contract, other than as specifically provided in Sub-Clause 9.6 *[Delay Damages relating to Design Build],* Sub-Clause 10.6 *[Delays and Interruption during the Operation Service]*, Sub-Clause 10.7 *[Failure to Reach Production Outputs],* Sub-Clause 15.4 *[Payment after Termination for Contractor’s Default]*, Sub-Clause 16.4 *[Payment on Termination]*, Sub-Clause 17.9 *[Indemnities by the Contractor]*, Sub-Clause 17.10 *[Indemnities by the Employer]* and Sub-Clause 17.12 *[Risk of Infringement of Intellectual and Industrial Property Rights]*.  The total liability of the Contractor to the Employer, under or in connection with the Contract other than under Sub-Clause 4.19 *[Electricity, Water and Gas]*, Sub-Clause 4.20 *[Employer's Equipment and Free-Issue Materials]*, Sub‑Clause 17.9 *[Indemnities by the Contractor],* Sub-Clause 17.10 *[Indemnities by the Employer]* and Sub‑Clause 17.12 *[Risk of Infringement of Intellectual and Industrial Property Rights]*, shall not exceed the sum stated in the Contract Data or (if a sum is not so stated) the Accepted Contract Amount.  This Sub-Clause shall not limit liability in any case of fraud, deliberate default or reckless misconduct by the defaulting Party." | |
| **Sub-Clause 17.9: Indemnities by the Contractor** | *Sub-paragraph (b) is replaced with:*  "(b) damage to or loss of any property, real or personal (other than the Works), to the extent that such damage or loss arises out of or in the course of or by reason of the design, the execution and completion or operation and maintenance of the Works, unless and to the extent that any such damage or loss is attributable to any negligence, willful act or breach of the Contract by the Employer, the Employer’s Personnel." | |
| **New Sub-clause 17.13: Use of Employer's Accommodation/Facilities** | *The following is added as a new Sub-Clause:*  "17.13 **Use of Employer's Accommodation/Facilities**  The Contractor shall take full responsibility for the care of the Employer provided accommodation and facilities, if any, as detailed in the Employer’s Requirements, from the respective dates of hand-over to the Contractor until cessation of occupation (where hand-over or cessation of occupation may take place after the date stated in the Commissioning Certificate for the Works).  If any loss or damage happens to any of the above items while the Contractor is responsible for their care arising from any cause whatsoever other than those for which the Employer is liable, the Contractor shall, at his own cost, rectify the loss or damage to the satisfaction of the Employer’s Representative." | |
| **CLAUSE 18: EXCEPTIONAL RISKS** | | |
| **Sub-Clause 18.1: Exceptional Risks** | *The following is added in sub-paragraph (b) before "rebellion":* "sabotage by persons other than the Contractor’s Personnel".  *Delete in sub-paragraph (c) after "Contractor's Personnel":* "and other employees of the Contractor and Subcontractors".  *The following additional paragraphs are added at the end of the Sub‑Clause:*  "(g) upstream pollution of the Influent that prevents the Contractor from providing the Operation Service in accordance with this Contract;  (h) if provided for in the Contract Data and for water treatment plant, events of high Influent turbidity in which the suspended solids exceed the value specified in the Contract Data and which prevent the Contractor from providing the Operation Service in accordance with this Contract; and  (i) for wastewater treatment plant, the wastewater Influent flow exceeds a capacity Performance Guarantees for the Works and prevents the Contractor from providing the Operation Service in accordance with this Contract." | |
| **Sub-Clause 18.4: Consequences of an Exceptional Event** | *Sub-paragraph (b) is replaced with:*  "(b) if the event or circumstance is of the kind described in sub‑paragraphs (a) to (i) but not (f) of Sub-Clause 18.1 *[Exceptional Risks]* and, in the case of sub-paragraphs (b) to (e), and (g) to (i), occurs in the Country, payment of any such Cost." | |
| **Sub-Clause 18.5: Optional Termination, Payment and Release** | *In sub-paragraph (c),* "and necessarily" *is inserted after* "reasonably"*.* | |
| **Sub‑Clause 18.7: Suspension or termination on the grounds of the Security of the Contractor's Personnel** | *The following is added as a new Sub-Clause:*  "18.7 **Suspension or termination on the grounds of the Security of the Contractor's Personnel**  This Sub‑Clause is applicable if, and only if, security specifications are included in the Contract.  If it believes, acting reasonably, that the physical integrity of its Personnel is seriously and imminently threatened by a danger in the performance of the Contract, the Contractor may decide, without prior notice:   1. to demobilise its Personnel and Equipment from the area affected by the danger; and 2. immediately suspend the performance of all or part of its obligations under the Contract that the demobilisation referred to in sub-paragraph (a) above prevents it from performing.   The Contractor shall notify its decision to the Employer, within a maximum period of seven (7) days therefrom, furnish proof thereof and inform the Employer of the foreseeable impact of its decision on the Contract Price and the Completion of the Works, as well as the reasonable measures proposed to mitigate these impacts.  The Contractor shall take all reasonable steps to minimise any delay in the performance of the Contract and any Cost resulting from its decision.  The Contractor shall continue to perform its contractual obligations that the danger does not reasonably prevent it from performing.  If the Contractor suffers delays and/or incurs Costs as a result of its decision, the Contractor shall be entitled to obtain, in accordance with the provisions of Sub‑Clause 20.1 *[Contractor’s Claims]*:   1. an extension of time for such delay, if completion is or will be delayed, in accordance with Sub‑Clause 9.3 *[Extension of Time for Completion of Design‑Build]*; and 2. the payment of such Costs, including the costs of repairing and replacing Works and/or Goods damaged or destroyed by the danger, provided they are not covered by the insurance policy referred to in Sub‑Clause 19.2 *[Insurances to be provided by the Contractor during the Design-Build Period]*.   After receiving this notification, the Employer's Representative shall proceed in accordance with Sub‑Clause 3.5 *[Determinations]* to reach an agreement or determine (1) if and (if applicable) to what extent the Contractor’s decision was justified by the circumstances, and (2) the matters described in sub-paragraphs (i) and (ii) above in due proportion.  If, due to a danger notified in accordance with the provisions of this Sub-clause, the completion of most of the Works is prevented for a continuous period of eighty four (84) days or for multiple periods exceeding one hundred and forty (140) days, each Party may notify the other Party of the termination of the Contract in accordance with Sub‑Clause 18.5 *[Optional termination, payment and release]*." | |
| **CLAUSE 19: INSURANCE** | | |
| **Sub-Clause 19.2: Insurances to be provided by the Contractor during the Design-Build Period** | *The following is added at the end of the Sub-Clause:*  "For those insurances required under this Sub-Clause to be in the joint names of the Parties, the Parties shall be jointly entitled to receive payments from the insurers, payments being held or allocated to the Party actually bearing the costs of rectifying the loss or damage." | |
| **Sub-Clause 19.3: Insurances to be provided by the Contractor during the Operation Service Period** | *At the beginning of the Sub-Clause, add* "unless otherwise stated in the Contract Data,"  *The following sub-paragraph is added at the end of the Sub-Clause:*  "(f) Liability for breach of professional duty  The Contractor shall insure the legal liability of the Contractor arising out of the negligent fault, defect, error or omission of the Contractor or any person for whom the Contractor is responsible in the carrying out their professional duties in an amount not less than that stated in the Contract Data.  Such insurance shall contain an extension indemnifying the Contractor for his liability arising out of negligent fault, defect, error or omission in the carrying out his professional duties which result in the Works not being fit for the purpose specified in the Contract and resulting in any loss and/or damage to the Employer.  The Contractor shall maintain this insurance for the period specified in the Contract Data.  For those insurances required under this Sub-Clause to be in the joint names of the Parties, the Parties shall be jointly entitled to receive payments from the insurers, payments being held or allocated to the Party actually bearing the costs of rectifying the loss or damage." | |
| **CLAUSE 20: CLAIMS, DISPUTES AND ARBITRATION**  **and its Appendix A to the General Conditions:**  **"DB" *and* "Dispute Board" *replace* "DAB" *and* "Dispute Adjudication Board" respectively. *The term* "adjudicator" *is also deleted*.** | | |
| Sub-Clause 20.1: Contractor's Claims | *In the penultimate paragraph, delete* "Engineer's Representative" *and replace with* "Employer's Representative"*.* | |
| **Sub-clause 20.2: Employer's Claims** | *Delete the second paragraph and replace with the following:*  "The Notice shall be given as soon as practicable and no longer than 28 days after the Employer became aware, or should have become aware, of the event or circumstances giving rise to the claim."  *In the fourth paragraph, delete* "Engineer’s Representative" *and replace with* "Employer’s Representative”. | |
| **Sub-Clause 20.3: Appointment of the Dispute Board** | *In the paragraph commencing* "The terms of the remuneration", *the following is added after "members":* ", including the remuneration of any expert whom the DB consults," | |
| **Sub‑Clause 20.5: Avoidance of Disputes** | *Insert the text below after the first paragraph and before the second paragraph of this Sub-Clause:*  "The DB shall act, as far as reasonable and practicable, in the spirit of preventing potential problems or claims in between the Parties from becoming Disputes. The DB shall take reasonable and relevant initiatives in this respect, including, but not necessarily limited to, suggesting the Parties to refer a matter to the DB in accordance with this Sub-Clause. The DB shall however not act in a way which may be inconsistent with its obligations under the agreement referred to in Sub-Clause 20.3 *[Appointment of the Dispute Board]* and under Sub-Clause 20.6 *[Obtaining Dispute Board’s Decision]*, and which may render any of its decision unenforceable for breach of natural justice or any other procedural shortcoming or matter. In particular, when acting under this Sub‑Clause 20.5, the DB shall accordingly always meet the Parties jointly, and shall not meet a Party in the absence of the other Party." | |
| **Sub-Clause 20.6: Obtaining Dispute Board's Decision** | *Delete the first paragraph and replace with the following:*  "If a Dispute (of any kind whatsoever) arises between the Parties in connection with, or arising out of, the Contract or the execution of the Works during the Design–Build Period, including any Dispute as to any certificate, determination, instruction, opinion or valuation of the Employer’s Representative, either Party may refer the Dispute in writing to the DB for its decision, with copies to the other Party and the Employer’s Representative. Such reference shall state that it is given under this Sub‑Clause. The other Party shall then have 21 days to send a response to the DB with copies to the referring Party and the Employer’s Representative.  *In paragraph 5,* "and intention to commence arbitration" *is added in both instances after* "dissatisfaction". | |
| **Sub-Clause 20.8: Arbitration** | *Delete the first paragraph and replace with the following:*  "Any dispute between the Parties arising out of or in connection with the Contract not settled amicably in accordance with Sub-Clause 20.7 above and in respect of which the DB’s decision (if any) has not become final and binding shall be finally settled by arbitration. Arbitration shall be conducted as follows:   1. if the contract is with foreign contractors, unless otherwise specified in the Contract Data, international arbitration in accordance with proceedings administered by the International Chamber of Commerce (ICC) and conducted under the ICC Rules of Arbitration; by one or more arbitrators appointed in accordance with said arbitration rules. The place of arbitration shall be the neutral location specified in the Contract Data; and the arbitration shall be conducted in the language for communications defined in Sub-Clause 1.4 *[Law and Language]*. 2. if the Contract is with domestic contractors, arbitration with proceedings conducted in accordance with the laws of the Employer’s country." | |
| **Sub-Clause 20.10: Disputes Arising during the Operation Service Period** | *The third and the penultimate paragraph shall be deleted.*  *Insert at the end of the first paragraph* "…and shall serve as the DB during the entire Operation Service Period. The appointment of the DB shall expire when the discharge referred to in Sub-Clause 14.14 *[Discharge]* shall have become effective." | |

Section X – Contract Forms

**Table of Forms**

Notification of Award – Letter of Acceptance 192

Contract Agreement 193

Appendix 1 – Schedule of Payments 194

Appendix 2 – Schedule of Performance Guarantees 197

Appendix 3 –Performance damages 198

Performance Security 202

Advance Payment Security 203

Retention Money Security 205

Notification of Award – Letter of Acceptance

*[letterhead paper of the Employer]*

*[Insert date]*

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

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

The amount is made up of the following components:

|  |  |
| --- | --- |
| The Accepted Contract Amount for the Design-Build of: | *[currency and amount in figures]* |
| The Accepted Contract Amount for the Operation Service of: | *[currency and amount in figures]* |

You are requested to furnish the Performance Security within 28 days in accordance with the Conditions of Contract, using for that purpose the Performance Security Form included in Section X, Contract Forms of the Bidding Documents.

Authorized *Signature*:

Name and *Title* of Signatory:

Name of *Agency*:

**Attachment: Contract Agreement**

Contract Agreement

THIS AGREEMENT made the \_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_, between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter "**the Employer**"), of the one part, and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter "**the Contractor**"), of the other part:

WHEREAS the Employer desires that the Works known as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ should be designed, executed and operated by the Contractor, and has accepted a Bid by the Contractor for the design, execution, completion and operation and maintenance of these Works and the remedying of any defects therein,

The Employer and the Contractor agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other these following documents.
3. the Letter of Acceptance;
4. the Bid Submission Forms ‑ Technical Bid and Financial bid (including the signed Statement of Integrity);
5. the addenda Nos \_\_\_\_\_\_\_ (if any);
6. the Particular Conditions;
7. the General Conditions;
8. the Employer’s Requirements;
9. the completed Schedules;
10. The Operating License; and
11. The Contractor’s Bid and any other documents forming part of the Contract.
12. In consideration of the payments to be made by the Employer to the Contractor as specified in the Contract, the Contractor hereby covenants with the Employer to design, execute, complete, operate and maintain the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract and Operating License.
13. The Employer hereby covenants to pay the Contractor in consideration of the design, execution, completion operation and maintenance of the Works and the remedying of defects therein, the Contract Price, or such other sum as may become payable under the provisions of the Contract, at the times and in the manner prescribed by the Contract and to grant the Contractor (or cause the Contractor to be granted) a royalty-free license to enable him to operate and maintain the Works during the Operation Service Period

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

Signed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (for the Employer)

Signed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (for the Contractor)

**Appendices to the Contract Agreement:**

* Appendix 1: Schedule of Payments
* Appendix 2: Schedule of Performance Guarantees
* Appendix 3: Schedule of Performance Damages

Appendix 1 – Schedule of Payments

*[****Note****: The following terms and procedures of payment are given as guidance. If additional price schedules are introduced, suitable terms of payment in respect of such additional schedules must be added.]*

In accordance with the provisions of:

* GCC Sub-Clause 14.3 *[Application for Advance and Interim Payment Certificates]*, 14.4 *[Schedule of Payments]*, the Contractor shall apply for payment,
* GCC Sub-Clause 14.7 *[Issue of Advance and Interim Payment Certificates]*, the Employer’s Representative shall certify for payment, and
* GCC Sub-Clause 14.8 *[Payment]*,

the Employer shall pay the Contractor as per the following instalments, based on the Contract Price breakdown given, and the currencies stated, in the Price Schedules.

The instalments provided below for Schedules No.1 to No.4 serve the purpose of providing values according to sub-paragraph (a) of GCC Sub-Clause 14.3.

The instalments provided below for Schedule No.5 serve the purpose of providing values according to sub-paragraph (g) – Operation Service - of GCC Sub-Clause 14.3.

For the avoidance of doubt, other items of GCC Sub-Clause 14.3 shall also apply and be used by the Contractor when preparing his Statements, and by the Employer’s Representative when preparing his Payment Certificates.

For example, Retention Money under sub-paragraph (c) shall accordingly apply to these instalments.

* + 1. **PAYMENT INSTALMENTS**

**Payments during the Design-Build Period**

**Price Schedule No. 1 - Design Services**

In respect of design services for both the foreign currency and the local currency portions, the following payments shall be made:

* Hundred percent (100%) of the total or pro rata design services amount upon consent and/or approval of design by the Employer’s Representative in accordance with the provisions of Sub‑Clause 5.2 *[Contractor’s Documents]*.

**Price Schedule No. 2 – Works, Materials and mandatory Spare Parts supplied from abroad**

In respect of Works and mandatory spare parts supplied from abroad, the following payments shall be made:

* Ninety percent (90%) of the total or pro rata CIP amount upon delivery to the Site.
* Ten percent (10%) of the total or pro rata CIP amount upon issue of the Commissioning Certificate.

**Price Schedule No. 3 – Works, Materials and mandatory Spare Parts supplied from within the Employer’s country**

In respect of Works and mandatory spare parts supplied from within the Employer’s country, the following payments shall be made:

* Ninety percent (90%) of the total or pro rata CIP upon delivery to the Site.
* Ten percent (10%) of the total or pro rata CIP amount upon issue of the Commissioning Certificate.

**Price Schedule No. 4 – Construction Works and Installation Services**

In respect of installation and other services during the Design-Build Period for both the foreign and local currency portions, the following payments shall be made:

* Ninety percent (90%) of the measured value of work performed by the Contractor as certified by the Employer’s Representative in accordance with the provisions of GCC Sub‑Clause 14.7 *[Issue of Advance and Interim Payment Certificates]*.
* Ten percent (10%) of the total installation and other services amount, except for Provisional Sums, during the Design-Build Period upon issue of the Commissioning Certificate.
* Provisional Sums shall be certified and paid as and when used in accordance with Sub-Clause 13.5 *[Provisional Sums].*

**Payments during the Operation Service Period**

**Price Schedule No. 5 – Works Operation Service**

In respect of the Operation Service, for both the foreign and local currency portions, the following payments shall be made:

* No advance payment applies.
* Each monthly instalment is the sum of:
* 1/12th of the Annual Fixed Fee per month introduced under Price Schedule 5.1,
* Contractor’s Variable Fee (CVF) introduced under Price Schedule 5.2 multiplied by the monthly volume of production recorded as per the measurement methodology defined in the Employer’s Requirements, and
* Unless electricity bills are paid by the Employer, the amount of the monthly electricity consumption paid by the Contractor to the local power supplier, but only up to a maximum amount which is the price which would be paid for the Guaranteed Maximum Energy Consumption.
* The monthly Guaranteed Maximum Energy Consumption introduced above is defined as the multiplication of:
* The Contractor’s Guaranteed Maximum Energy Consumption Rate, in kWh per m3 of production, as stated by the Contractor in the Schedule of Performance Guarantees, by
* The monthly volume of production recorded as per the measurement methodology defined in the Employer’s Requirements.

In furtherance to the above, there shall be no payment to the Contractor for any electricity consumption in excess of the monthly Guaranteed Maximum Energy Consumption, and the Contractor shall solely bear the risk of such excess.

If electricity bills are paid by the Employer, any excess shall be deducted from payments to the Contractor.

At the end of every year after the commencement of the Operation Service Period, if the annual electricity consumption of the plant over the elapsed year is lower than the annual Guaranteed Maximum Energy Consumption, calculated under the same mechanism as above but over a year and not over a month, the Employer’s Representative shall fairly determine the savings generated to the Employer due to this lower consumption than anticipated. Savings shall be the additional amount that the Employer would have had to pay to the Contractor, in case the annual electricity consumption had equated the annual Guaranteed Maximum Energy Consumption.

The savings shall be equally split in between the Parties, and the Contractor’s share be included by the Contractor in the next Contractor’s Statement in accordance with Sub‑Clause 14.3 *[Application for Advance and Interim Payment Certificates]*.

*[The Employer may wish to apply the same payment principles, as the ones applied for electricity, to chemicals. In such case this Appendix 1 should be amended accordingly. For further information, refer to the Guidance Note under the Price Schedule 5.3 in Section IV of this Standard Bidding Document.]*

* + 1. **PAYMENT PROCEDURES**

When applying for certification and making payments, the procedures shall be as follows: *[Insert appropriate procedures]*

* + 1. **COST INDEXATION**

*[Cost indexation shall be carried out in accordance with Appendix 1 to Financial Bid – Schedule of Cost Indexation]*

Appendix 2 – Schedule of Performance Guarantees

***[Insert Schedule of Performance Guarantees as completed by the Bidder in his Bid (Section IV – Bidding Forms)]***

Appendix 3 –Performance damages

1. **Introduction and scope of application of performance damages**

This Appendix defines the performance damages which are to be paid by the Contractor in case the Contractor does not comply, during the Operation Service Period, with the Performance Guarantees defined under the Schedule of Performance Guarantees.

Such performance damages apply in furtherance to the provisions contained in:

1. GCC Sub-Clause 10.7 *[Failure to Reach Production Outputs]; and*
2. GCC Sub‑Clause 11.11 *[Failure to pass tests Prior to Contract Completion]*.

These performance damages shall be the only damages due from the Contractor for such default, other than in the event of termination under Clause 15 *[Termination by Employer]*.

The payment of such performance damages shall not relieve the Contractor of any duties, obligations or responsibilities he has under the Contract, including, for the avoidance of doubt, the obligation to ensure that the Works remain in accordance with the Contract during the Operation Service Period.

1. **Failure to meet Performance Guarantees during the Operation Service Period:**

The performance damages referred to under GCC Sub-Clause 10.7, due by the Contractor to the Employer, shall be as follows:

| **No.** | **KPI Description** | **KPI Breach** | **Performance Damages** |
| --- | --- | --- | --- |
| *1* | *Compliance with the drinking water quality standards defined in the Employer’s Requirements* | *Non‑compliance* | *[Select option and insert amount or percentage]*  *USD X per m3 of non‑compliant water,*  *or*  *USD X per 1% in excess of (or below) the KPI value*  *or*  *% reduction in the Operation Service payment for the non‑compliant water produced*  *or*  *No Operation Service payment for the non-compliant water produced* |
| *2* | *Compliance with the effluent wastewater quality standards defined in the Employer’s Requirements* | *Non-compliance* | *[Select option and insert amount]*  *USD X per m3 of non-compliant water,*  *or*  *No Operation Service payment for the non-compliant water produced* |
| *3* | *Production of a minimum of XX m3/day at the outlet of the Water Treatment plant at any time of the year* | *Lower production than the minimum set* | *[Select option and insert amount]*  *USD X per m3 of production below the minimum production set in KPI* |
| *4* | *Continuous water supply (24x7) to end users of the water supply network* | *Non-compliance exceeds A%*  *Non-compliance is calculated as being the ratio of the number of non-supply hours, divided by hours in the month* | *[Select option and insert amount]*  *USD X per %age of non‑compliance*  *Operation Service payment over the month is reduced by the A percentage of non‑compliance* |
| *5* | *Non-Revenue Water below YY%* | *Non-compliance* | *[Select option and insert amount]*  *USD X per %age of non‑compliance above YY%*  *Operation Service payment over the month is reduced by the %age of non-compliance above YY%* |
| *Etc.* |  |  |  |

*[The above are only examples given for guidance purposes, and it is for the Employer to select performance damages which are suitable for each project.*

*The Employer shall define performance damages which represent a genuine pre- estimate of the Employer’s foreseeable losses in case the Contractor breaches a Performance Guarantee, so that the performance damages set herein are meant to cover such loss.*

*Loss for the Employer can be of different kinds, with non-exhaustive examples being given as follows:*

* *Fines for breach of statutory duties,*
* *Loss of revenue,*
* *Loss of reputation,*
* *Etc.*

*There is no need to define here performance damages for input-based KPIs, such as energy or chemicals consumption, since the breach of such kind of KPIs is directly covered by payment deductions during the Operation Service Period – see Appendix 1 to the Contract Agreement.]*

1. **Failure to pass Tests Prior to Contract Completion:**

The performance damages below correspond to the amount to be paid by the Contractor to the Employer for failure to pass the Tests Prior to Contract Completion, as laid down under sub‑paragraph (c) of PCC Sub‑Clause 11.11.

| **No.** | **KPI Description** | **KPI Breach** | **Performance Damages** |
| --- | --- | --- | --- |
| *1* | *Guaranteed Maximum Energy Consumption Rate* | *Failure to meet the rate by less than 5%* | *No damages apply* |
| *Failure to meet the rate by more than 5%* | *Calculated as per formulae below* |
| *2* | *Guaranteed Minimum Sludge Dry Solids Contents* | *Failure to meet the rate by less than 5%* | *No damages apply* |
| *Failure to meet the rate by more than 5%* | *Calculated as per formulae below* |
| *3* | *Guaranteed Maximum Chemicals Consumption Rate* | *Failure to meet the rate by less than 5%* | *No damages apply* |
| *Failure to meet the rate by more than 5%* | *Calculated as per formulae below* |
| *4* | *Non-Revenue Water below YY%* | *Failure to meet the rate by less than 5%* | *No damages apply* |
| *Failure to meet the rate by more than 5%* | *Calculated as per formulae below* |

***Formulae for performance damages under item 1:***

**PD = (AECR - (GMECR x 1,05)) x V x RLE x CE x I**

Where:

|  |  |
| --- | --- |
| **PD =** | Performance damages in currency |
| **AECR =** | Actual Energy Consumption Rate (in kWh per m3 of water production) |
| **GMECR =** | Guaranteed Maximum Energy Consumption Rate (in kWh per m3 of water production) as defined in the Schedule of Performance Guarantees |
| **V =** | Production Volume (in m3/year) |
| **RLE =** | Residual Life Expectancy of the facility, being the difference in between the life span expectancy of the facility, as defined in the Schedule of Performance Guarantees, and the Operation Service Period |
| **CE =** | Cost of Electricity, in currency per kWh |
| **I =** | Inflation rate over the RLE, in percentage |

***Formulae for performance damages under item 2:***

**PD = [((GMDSC x 0,95) - SDSC)) / SDSC] x AR x COD x RLE x CSD x I**

Where:

|  |  |
| --- | --- |
| **PD =** | Performance damages in currency |
| **SDSC =** | Actual Sludge Dry Solids Contents (in percentage) |
| **GMDSC =** | Guaranteed Minimum Dry Solids Contents (in percentage) as defined in the Schedule of Performance Guarantees |
| **AR =** | Average sludge production Ratio (in kg of Dry Solids per kg of COD at the inlet of the wastewater treatment plant) |
| **COD =** | Cumulated COD per year (in kg) |
| **RLE =** | Residual Life Expectancy of the facility, being the difference in between the life span expectancy of the facility, as defined in the Schedule of Performance Guarantees, and the Operation Service Period |
| **CSD =** | Cost of Sludge Disposal, in currency per kg of Dry Solids |
| **I =** | Inflation rate over the RLE, in percentage |

***Formulae for performance damages under item 3:***

**PD = (ACCR - (GMCCR x 1,05)) x V x RLE x CC x I**

Where:

|  |  |
| --- | --- |
| **PD =** | Performance damages in currency |
| **ACCR =** | Actual Chemical Consumption Rate (in kg per m3 of water production) |
| **GMCCR =** | Guaranteed Maximum Energy Consumption Rate (in kWh per m3 of water production) as defined in the Schedule of Performance Guarantees |
| **V =** | Production Volume (in m3/year) |
| **RLE =** | Residual Life Expectancy of the facility, being the difference in between the life span expectancy of the facility, as defined in the Schedule of Performance Guarantees, and the Operation Service Period |
| **CC =** | Cost of Chemical, in currency per kg |
| **I =** | Inflation rate over the RLE, in percentage |

***Formulae for performance damages under item 4:***

**PD = (ANRW - (GMNRW x 1,05)) V x RLE x CW x I**

Where:

|  |  |
| --- | --- |
| **PD =** | Performance damages in currency |
| **ANRW =** | Actual Non-Revenue Water in percentage |
| **GMNRW =** | Guaranteed Maximum Non-Revenue Water (in percentage) as defined in the Schedule of Performance Guarantees |
| **V =** | Input water into the supply network (in m3/year) |
| **RLE =** | Residual Life Expectancy of the facility, being the difference in between the life span expectancy of the facility, as defined in the Schedule of Performance Guarantees, and the Operation Service Period |
| **CW =** | Cost of Water put into the water supply network (in currency per m3) |
| **I =** | Inflation rate over the RLE, in percentage |

The performance damages used in conjunction with Sub‑Clause 11.11 are meant to cover the likely losses of the Employer, over the remaining life span of the facility beyond the Contract completion, and therefore beyond the Operation Service completion.

Accordingly, if the Tests Prior to Contract Completion reveal that, for example, the consumption of energy or of chemicals is still higher than the Contractor’s Performance Guarantees in the Schedule of Performance Guarantees, this means that the Employer will suffer from the consequences of such breach of Contract once the Employer takes over the facility from the Contractor and until the end of the life span of the facility; it was the Contractor who suffered from the consequences of such breach during the Operation Service Period.

The performance damages shall be set to remedy such breach, by providing adequate compensation to the Employer.

Performance Security

**Demand Guarantee**

*[Guarantor letterhead or SWIFT identifier code]*

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

**Date:** *[insert date of issue]*

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

**Guarantor:**

*[insert name and address of place of issue, unless indicated in the letterhead]*

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

Furthermore, we understand that, according to the conditions of the Contract, a Performance Security is required.

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *[insert the amount in figures and letters]*[[72]](#footnote-72), such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary’s complying demand supported by the Beneficiary’s statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire, no later than the \_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_ 2\_\_\_\_[[73]](#footnote-73), and any demand for payment under it must be received by us at this office indicated above on or before that date.

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

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*[signature(s)]*

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

Advance Payment Security

**Demand Guarantee**

*[Guarantor letterhead or SWIFT identifier code]*

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

**Date:** *[insert date of issue]*

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

**Guarantor:**

*[insert name and address of place of issue, unless indicated in the letterhead]*

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

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *[indicate the amount in figures and letters]* is to be made against an advance payment guarantee.

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *[insert the amount in figures and letters]*[[74]](#footnote-74), upon receipt by us of the Beneficiary’s complying demand supported by the Beneficiary’s statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant:

1. has used the advance payment for purposes other than the costs of mobilization in respect of the Works; or
2. has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount which the Applicant has failed to repay.

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

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Applicant as specified in copies of interim statements or Payment Certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the Interim Payment Certificate indicating that ninety (90) percent of the Accepted Contract Amount, less provisional sums, has been certified for payment, or on the \_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_ 2\_\_\_\_[[75]](#footnote-75), whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

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

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*[signature(s)]*

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

Retention Money Security

**Demand Guarantee**

*[Guarantor letterhead or SWIFT identifier code]*

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

**Date:** *[insert date of issue]*

**RETENTION MONEY GUARANTEE No.:**  *[insert guarantee reference number]*

**Guarantor:**

*[insert name and address of place of issue, unless indicated in the letterhead]*

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

Furthermore, we understand that, according to the conditions of the Contract, the Beneficiary retains moneys up to the limit set forth in the Contract ("**the Retention Money**"), and that when the Commissioning Certificate has been issued under the Contract and the first half of the Retention Money has been certified for payment, payment of the second half of the Retention Moneyis to be made against a Retention Money guarantee.

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

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

This guarantee shall expire no later than the \_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_ 2\_\_\_\_[[76]](#footnote-76), and any demand for payment under it must be received by us at the office indicated above on or before that date.

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

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*[signature(s)]*

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

1. The A, B+ or B ranking of the project is carried out by the AES (Environmental and Social Support) Division of AFD, after analyzing the project's risks and environmental and social impact. [↑](#footnote-ref-1)
2. Or any other French Ministry responsible for the ranking of foreign countries' security condition, if applicable. [↑](#footnote-ref-2)
3. Substitute "has applied for," if appropriate. [↑](#footnote-ref-3)
4. Substitute "contracts" where bids are called concurrently for multiple contracts. Add a new paragraph as follows: "Bidders may bid for one or several contracts, as further defined in the bidding document. Bidders wishing to offer discounts in case they are awarded more than one contract will be allowed to do so provided those discounts are included in the Letter of Bid." [↑](#footnote-ref-4)
5. The office for inquiry and issuance of Bidding Documents and that for Bid submission may or may not be the same. [↑](#footnote-ref-5)
6. The fee chargeable should only be nominal to defray reproduction and mailing costs. An amount between US$50 and US$300 or equivalent is deemed appropriate. [↑](#footnote-ref-6)
7. Insert another address if different from the address for the information specified in paragraph 3. [↑](#footnote-ref-7)
8. Or any other French Ministry responsible for the ranking of foreign countries' security condition, if applicable. [↑](#footnote-ref-8)
9. In the case of the Bid submitted by a JV specify the name of the JV as Bidder. [↑](#footnote-ref-9)
10. Person signing the Bid shall have the power of attorney given by the Bidder to be attached with the Bid. [↑](#footnote-ref-10)
11. In case of joint venture, insert the name of the joint venture. The person who will sign the application, bid or proposal on behalf of the applicant, bidder or consultant shall attach a power of attorney from the applicant, bidder or consultant. [↑](#footnote-ref-11)
12. In the case of a Contract already signed to be refinanced. [↑](#footnote-ref-12)
13. Directors, (including any person who is a member of the administrative management or supervisory body, or with powers of representation, decision or control), employees, or agents (be them declared or not). [↑](#footnote-ref-13)
14. Including the Judicial Public Interest Agreement (CJIP), a decision following an Appearance on Prior Recognition of Guilt (CPRC), a negotiated resolution agreement, or any other similar form of transaction terminating criminal proceedings. [↑](#footnote-ref-14)
15. World Bank, Inter-American Development Bank, African Development Bank, Asian Development Bank, and European Bank for Reconstruction and Development. [↑](#footnote-ref-15)
16. Directors, (including any person who is a member of the administrative management or supervisory body, or with powers of representation, decision or control), employees or agents (be them declared or not). [↑](#footnote-ref-16)
17. For informational purposes, this policy can be accessed *via* the following link: <https://www.afd.fr/en/combating-corruption>. [↑](#footnote-ref-17)
18. In the case of a joint venture, insert the name of the joint venture. The person signing the bid, proposal or application on behalf of the bidder, consultant or applicant, shall attach a power of attorney from such bidder, consultant or applicant. [↑](#footnote-ref-18)
19. In the case of the Bid submitted by a JV specify the name of the JV as Bidder. [↑](#footnote-ref-19)
20. Person signing the Bid shall have the power of attorney given by the Bidder to be attached with the Bid. [↑](#footnote-ref-20)
21. Insert the month of the Base Date, i.e. the month of the Deadline for Bid Submission in accordance with ITB Clause 23. [↑](#footnote-ref-21)
22. Specify currency in accordance with ITB 18.1 of the BDS. [↑](#footnote-ref-22)
23. Specify currency in accordance with ITB 18.1 of the BDS. [↑](#footnote-ref-23)
24. Specify currency in accordance with ITB 18.1 of the BDS. [↑](#footnote-ref-24)
25. Specify currency in accordance with ITB 18.1 of the BDS. [↑](#footnote-ref-25)
26. To be deleted if no security specifications are included in the Bidding Documents. [↑](#footnote-ref-26)
27. As described in PCC Sub‑Clause 13.5. Sum filled in by the Employer in the Bidding Documents, and to be inserted by the Contractor in this Schedule without any alteration. No Contractor's overhead charges and profit percentage applies. [↑](#footnote-ref-27)
28. If cost of electricity is deemed under the contract to be paid by the Employer, Price Schedule 5.3 (column (3)) shall not be included in the Total Operation Service Bid Price. [↑](#footnote-ref-28)
29. Insert number of years of the Operation Service Period. [↑](#footnote-ref-29)
30. Total to be carried forward in Schedule No.5: Plant Operation Service. [↑](#footnote-ref-30)
31. Insert number of years of the Operation Service Period. [↑](#footnote-ref-31)
32. Numbers to be carried forward in Schedule No.5: Plant Operation Service. [↑](#footnote-ref-32)
33. Insert as many columns as the number of years of the Operation Service Period. [↑](#footnote-ref-33)
34. Insert as many columns as the number of years of the Operation Service Period. [↑](#footnote-ref-34)
35. Specify currency in accordance with ITB 18.1 of the BDS. [↑](#footnote-ref-35)
36. Specify currency in accordance with ITB 18.1 of the BDS. [↑](#footnote-ref-36)
37. **Chemical name**: the Contractor shall provide the name of the reagent among the choices given by the Employer’s list of chemicals, this is the chemical base on which the Contractor’s guaranteed value is provided. The Contractor is allowed to propose alternative chemical(s) to the ones listed by the Employer, provided that the Contractor can demonstrate, to the reasonable satisfaction of the Employer, that such alternative chemical(s) is(are) locally available for any future purchase by the Employer hence will not put the Employer into any higher risk of supply scarcity than if a chemical was chosen from the Employer’s list. [↑](#footnote-ref-37)
38. In the case of the Bid submitted by joint venture specify the name of the Joint Venture as Bidder. [↑](#footnote-ref-38)
39. Person signing the Bid shall have the power of attorney given by the Bidder attached to the Bid. [↑](#footnote-ref-39)
40. Means any Person whether natural or legal, firm, company, corporation, government, state or state agency or any association, or group of two or more of the foregoing (whether or not having separate legal status). [↑](#footnote-ref-40)
41. Means any natural or legal person, as well as any association or group of several such persons [↑](#footnote-ref-41)
42. Means any natural person who is a member of the administrative, management or supervisory bodies of a legal entity, or who is vested with powers of representation, decision-making, or control over a legal entity. [↑](#footnote-ref-42)
43. Including the Judicial Public Interest Agreement (CJIP), a decision following an Appearance on Prior Admission of Guilt (CRPC), a negotiated resolution agreement, or any other similar form of transaction ending the proceedings. [↑](#footnote-ref-43)
44. As defined in Section VI – AFD Policy – Prohibited Practices – environmental and social responsibility [↑](#footnote-ref-44)
45. World Bank, Inter-American Development Bank, African Development Bank, Asian Development Bank and European Bank for Reconstruction and Development. [↑](#footnote-ref-45)
46. Means any Person whether natural or legal, firm, company, corporation, government, state or state agency or any association, or group of two or more of the foregoing (whether or not having separate legal status). [↑](#footnote-ref-46)
47. Means any natural Person other than a Public Officer. [↑](#footnote-ref-47)
48. For more information, this Policy is available on the following link : https://www.afd.fr/en/combating-corruption [↑](#footnote-ref-48)
49. For more information, the Procurement Guidelines are available on the following link : https://www.afd.fr/en/bid-invitations-and-procurement [↑](#footnote-ref-49)
50. Means any natural or legal person, as well as any association or group of several such persons. [↑](#footnote-ref-50)
51. Means any natural person who is a member of the administrative, management or supervisory bodies of a legal entity, or who is vested with powers of representation, decision-making, or control over a legal entity. [↑](#footnote-ref-51)
52. Inputs‑based KPI assist in determining how efficient is the facility in its operation and in reaching the contracted outputs. In other words, this does measure how many inputs are necessary for the facility to deliver its contracted outputs, since the global performance of the plant is not only measured by what it delivers (m3 of water or treated wastewater, water of quality compliant with local laws & regulations, etc.), but also how it delivers the same. [↑](#footnote-ref-52)
53. Outputs‑based KPI assist in determining whether what the facility produces/delivers complies with the Employer’s Requirements (minimum production of water per day to be achieved, maximum level of noise or odour, etc.). [↑](#footnote-ref-53)
54. Insert as many columns as the number of years of the Operation Service Period. [↑](#footnote-ref-54)
55. **Chemical type**: The Employer shall list out the main type of chemicals used in the water treatment process and sludge thickening and/or dewatering (main chemicals’ type are: pH Adjustment, Oxidant / Disinfectant, Coagulation, Flocculation, Dechlorination, Sludge Stabilization / Thickener, Phosphate Treatment, DOC (dissolved organic carbon) Removal etc.); then provide also the information about available reagents with theirs characteristics according to the local market situation. [↑](#footnote-ref-55)
56. Select the appropriate table as the case may be. [↑](#footnote-ref-56)
57. *[ The A, B+ or B ranking of the project is carried out by the AES (Environmental and Social Support) Division of AFD, after analyzing the project's risks and environmental and social impact.]* [↑](#footnote-ref-57)
58. Source: French Environment Law (Code de l’environnement) / Articles R541-8. [↑](#footnote-ref-58)
59. Or any other French Ministry responsible for the ranking of foreign countries' security condition, if applicable. [↑](#footnote-ref-59)
60. Means any Person whether natural or legal, firm, company, corporation, government, state or state agency or any association, or group of two or more of the foregoing (whether or not having separate legal status). [↑](#footnote-ref-60)
61. Means any natural Person other than a Public Officer. [↑](#footnote-ref-61)
62. For more information, this Policy is available on the following link : https://www.afd.fr/en/combating-corruption [↑](#footnote-ref-62)
63. For more information, the Procurement Guidelines are available on the following link : https://www.afd.fr/en/bid-invitations-and-procurement [↑](#footnote-ref-63)
64. Means any natural or legal person, as well as any association or group of several such persons. [↑](#footnote-ref-64)
65. Means any natural person who is a member of the administrative, management or supervisory bodies of a legal entity, or who is vested with powers of representation, decision-making, or control over a legal entity. [↑](#footnote-ref-65)
66. Means any Person whether natural or legal, firm, company, corporation, government, state or state agency or any association, or group of two or more of the foregoing (whether or not having separate legal status). [↑](#footnote-ref-66)
67. Means any natural or legal person, as well as any association or group of several such persons [↑](#footnote-ref-67)
68. Means any natural person who is a member of the administrative, management or supervisory bodies of a legal entity, or who is vested with powers of representation, decision-making, or control over a legal entity. [↑](#footnote-ref-68)
69. Including the Judicial Public Interest Agreement (CJIP), a decision following an Appearance on Prior Admission of Guilt (CRPC), a negotiated resolution agreement, or any other similar form of transaction ending the proceedings. [↑](#footnote-ref-69)
70. As defined in Section VI – AFD Policy – Prohibited Practices – environmental and social responsibility [↑](#footnote-ref-70)
71. World Bank, Inter-American Development Bank, African Development Bank, Asian Development Bank and European Bank for Reconstruction and Development. [↑](#footnote-ref-71)
72. The Guarantor shall insert an amount representing the percentage stated in the Contract Data of the Accepted Contract Amount specified in the Letter of Acceptance, less provisional sums, if any, and denominated either in the currency(cies) of the Contract or a freely convertible currency acceptable to the Beneficiary. [↑](#footnote-ref-72)
73. Insert the date twenty-eight days after the expected Contract Completion Date as described in GCC Clause 8.6. The Employer should note that in the event of an extension of this date for completion of the Contract, the Contractor would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one‑time extension of this guarantee for a period not to exceed *[six months] [one year]*, in response to the Beneficiary’s written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee." [↑](#footnote-ref-73)
74. The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency(ies) of the advance payment as specified in the Contract, or in a freely convertible currency acceptable to the Employer. [↑](#footnote-ref-74)
75. Insert the expected expiration date of the Time for Completion. The Employer should note that in the event of an extension of the time for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed *[six months] [one year]*, in response to the Beneficiary’s written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee." [↑](#footnote-ref-75)
76. Insert the same expiry date as set forth in the Performance Security, representing the date twenty-eight days after the expected Contract Completion Date as described in GCC Clause 8.6. The Employer should note that in the event of an extension of this date for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed *[six months] [one year]*, in response to the Beneficiary’s written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee." [↑](#footnote-ref-76)