



Samoa

PACIFIC AVIATION INVESTMENT PROGRAM

Bidding Documents
PROCUREMENT OF PHYSICAL WORKS
FOR
Procurement of
Physical Works for Airport
Pavements, Drainage and Service
Infrastructure, Faleolo International
Airport, Samoa

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PART 1 – BIDDING PROCEDURES

Section I. Instructions to Bidders

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Section I. Instructions to Bidders

A. General

1. **Scope of Bid**
 - 1.1 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 as specified in Section VII, Works Requirements. The name, identification, and number of lots (contracts) of this International Competitive Bidding (ICB) process are specified in the BDS.
 - 1.2 Throughout these Bidding Documents:
 - (a) the term "in writing" means communicated in written form and delivered against receipt;
 - (b) except where the context requires otherwise, words indicating the singular also include the plural and words indicating the plural also include the singular; and
 - (c) "day" means calendar day.
2. **Source of Funds**
 - 2.1 The Borrower or Recipient (hereinafter called "Borrower") **specified in the BDS** has received or has applied for financing (hereinafter called "funds") from the International Bank for Reconstruction and Development or the International Development Association (hereinafter called "the Bank") in an amount **specified in the BDS**, toward the project named **in the BDS**. The Borrower intends to apply a portion of the funds to eligible payments under the contract(s) for which these Bidding Documents are issued.
 - 2.2 Payment by the Bank will be made only at the request of the Borrower and upon approval by the Bank, and will be subject, in all respects, to the terms and conditions of the Loan (or other financing) Agreement. The Loan (or other financing) Agreement prohibits a withdrawal from

the Loan (or other financing) account for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the Bank, is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations. No party other than the Borrower shall derive any rights from the Loan (or other financing) Agreement or have any claim to the proceeds of the Loan (or other financing).

3. Corrupt and Fraudulent Practices

- 3.1 The Bank requires compliance with its policy in regard to corrupt and fraudulent practices as set forth in Section VI.
- 3.2 In further pursuance of this policy, Bidders shall permit and shall cause its agents (whether declared or not), sub-contractors, sub-consultants, service providers, or suppliers and any personnel thereof, to permit the Bank to inspect all accounts, records and other documents relating to any prequalification process, bid submission, and contract performance (in the case of award), and to have them audited by auditors appointed by the Bank.

4. Eligible Bidders

- 4.1 A Bidder may be a firm that is a private entity, a government-owned entity—subject to ITB 4.5—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.
- 4.2 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 bidding process, if the Bidder:

- (a) directly or indirectly controls, is controlled by or is under common control with another Bidder; or
- (b) receives or has received any direct or indirect subsidy from another Bidder; or
- (c) has the same legal representative as another Bidder; or
- (d) 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
- (e) participates in more than one bid in this bidding process. Participation by a Bidder 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
- (f) any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the bid; or
- (g) any of its affiliates has been hired (or is proposed to be hired) by the Employer or Borrower as Engineer for the Contract implementation; or
- (h) would be providing goods, works, or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of the project specified in the BDS ITB 2.1 that it provided or were provided by any affiliate that directly or indirectly controls, is controlled by, or is under

common control with that firm; or

- (i) has a close business or family relationship with a professional staff of the Borrower (or of the project implementing agency, or of a recipient of a part of the loan) who: (i) are directly or indirectly involved in the preparation of the bidding 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 the Bank throughout the procurement process and execution of the contract.

4.3 A Bidder may have the nationality of any country, subject to the restrictions pursuant to ITB 4.7. A Bidder shall be deemed to have the nationality of a country if the Bidder is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be. This criterion also shall apply to the determination of the nationality of proposed sub-contractors or sub-consultants for any part of the Contract including related Services.

4.4 A Bidder that has been sanctioned by the Bank in accordance with the above ITB 3.1, including in accordance with the Bank's Guidelines on Preventing and Combating Corruption in Projects Financed by IBRD Loans and IDA Credits and Grants ("Anti-Corruption Guidelines"), shall be ineligible to be prequalified for, bid for, or be awarded a Bank-financed contract or benefit from a Bank-financed contract, financially or otherwise, during such period of time as the Bank shall have determined. The list of debarred firms and individuals is available as **specified in the BDS**.

4.5 Bidders that are Government-owned enterprises or

institutions in the Employer's Country may participate only if they can establish that they (i) are legally and financially autonomous (ii) operate under commercial law, and (iii) are not dependent agencies of the Employer. To be eligible, a government-owned enterprise or institution shall establish to the Bank's satisfaction, through all relevant documents, including its Charter and other information the Bank may request, that it: (i) is a legal entity separate from the government (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 the government, can acquire rights and liabilities, borrow funds and be liable for repayment of its debts, and can be declared bankrupt; and (iv) is not bidding for a contract to be awarded by the department or agency of the government which under their applicable laws or regulations is the reporting or supervisory authority of the enterprise or has the ability to exercise influence or control over the enterprise or institution.

- 4.6 A Bidder shall not be under suspension from bidding by the Employer as the result of the operation of a Bid-Securing Declaration.
- 4.7 Firms and individuals may be ineligible if so indicated in Section V and (a) as a matter of law or official regulations, the Borrower's country prohibits commercial relations with that country, provided that the Bank is satisfied that such exclusion does not preclude effective competition for the supply of goods or the contracting of works or services required; or (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Borrower's country prohibits any import of goods or contracting of works or services from that country, or any payments to any country, person, or entity in that country.
- 4.8 This bidding is open only to prequalified Bidders

unless **specified in the BDS**.

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

B. Contents of Bidding Documents

- 6. Sections of Bidding Documents**
- 6.1 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

- Section I. Instructions to Bidders (ITB)
- Section II. Bid Data Sheet (BDS)
- Section III. Evaluation and Qualification Criteria
- Section IV. Bidding Forms
- Section V. Eligible Countries
- Section VI. Bank Policy-Corrupt and Fraudulent Practices

PART 2 Works Requirements

- Section VII. Works Requirements

PART 3 Conditions of Contract and Contract Forms

- Section VIII. General Conditions (GC)
- Section IX. Particular Conditions (PC)
- Section X. Contract Forms

- 6.2 The Invitation for Bids issued by the Employer is not part of the Bidding Documents.
- 6.3 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 Addenda to the Bidding Documents in accordance with ITB 8. In case of any contradiction, documents obtained directly from the Employer shall prevail.
- 6.4 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Documents and to furnish with its bid all information and documentation as is required by the Bidding Documents.
- 7. Clarification of Bidding Documents, Site Visit, Pre-Bid Meeting**
- 7.1 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, 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, including a description of the inquiry but without identifying its source. 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 22.2.
- 7.2 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.

- 7.3 The Bidder and any of its personnel or agents will be granted permission by the Employer to enter upon its premises and lands for the purpose of 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.
- 7.4 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.
- 7.5 The Bidder is requested to submit any questions in writing, to reach the Employer not later than one week before the meeting.
- 7.6 Minutes of the pre-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 transmitted promptly 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. Nonattendance at the pre-bid meeting will not be a cause for disqualification of a Bidder.

8. Amendment of Bidding Documents

- 8.1 At any time prior to the deadline for submission of bids, the Employer may amend the Bidding Documents by issuing addenda.

- 8.2 Any addendum 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 addendum on the Employer's web page in accordance with ITB 7.1.
- 8.3 To give Bidders reasonable time in which to take an addendum into account in preparing their bids, the Employer should extend the deadline for the submission of bids, pursuant to ITB 22.2

C. Preparation of Bids

- 9. Cost of Bidding** 9.1 The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the Employer shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.
- 10. Language of Bid** 10.1 The Bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Employer, shall be written in the language **specified in the BDS**. Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language **specified in the BDS**, in which case, for purposes of interpretation of the Bid, such translation shall govern.
- 11. Documents Comprising the Bid** 11.1 The Bid shall comprise the following:
- (a) Letter of Bid and Appendix to Bid, in accordance with ITB 12;
 - (b) completed schedules as required, including priced Bill of Quantities, in accordance with ITB 12 and 14;
 - (c) Bid Security or Bid-Securing Declaration, in accordance with ITB 19.1;

- (d) alternative bids, if permissible, in accordance with ITB 13;
- (e) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB 20.2;
- (f) documentary evidence in accordance with ITB 17 establishing the Bidder's continued qualified status or, if post-qualification applies, as specified in accordance with ITB 4.8, the Bidder's qualifications to perform the contract if its Bid is accepted;
- (g) Technical Proposal in accordance with ITB 16;
- (h) any other document **required in the BDS**.

11.2 In addition to the requirements under ITB 11.1, bids submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all members. Alternatively, a letter of intent to execute a Joint Venture Agreement in the event of a successful bid shall be signed by all members and submitted with the bid, together with a copy of the proposed Agreement.

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

12. Letter of Bid and Schedules

12.1 The Letter of Bid and Schedules, including the Bill of Quantities, shall be prepared using the relevant forms furnished in Section IV, Bidding Forms. The forms must be completed without any alterations to the text, and no substitutes shall be accepted except as provided under ITB 20.2. All blank spaces shall be filled in with the information requested.

13. Alternative Bids

13.1 **Unless otherwise specified in the BDS**, alternative bids shall not be considered.

13.2 When alternative times for completion are explicitly invited, a statement to that effect **will be**

included in the BDS, as will the method of evaluating different times for completion.

13.3 Except as provided under ITB 13.4 below, Bidders wishing to offer technical alternatives to the requirements of the Bidding Documents must first price the Employer's design as described in the Bidding Documents and shall further provide all information necessary for a complete evaluation of the alternative by the Employer, including drawings, design calculations, technical specifications, breakdown of prices, and proposed construction methodology and other relevant details. Only the technical alternatives, if any, of the lowest evaluated Bidder conforming to the basic technical requirements shall be considered by the Employer.

13.4 **When specified in the BDS**, Bidders are permitted to submit alternative technical solutions for specified parts of the Works, and such parts **will be identified in the BDS**, as will the method for their evaluating, and described in Section VII, Works Requirements.

14. Bid Prices and Discounts

14.1 The prices and discounts (including any price reduction) quoted by the Bidder in the Letter of Bid and in the Bill of Quantities shall conform to the requirements specified below.

14.2 The Bidder shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items against which no rate or price is entered by the Bidder shall be deemed covered by the rates for other items in the Bill of Quantities and will not be paid for separately by the Employer. An item not listed in the priced Bill of Quantities shall be assumed to be not included in the Bid, and provided that the Bid is determined substantially responsive notwithstanding this omission, the average price of the item quoted by substantially responsive bidders will be added to the bid price and the equivalent total cost of the bid so

determined will be used for price comparison.

14.3 The price to be quoted in the Letter of Bid, in accordance with ITB 12.1, shall be the total price of the Bid, excluding any discounts offered.

14.4 The Bidder shall quote any discounts and the methodology for their application in the Letter of Bid, in accordance with ITB 12.1.

14.5 **Unless otherwise specified in the BDS** and the Contract, the rates and prices quoted by the Bidder are subject to adjustment during the performance of the Contract in accordance with the provisions of the Conditions of Contract. In such a case, the Bidder shall furnish the indices and weightings for the price adjustment formulae in the Schedule of Adjustment Data and the Employer may require the Bidder to justify its proposed indices and weightings.

14.6 If so specified in ITB 1.1, bids are being invited for individual lots (contracts) or for any combination of lots (packages). Bidders wishing to offer discounts for the award of more than one Contract shall specify in their bid the price reductions applicable to each package, or alternatively, to individual Contracts within the package. Discounts shall be submitted in accordance with ITB 14.4, provided the bids for all lots (contracts) are opened at the same time.

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

15. Currencies of Bid and Payment

15.1 The currency(ies) of the bid and the currency(ies) of payments shall be **as specified in the BDS**.

15.2 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 unit rates and prices and shown in the Schedule of Adjustment Data in the Appendix to Bid are reasonable, in which case a detailed breakdown of the foreign currency requirements shall be provided by Bidders.

**16. Documents
Comprising the
Technical
Proposal**

16.1 The Bidder shall furnish a Technical Proposal including a statement of work methods, equipment, personnel, schedule and any other information as stipulated in Section IV – Bidding Forms, in sufficient detail to demonstrate the adequacy of the Bidder's proposal to meet the work requirements and the completion time.

**17. Documents
Establishing the
Qualifications of
the Bidder**

17.1 In accordance with Section III, Evaluation and Qualification Criteria, to establish that the Bidder continues to meet the criteria used at the time of prequalification, 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, or if post-qualification applies as specified in ITB 4.8, the Bidder shall provide the information requested in the corresponding information sheets included in Section IV, Bidding Forms.

17.2 If a margin of preference applies as specified in accordance with ITB 33.1, domestic Bidders, individually or in joint ventures, applying for eligibility for domestic preference shall supply all information required to satisfy the criteria for eligibility specified in accordance with ITB 33.1.

17.3 Any change in the structure or formation of a Bidder after being prequalified 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) a Bidder proposes to associate with a disqualified Bidder or in case of a disqualified joint venture, any of its members; (ii) as a consequence of the change, the Bidder no longer substantially meets the qualification criteria

set forth in Section III, Qualification Criteria and Requirements; or (iii) in the opinion of the Employer, the change may result in a substantial reduction in competition. Any such change should be submitted to the Employer not later than fourteen (14) days after the date of the Invitation for Bids.

18. Period of Validity of Bids

18.1 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 22.1. A bid valid for a shorter period shall be rejected by the Employer as non responsive.

18.2 In exceptional circumstances, prior to the expiration of the bid validity period, the Employer may request Bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. If a bid security is requested in accordance with ITB 19, it shall also be extended for twenty-eight (28) days beyond the deadline of the extended validity period. A Bidder may refuse the request without forfeiting its bid security. A Bidder granting the request shall not be required or permitted to modify its bid, except as provided in ITB 18.3.

18.3 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:

(a) In the case of fixed price contracts, the Contract price shall be the bid price adjusted by the factor **specified in the BDS**.

(b) In the case of adjustable price contracts, no adjustment shall be made.

(c) In any case, bid evaluation shall be based on the bid price without taking into consideration the applicable correction from those indicated above.

19. Bid Security

19.1 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**.

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

19.3 If a bid security is specified pursuant to ITB 19.1, the bid security shall be a demand guarantee in any of the following forms at the Bidder's option:

(a) an unconditional guarantee issued by a bank or financial institution (such as an insurance, bonding or surety company);

(b) an irrevocable letter of credit;

(c) a cashier's or certified check; or

(d) another security **specified in the BDS**,

from a reputable source from an eligible country. 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. In the case of a bank guarantee, the bid security shall be submitted either using the Bid Security Form included in Section IV, Bidding Forms, or in another substantially similar format approved by the Employer prior to bid submission. The bid security shall be valid for twenty-eight (28) days beyond the original validity period of the bid, or beyond any period of extension if requested under ITB 18.2.

19.4 If a bid security or Bid Securing Declaration is specified pursuant to ITB 19.1, any bid not accompanied by a substantially responsive bid security or Bid-Securing Declaration shall be rejected by the Employer as non responsive.

19.5 If a bid security is specified pursuant to ITB 19.1, the bid security of unsuccessful Bidders shall be

returned as promptly as possible upon the successful Bidder's signing the Contract and furnishing the performance security and if required in the BDS, the Environmental, Social, Health and Safety (ESHS) Performance Security pursuant to ITB 42.

19.6 The bid security of the successful Bidder shall be returned as promptly as possible once the successful Bidder has signed the Contract and furnished the required performance security, and if required in the BDS, the Environmental, Social, Health and Safety (ESHS) Performance Security.

19.7 The bid security may be forfeited or the Bid-Securing Declaration executed:

(a) 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

(b) if the successful Bidder fails to:

(i) sign the Contract in accordance with ITB 41; or

(ii) furnish a performance security and if required in the BDS, the Environmental, Social, Health and Safety (ESHS) Performance Security in accordance with ITB 42.

19.8 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 11.2.

19.9 If a bid security is **not required in the BDS** pursuant to ITB 19.1, and

(a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the

Letter of Bid, or

- (b) if the successful Bidder fails to sign the Contract in accordance with ITB 41; or furnish a performance security and if required in the BDS, the Environmental, Social, Health and Safety (ESHS) Performance Security in accordance with ITB 42;

the Borrower 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**.

20. Format and Signing of Bid

- 20.1 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.
- 20.2 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 initialed by the person signing the bid.
- 20.3 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.
- 20.4 Any inter-lineation, erasures, or overwriting shall be

valid only if they are signed or initialed by the person signing the bid.

D. Submission and Opening of Bids

21. Sealing and Marking of Bids

21.1 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, 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.

21.2 The inner and outer envelopes shall:

- (a) bear the name and address of the Bidder;
- (b) be addressed to the Employer in accordance with ITB 22.1;
- (c) bear the specific identification of this bidding process specified in the BDS 1.1; and
- (d) bear a warning not to open before the time and date for bid opening.

21.3 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.

22. Deadline for Submission of Bids

22.1 Bids must be received by the Employer at the address and no later than the date and time **specified in the BDS. When so specified in the BDS**, bidders shall have the option of submitting their bids electronically. Bidders submitting bids electronically shall follow the electronic bid submission procedures **specified in the BDS**.

22.2 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.

23. Late Bids

23.1 The Employer shall not consider any bid that arrives after the deadline for submission of bids, in accordance with ITB 22. Any bid received by the Employer after the deadline for submission of bids shall be declared late, rejected, and returned unopened to the Bidder.

24. Withdrawal, Substitution, and Modification of Bids

24.1 A Bidder may withdraw, substitute, or modify its bid after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITB 20.2, (except that withdrawal notices do not require copies). The corresponding substitution or modification of the bid must accompany the respective written notice. All notices must be:

(a) prepared and submitted in accordance with ITB 20 and ITB 21 (except that withdrawals notices do not require copies), and in addition, the respective envelopes shall be clearly marked "WITHDRAWAL," "SUBSTITUTION," "MODIFICATION;" and

(b) received by the Employer prior to the deadline prescribed for submission of bids, in accordance with ITB 22.

24.2 Bids requested to be withdrawn in accordance with ITB 24.1 shall be returned unopened to the Bidders.

24.3 No bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Letter of Bid or any extension thereof.

25. Bid Opening

25.1 Except in the cases specified in ITB 23 and 24, the Employer shall publicly open and read out in accordance with ITB 25.3 all bids received by the deadline, at the date, time and place **specified in the BDS**, in the presence of Bidders` designated representatives and anyone who choose to

attend. Any specific electronic bid opening procedures required if electronic bidding is permitted in accordance with ITB 22.1, shall be **as specified in the BDS**.

25.2 First, envelopes marked "WITHDRAWAL" shall be opened and read out and the envelope with the corresponding bid shall not be opened, but returned to the Bidder. 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. Only bids that are opened and read out at bid opening shall be considered further.

25.3 All other envelopes shall be opened one at a time, reading out: the name of the Bidder and whether there is a modification; the total Bid Price, per lot (contract) if applicable, including any discounts and alternative bids; the presence or absence of a bid security, if required; and any other details as the Employer may consider appropriate. Only discounts and alternative bids read out at bid opening shall be considered for evaluation. The Letter of Bid and the Bill of Quantities are to be initialed by representatives of the Employer attending bid opening in the manner **specified in the BDS**. The Employer shall neither discuss the merits of any bid nor reject any bid (except for late bids, in accordance with ITB

23.1).

25.4 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; the Bid Price, per lot (contract) if applicable, including any discounts and alternative bids; and the presence or absence of a bid security, 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.

E. Evaluation and Comparison of Bids

26. Confidentiality

26.1 Information relating to the evaluation of bids and recommendation of contract award shall not be disclosed to Bidders or any other persons not officially concerned with the bidding process until information on Contract award is communicated to all Bidders in accordance with ITB 40.

26.2 Any attempt by a Bidder to influence the Employer in the evaluation of the bids or Contract award decisions may result in the rejection of its bid.

26.3 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.

27. Clarification of Bids

27.1 To assist in the examination, evaluation, and comparison of the bids, and qualification of the Bidders, the Employer may, at its discretion, ask any Bidder for a clarification of its bid, 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 31.

27.2 If a Bidder does not provide clarifications of its bid by the date and time set in the Employer's request for clarification, its bid may be rejected.

28. Deviations, Reservations, and Omissions

28.1 During the evaluation of bids, the following definitions apply:

(a) "Deviation" is a departure from the requirements specified in the Bidding Documents;

(b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Documents; and

(c) "Omission" is the failure to submit part or all of the information or documentation required in the Bidding Documents.

29. Determination of Responsiveness

29.1 The Employer's determination of a bid's responsiveness is to be based on the contents of the bid itself, as defined in ITB11.

29.2 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,

(a) if accepted, would:

(i) affect in any substantial way the scope, quality, or performance of the Works specified in the Contract; or

(ii) limit in any substantial way, inconsistent with the Bidding Documents, the Employer's rights or the Bidder's obligations under the

proposed Contract; or

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

29.3 The Employer shall examine the technical aspects of the bid submitted in accordance with ITB 16, Technical Proposal, in particular, to confirm that all requirements of Section VI, Works Requirements have been met without any material deviation, reservation or omission.

29.4 If a 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.

**30. Nonmaterial
Nonconformities**

30.1 Provided that a bid is substantially responsive, the Employer may waive any nonconformities in the Bid.

30.2 Provided that a bid is substantially responsive, the Employer may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities in the bid related to documentation requirements. Requesting information or documentation on such nonconformities shall not be related to any aspect of the price of the Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid.

30.3 Provided that a bid is substantially responsive, the Employer shall rectify quantifiable nonmaterial nonconformities related to the Bid Price. To this effect, the Bid Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component. The adjustment shall be made using the method specified in Section III, Evaluation and Qualification Criteria.

31. Correction of

31.1 Provided that the bid is substantially responsive,

Arithmetical Errors

the Employer shall correct arithmetical errors on the following basis:

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

31.2 Bidders shall be requested to accept correction of arithmetical errors. Failure to accept the correction in accordance with ITB 31.1, shall result in the rejection of the Bid.

32. Conversion to Single Currency

32.1 For evaluation and comparison purposes, the currency(ies) of the Bid shall be converted into a single currency **as specified in the BDS**.

33. Margin of Preference

33.1 **Unless otherwise specified in the BDS**, a margin of preference for domestic bidders¹ shall not apply.

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

- 34.Subcontractors**
- 34.1 **Unless otherwise stated in the BDS**, the Employer does not intend to execute any specific elements of the Works by sub-contractors selected in advance by the Employer.
- 34.2 In case of Prequalification, the Bidder's Bid shall name the same specialized subcontractor as submitted in the prequalification application and approved by the Employer.
- 34.3 In case of Postqualification, the Employer may permit subcontracting for certain specialized works as indicated in Section III 4.2. When subcontracting is permitted by the Employer, the specialized sub-contractor's experience shall be considered for evaluation. Section III describes the qualification criteria for sub-contractors.
- 34.4 Bidders may propose subcontracting up to the percentage of total value of contracts or the volume of works as **specified in the BDS**.
- 35.Evaluation of Bids**
- 35.1 The Employer shall use the criteria and methodologies listed in this Clause. No other evaluation criteria or methodologies shall be permitted.
- 35.2 To evaluate a bid, the Employer shall consider the following:
- (a) the bid price, excluding Provisional Sums and the provision, if any, for contingencies in the Summary Bill of Quantities, but including Daywork items, where priced competitively;
 - (b) price adjustment for correction of arithmetic errors in accordance with ITB 31.1;
 - (c) price adjustment due to discounts offered in accordance with ITB 14.4;
 - (d) converting the amount resulting from applying (a) to (c) above, if relevant, to a single currency in accordance with ITB 32;

(e) price adjustment due to quantifiable nonmaterial nonconformities in accordance with ITB 30.3;

(f) the additional evaluation factors are specified in Section III, Evaluation and Qualification Criteria;

35.3 The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be taken into account in bid evaluation.

35.4 If these Bidding Documents allows Bidders to quote separate prices for different lots (contracts), the methodology to determine the lowest evaluated price of the lot (contract) combinations, including any discounts offered in the Letter of Bid Form, is specified in Section III, Evaluation and Qualification Criteria.

35.5 If the bid, which results in the lowest Evaluated Bid Price, is seriously unbalanced or front loaded in the opinion of the Employer, the Employer may require the Bidder to produce detailed price analyses for any or all items of the Bill of Quantities, to demonstrate the internal consistency of those prices with the construction methods and schedule proposed. 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.

36. Comparison of Bids

36.1 The Employer shall compare the evaluated prices of all substantially responsive bids established in accordance with ITB 35.2 to determine the lowest evaluated bid.

37. Qualification of the Bidder

37.1 The Employer shall determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated and substantially

responsive bid either continues to meet (if prequalification applies) or meets (if postqualification applies) the qualifying criteria specified in Section III, Evaluation and Qualification Criteria.

37.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB 17.1.

37.3 An affirmative determination shall be a prerequisite for award of the Contract to the Bidder. A negative determination shall result in disqualification of the bid, in which event the Employer shall proceed to the next lowest evaluated bid to make a similar determination of that Bidder's qualifications to perform satisfactorily.

38. Employer's Right to Accept Any Bid, and to Reject Any or All Bids

38.1 The Employer reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to contract award, without thereby incurring any liability to Bidders. In case of annulment, all bids submitted and specifically, bid securities, shall be promptly returned to the Bidders.

F. Award of Contract

39. Award Criteria

39.1 Subject to ITB 38.1, the Employer shall award the Contract to the Bidder who has been determined to be the lowest evaluated bid and is substantially responsive to the Bidding Documents, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.

40. Notification of Award

40.1 Prior to the expiration of the period of bid validity, 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 sum that the Employer will pay the Contractor in

consideration of the execution and completion of the Works (hereinafter and in the Conditions of Contract and Contract Forms called "the Contract Price"). At the same time, the Employer shall also notify all other Bidders of the results of the bidding and shall publish in *UNDB online* the results identifying the bid and lot (contract) numbers 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 that was evaluated;
- (iv) name of bidders whose bids were rejected and the reasons for their rejection; and
- (v) name of the successful Bidder, and the Price it offered, as well as the duration and summary scope of the contract awarded.

40.2 Until a formal contract is prepared and executed, the notification of award shall constitute a binding Contract.

40.3 The Employer shall promptly respond in writing to any unsuccessful Bidder who, after notification of award in accordance with ITB 40.1, requests in writing the grounds on which its bid was not selected.

41. Signing of Contract

41.1 Promptly upon notification, the Employer shall send the successful Bidder the Contract Agreement.

41.2 Within twenty-eight (28) days of receipt of the Contract Agreement, the successful Bidder shall sign, date, and return it to the Employer.

42. Performance Security

42.1 Within twenty-eight (28) days of the receipt of notification of award from the Employer, the successful Bidder shall furnish the performance security and, if required in the BDS, the Environmental, Social, Health and Safety (ESHS)

Performance Security in accordance with the General Conditions of Contract, subject to ITB 35.5, using for that purpose the Performance Security and ESHS Performance Security Forms included in Section X, Contract Forms, or another form acceptable to the Employer. If the performance security furnished by the successful Bidder is in the form of a bond, it shall be issued by a bonding or insurance company that has been determined by the successful Bidder to be acceptable to the Employer. A foreign institution providing a bond shall have a correspondent financial institution located in the Employer's Country.

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

Section II. Bid Data Sheet

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

A. Introduction	
	Throughout the Section I, Instructions to Bidders, "Bill of Quantities" means "Schedule of Prices"
ITB 1.1	The number of the Invitation for Bids is: <u>SAA/ICBW/S-A15.4</u>
ITB 1.1	The Employer is Samoa Airport Authority (SAA)
ITB 1.1	The name of the ICB is: Procurement of Physical Works for Aiport Pavements, Drainage and Service Infrastructure, Faleolo International Airport, Samoa The identification number of the ICB is: SAA/ICBW/S-A15.4
ITB 2.1	The Borrower is: <u>Government of Samoa</u>
ITB 2.1	Loan or Financing Agreement amount: USD 41,620,000
ITB 2.1	The name of the Project is: <u>Samoa Aviation Investment Project (SAIP)</u>
ITB 4.1	Maximum number of members in the JV shall be: Two
ITB 4.4	A list of debarred firms and individuals is available on the Bank's external website: http://www.worldbank.org/debarr .
ITB 4.8	This Bidding Process is not subject to prequalification.
ITB 6.3	ITB 6.3 is revised as follows: Unless obtained directly from the PAIP TFSU Procurement Officer, Henry Aho, on behalf of 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 Addenda to the Bidding Documents in accordance with ITB 8. In case of any contradiction, documents obtained directly from the PAIP TFSU Procurement Officer shall prevail.
B. Bidding Documents	
ITB 7.1	For <u>Clarification of Bid purposes</u> only, the Employer's address is:

	<p>Attention: Henry Aho</p> <p>Address: PAIP TFSU Project Office Tonga Airports Limited Ground Floor, TAL Building, Poutaha Nuku'alofa, Kingdom of Tonga</p> <p>Email: haho@paiptfsu.com</p> <p>Fax: +676 27619</p> <p>Requests for clarification should be received by the Employer, care of the above address no later than: 14 days before bid submission.</p>
ITB 7.1	Web page: http://saip.ws/index.php/procurement-tenders
ITB 7.2	<p>Replace the first sentence with:</p> <p>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.</p>
ITB 7.4	<p>A Pre-Bid meeting will take place at the following date, time and place:</p> <p>Date: <u>July 7, 2017</u></p> <p>Time: <u>10:00 local time</u></p> <p>Place: Apia, Samoa</p> <p>A site visit conducted by the Employer will be organized</p>
C. Preparation of Bids	
ITB 10.1	<p>The language of the bid is: <u>English</u></p> <p>All correspondence exchange shall be in English language. Language for translation of supporting documents and printed literature is English</p>
ITP 11.1 (h)	<p>The Bidder shall submit the following additional documents in its Bid:</p> <p>Code of Conduct for Gender Based Violence (GBV) and Violence Against Children (VAC)</p> <p>The client has adopted a Code of Conduct for GBV and VAC which is included in https://www.dropbox.com/s/jl3dr2qgwr5g6h5/SAIP%20Codes%20of%20Conduct%20for%20GBV%20and%20CAE%20-%20Final%20for%20bids.docx?dl=0.</p> <p>This is the minimum standard for a code of conduct that is</p>

acceptable to the client. The Bidder shall include in their bid the signed 'Company Code of Conduct' included in the client's Code of Conduct. The company shall also include the codes of conduct proposed for Manager's and Individuals which may be either those adopted by the client, or ones incorporating higher standards.

Code of Conduct (ESHS)

The Bidder shall submit its Code of Conduct that will apply to Contractor's Personnel (as defined in Sub-clause 1.1.2.7 of the GC), to ensure compliance with its Environmental, Social, Health and Safety (ESHS) obligations under the contract. The Code, in accordance with Section VII- Works Requirements is required to address the risks associated with the influx of overseas or regional workers, prevention of discriminating practices in the workplace and community, maintaining a safe and healthy work environment, respect of local customs and culturally appropriate interaction with local communities.

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

The Contractor shall be required to implement the agreed Code of Conduct.

Management Strategies and Implementation Plans (MSIP) to manage the (ESHS) risks

The Bidder shall submit the following Management Strategies and Implementation Plans (MSIP) to manage the following key Environmental, Social, Health and Safety (ESHS) risks. The requirements of these MSIPs can be found in the Project ESMP (PESMP) available

at https://www.dropbox.com/s/i9vex6oye3lf6ig/17_05_02%20SAIP%20APW%20Draft%20ESMP%20V6_4%20For%20Bid%20Package.pdf?dl=0

and the Technical Requirements.

- Traffic Management Plan to ensure safety of local communities from construction traffic
- Waste Management Plan to enable safe and appropriate disposal of all Project waste
- OHS Management Plan to ensure safe working

	<p>conditions</p> <ul style="list-style-type: none"> • Quarry Management Plan (Should a new quarry Development Consent be required)
ITB 13.1	Alternative bids are not permitted.
ITB 13.2	Alternative times for completion are not permitted.
ITB 13.3	Delete this clause in its entirety.
ITB 13.4	Delete this clause in its entirety.
ITB 14.5	The prices quoted by the bidder shall be fixed .
ITB 15.1	<p>The currency(ies) of the bid and the payment currency(ies) shall be in accordance with Alternative B as described below: Alternative B (Bidders allowed to quote in local and foreign currencies):</p> <p>(a) The unit amounts and prices shall be quoted by the Bidder in the Schedule of Prices separately in the following currencies:</p> <ul style="list-style-type: none"> (i) for those inputs to the Works that the Bidder expects to supply from within the Employer's country, in Samoan Tala (WST), and further referred to as "the local currency"; and (ii) for those inputs to the Works that the Bidder expects to supply from outside the Employer's country (referred to as "the foreign currency requirements"), in up to any three foreign currencies.
ITB 18.1	The bid validity period shall be 120 days .
ITB 18.3 (a)	The bid price shall be adjusted by the following factor: 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 adjusted by a factor of 0.6% per week of delay beyond the said 56 days.
ITB 19.1	<p>A Bid Security shall be required.</p> <p>A Bid-Securing Declaration shall not be required.</p> <p>The amount and currency of the bid security shall be: 550,000 USD</p>
ITB 19.3 (d)	Other types of acceptable securities: None

ITB 19.9	Not applicable
ITB 20.1	In addition to the original of the bid, the number of copies is: Five (5) hard copies plus an electronic copy of all files in accessible format and a PDF version of all files. In case of discrepancy between the hard copy and electronic copy, the original hard copy shall prevail.
ITB 20.2	The written confirmation of authorization to sign on behalf of the Bidder shall consist of: a written Power of Attorney or Resolution of Board of Directors.
D. Submission and Opening of Bids	
ITB 22.1	For bid submission purposes only, the Employer's address is: <i>The Tender Box, Level 4, Central Bank Building Apia, Independent State of Samoa.</i> The deadline for bid submission is: Date: August 25, 2017 Time: 11am local Samoa time Bidders shall not have the option of submitting their bids electronically. Respondents should make themselves fully aware of courier services to Samoa and allow / allocate sufficient time in preparation of their bids.
ITB 25.1	The bid opening shall take place at: Street Address: Tenders Board Level 4, Central Bank Building Apia, Independent of Samoa. Date: August 25, 2017 Time: 11am local Samoa time
ITB 25.3	Each bid shall be numbered and, the Letter of Bid, Schedule of Prices, other completed schedules and forms of each bid shall be initialed by a representative of the Employer chairing the Bid opening, and all other members of the Bid Opening Committee.
E. Evaluation, and Comparison of Bids	
ITB 32.1	The currency that shall be used for bid evaluation and comparison purposes to convert all bid prices expressed in

	<p>various currencies into a single currency is: USD</p> <p>The source of exchange rate shall be: www.xe.com.</p> <p>The date for the exchange rate shall be: <u>Mid-market rate as of August 03, 2017</u></p> <p>The currency(ies) of the Bid shall be converted into a single currency in accordance with the procedure under Alternative B that follows:</p> <p>Alternative B: Bidders quote in local and foreign currencies</p> <p>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 rates established for similar transactions by the authority specified and on the date stipulated above.</p>
ITB 33.1	A margin of preference shall not apply.
ITB 34.1	At this time the Employer does not intend to execute certain specific parts of the Works by sub-contractors selected in advance.
ITB 34.4	<p>a) In the case of Postqualification:</p> <p>Contractor's proposed subcontracting: Maximum percentage of subcontracting permitted is: 30% of the total contract amount.</p> <p>b) Bidders planning to subcontract more than 10% of total value of work shall specify, in the Letter of Bid, the activity (ies) or parts of the works to be subcontracted along with complete details of the sub-contractors and their qualification and experience. The qualification and experience of the sub-contractors must meet the minimum criteria for the relevant work to be sub-contracted failing which such sub-contractors will not be permitted to participate.</p> <p>c) Sub-contractors' qualification and experience will not be considered for evaluation of the Bidder. The Bidder on its own (without taking into account the qualification and experience of the sub-contractor) should meet the qualification criteria.</p> <p>d) If a bidder intends to sub-contract the design component of the Contract, he should provide details of the Design Sub-contractor's qualifications and experience, irrespective of the value of the design component. Such sub-contractor's</p>

	qualifications and experience will be considered for evaluation, in accordance with ITB 34.3.
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Section III. Evaluation and Qualification Criteria

This Section contains all the criteria that the Employer shall use to evaluate bids and qualify Bidders. In accordance with ITB 35 and ITB 37, no other factors, methods or criteria shall be used. The Bidder shall provide all the information requested in the forms included in Section IV, Bidding Forms.

Wherever a Bidder is required to state a monetary amount, Bidders should indicate the USD equivalent using the rate of exchange determined as follows:

- For construction turnover or financial data required for each year - Exchange rate prevailing on the last day of the respective calendar year (in which the amounts for that year is to be converted) was originally established.
- Value of single contract - Exchange rate prevailing on the date of the contract.

Exchange rates shall be taken from the publicly available source identified in the ITB 32.1. Any error in determining the exchange rates in the Bid may be corrected by the Employer.

1. Domestic Preference

Not applicable

2. Evaluation

In addition to the criteria listed in ITB 35.2 (a) – (e) the following criteria shall apply:

2.1 Assessment of adequacy of proposed Design

The most critical part of evaluation of the Bidder's Technical Proposal will include a review and assessment of the adequacy of the proposed design.

All the other elements that follow this assessment, including assessment of adequacy of Technical Proposal as detailed in clause 2.2 below will only be evaluated if the proposed Design is deemed adequate.

There is no limit on the page length and contents for the Tender Design. The rest of the Technical Proposal shall be a maximum of 50 pages in length. The detailed evaluation will take into account, as a minimum, the following:

Tender Design

The Tender design shall include the following information as a minimum:

2.1.1 Tender Design Report

Providing a description for all the proposed works and materials meeting the requirements described in the Technical Requirements.

2.1.2 Tender Drawings

Providing detail and layout of all the proposed works and materials meeting the requirements described in the Technical Requirements.

2.1.3 Design Phase Activities

Proposal on how the detailed design will be prepared to meet the specifications.

2.2 Assessment of adequacy of Technical Proposal with Requirements

2.2.1 Construction Schedule

To be realistic, adequately detailed, identify all significant activities, take due account of rainy season, environmental constraints, etc)

- (a) Mobilization Schedule
- (b) Site establishment including Contractor's Site facilities
- (c) Aggregate quarrying, handling and storage
- (d) Hot mix asphalt paving
- (e) Pavement construction
- (f) AGL interfacing
- (g) Concrete parking stands
- (h) Paint marking
- (i) Drainage works
- (j) Fuel Hydrant Installations
- (k) High Mast Floodlighting
- (l) Installation of airbridges and other terminal related infrastructure

2.2.2 Details of Aggregates and Bitumen

Details of the proposed aggregates and bitumen, in particular:

- Materials source – location and production history
- testing results (completed within the last year)
- Transportation to site
- Biosecurity requirements (if imported)

demonstrating compliance with the minimum specification requirements.

2.2.3 ESHS Management Strategies and Implementation Plans (ESHMSIP)

The Bidder shall submit comprehensive and concise Environmental, Social, Health and Safety Management Strategies and Implementation Plans (ESHMSIP) as required by ITB 11.1 (h) of the Bid Data Sheet, i.e.

- 2.2.3.1 Code of Conduct for Gender Based Violence (GBV) and Violence Against Children (VAC)**
- 2.2.3.2 Code of Conduct (ESHMS)**
- 2.2.3.3 Management Strategies and Implementation Plans (MSIP) to manage the (ESHMS) risks**

Management Strategies and Implementation Plans (MSIP) to manage the (ESHS) risks, in particular, shall include:

i. Occupational Health and Safety Plan Outline

- (a) Responsibilities
- (b) Method of Work Plan (MOWP)
- (c) Worker induction and training
- (d) Emergency action plan
- (e) First aid facilities

ii. Traffic Management Plan Outline

- (a) Intended haulage routes
- (b) haulage load management strategies
- (c) traffic management strategies
- (d) public road monitoring and damage repair
- (e) Responsibilities
- (f) Airside traffic management

iii. Waste Management Plan Outline

- (a) Responsibilities
- (b) Identification of waste streams and disposal locations
- (c) Reuse and recycle plans
- (d) On site waste storage systems
- (e) Septic waste disposal methods
- (f) Worker induction and training

iv. Quarry Management Plan (if required)

- (a) Responsibilities
- (b) Adherence to COEP 8
- (c) Development consents
- (d) Worker Induction and training
- (e) Public consultations

These strategies and plans shall describe in detail the actions, materials, equipment, management processes etc. that will be implemented by the Contractor, and its subcontractors.

2.2.4 Key Personnel Schedule

Bidders should provide the names and details of the suitably qualified Contractor's Representative and Key Personnel to perform the Contract.

3. Qualification 2

Eligibility and Qualification Criteria			Compliance Requirements				Documentation
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Parties Combined	Each Member	One Member	
1. Eligibility							
1.1	Nationality	Nationality in accordance with ITB 4.3	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Forms ELI – 1.1 and 1.2, with attachments
1.2	Conflict of Interest	No conflicts of interest in accordance with ITB 4.2	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Letter of Bid
1.3	Bank Eligibility	Not having been declared ineligible by the Bank, as described in ITB 4.4, 4.5, 4.6 and 4.7	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Letter of Bid
1.4	Government Owned Entity of the Borrower country	Meets conditions of ITB 4.5	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Forms ELI – 1.1 and 1.2, with attachments
1.5	United Nations resolution or Borrower's country law	Not having been excluded as a result of prohibition in the Borrower's country laws or official regulations against commercial relations with the Bidder's country, or by an act of compliance	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Forms ELI – 1.1 and 1.2, with attachments

² The qualification determination shall not take into consideration the qualifications of other firms such as the Bidder's subsidiaries, parent entities, affiliates, subcontractors (other than Specialized Subcontractors if permitted in the Bidding document), or any other firm(s) different from the Bidder.

Eligibility and Qualification Criteria			Compliance Requirements			Documentation	
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Parties Combined	Each Member	One Member	
		with UN Security Council resolution, both in accordance with ITB 4.7 and Section V.					

Eligibility and Qualification Criteria			Compliance Requirements				Documentation
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Parties Combined	Each Member	One Member	
2. Historical Contract Non-Performance							
2.1	History of Non-Performing Contracts	Non-performance of a contract ³ did not occur as a result of contractor default since 1 st January 2012.	Must meet requirement ¹ ²	Must meet requirements	Must meet requirement ⁴	N/A	Form CON-2
2.2	Suspension Based on Execution of Bid Securing Declaration by the Employer or withdrawal of the Bid within Bid validity	Not under suspension based on execution of a Bid Securing Declaration pursuant to ITB 4.6 or withdrawal of the Bid pursuant ITB 19.9.	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Bid Submission Form
2.3	Pending Litigation	Bidder's financial position and prospective long term profitability sound according to criteria established in 3.1 below and assuming that all pending litigation will be	Must meet requirement	N/A	Must meet requirement	N/A	Form CON – 2

³ Non performance, as decided by the Employer, shall include all contracts where (a) non performance was not challenged by the contractor, including through referral to the dispute resolution mechanism under the respective contract, and (b) contracts that were so challenged but fully settled against the contractor. Non performance shall not include contracts where Employers decision was overruled by the dispute resolution mechanism. Non performance must be based on all information on fully settled disputes or litigation, i.e. dispute or litigation that has been resolved in accordance with the dispute resolution mechanism under the respective contract and where all appeal instances available to the Bidder have been exhausted.

⁴ This requirement also applies to contracts executed by the Bidder as JV member.

Eligibility and Qualification Criteria			Compliance Requirements			Documentation	
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Parties Combined	Each Member	One Member	
		resolved against the Bidder					
2.4	Litigation History	No consistent history of court/arbitral award decisions against the Bidder ⁵ since 1 st January 2014	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Form CON – 2
2.5	Declaration: Environmental, Social, Health, and Safety (ESHS) past performance	Declare any civil work contracts that have been suspended or terminated and/or performance security called by an employer for reasons related to the non-compliance of any environmental, or social, or health or safety requirements or safeguard in the past five years. ⁶	Must make the declaration. Where there are Specialized Sub-contractor/s, the Specialized Sub-contractor/s must also make the declaration.	N/A	Each must make the declaration. Where there are Specialized Sub-contractor/s, the Specialized Sub-contractor/s must also make the declaration.	N/A	Form CON-3 ESHS Performance Declaration

⁵ The Bidder shall provide accurate information on the letter of Bid about any litigation or arbitration resulting from contracts completed or ongoing under its execution over the last five years. A consistent history of court/arbitral awards against the Bidder or any member of a joint venture may result in disqualifying the Bidder.

⁶ The Employer may use this information to seek further information or clarifications in carrying out its due diligence.

Eligibility and Qualification Criteria			Compliance Requirements			Documentation	
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Parties Combined	Each Member	One Member	
		by the laws of the Bidder's country, other financial statements acceptable to the Employer, for the last five years shall be submitted and must demonstrate the current soundness of the Bidder's financial position and indicate its prospective long-term profitability.				N/A	
3.2	Average Annual Construction Turnover	Minimum average annual construction turnover of US\$ 75 M , calculated as total certified payments received for contracts in progress and/or completed within the last Five years, divided by Five years	Must meet requirement	Must meet requirement	Must meet 40% of the requirement	Must meet 60% of the requirement	Form FIN – 3.2

Eligibility and Qualification Criteria			Compliance Requirements				Documentation
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Parties Combined	Each Member	One Member	
4. Experience							
4.1 (a)	General Construction Experience	Experience under construction contracts in the role of prime contractor, JV member, sub-contractor, or management contractor for at least the last five years, starting 1 st January 2012	Must meet requirement	N/A	Must meet requirement	N/A	Form EXP – 4.1
4.2 (a)	Specific Construction & Contract Management Experience	(i) 2 contracts in an airport environment in particular runway pavement work, each of minimum value US\$30 million that have been satisfactorily ⁷ and substantially ⁸ completed as a prime contractor, joint venture member ⁹ ,	Must meet requirement	Must meet requirement ¹⁰	N/A	N/A	Form EXP 4.2(a) The bidder must provide a proof of satisfactory completion in a form of a certificate of completion /

⁷ Satisfactory completed contract is the one that is completed i) on-time, ii) on-budget, iii) with no lost time injuries, iv) adherence to ESMP with no reported transgressions.

⁸ Substantial completion shall be based on 80% or more works completed under the contract.

⁹ For contracts under which the Bidder participated as a joint venture member or sub-contractor, only the Bidder's share shall be considered to meet this requirement.

¹⁰ In the case of JV, the value of contracts completed by its members shall not be aggregated to determine whether the requirement of the minimum value of a single contract has been met. Instead, each contract performed by each member shall satisfy the minimum value of a single contract as required for single entity. In determining whether the JV meets the requirement of total

Eligibility and Qualification Criteria			Compliance Requirements			Documentation	
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Parties Combined	Each Member	One Member	
		management contractor or sub-contractor over the last 10 years					reference from the client(s).
4.2 (b)		For the above and any other contracts completed and under implementation as prime contractor, joint venture member, management contractor or sub-contractor ¹¹ on or after the first day of the calendar year during the period stipulated in 4.2 (a) above, a minimum construction experience in the following key activities successfully ¹²	Must meet requirements	Must meet requirements	N/A	N/A]	Form EXP – 4.2 (b) The bidder must provide a proof of satisfactory completion in a form of a certificate of completion / reference from the client(s).

number of contracts, only the number of contracts completed by all members each of value equal or more than the minimum value required shall be aggregated.

¹¹ For contracts under which the Bidder participated as a joint venture member or sub-contractor, only the Bidder's share shall be counted to meet this requirement.

¹² Satisfactory completed contract is the one that is completed i) on-time, ii) on-budget, iii) with no lost time injuries, iv) adherence to ESMP with no reported major transgressions.

Eligibility and Qualification Criteria			Compliance Requirements			Documentation	
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Parties Combined	Each Member	One Member	
		completed ¹³ : <ul style="list-style-type: none"> • Minimum of two (2 No.) contracts for the reconstruction or rehabilitation of asphaltic or concrete pavements on a fully operational international airport runway including developing and administering a project specific MOWP. Works to include interfacing with Airfield Ground Lighting contractors. • Experience in coordinating with separate contractors for airfield lighting and nav aids and terminal buildings. • Minimum of fifty thousand square metres (50,000m²) of seal surfacing placed 					

¹³ Volume, number or rate of production of any key activity can be demonstrated in one or more contracts combined if executed during same time period. The rate of production shall be the annual production rate for the key construction activity (or activities).

Eligibility and Qualification Criteria			Compliance Requirements			Documentation	
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Parties Combined	Each Member	One Member	
		in one month on a single contract. <ul style="list-style-type: none"> • Minimum of twenty thousand square metres (20,000m²) of asphaltic concrete surfacing mixed and placed in one month on a single contract. • Minimum of two (2 No.) contract involving use of an accredited laboratory meeting the requirements of ISO/IEC 17025:2005 by a member of ILAC • Minimum of five thousand square metres (5,000m²) of mass-jointed concrete surfacing (apron, taxiway or runway) mixed and placed in one month on a single contract. 					

Eligibility and Qualification Criteria			Compliance Requirements			Documentation	
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Parties Combined	Each Member	One Member	
4.3 (a)	Design Experience	<ul style="list-style-type: none"> Minimum of ten (10) years in climate resilient airport drainage design, including hydrological investigations. Experience with design of at least two (2 No.) similar runways. Minimum of ten (10) years in evaluation and detailed design of asphalt concrete and concrete airport pavements¹⁴ 	Must meet requirements	Must meet requirements ¹⁵	N/A	N/A	Form EXP – 4.2 (b) The bidder must provide a proof of satisfactory completion in a form of a certificate of completion / reference from the client(s).
5. Occupational health and safety management system (OHSMS)							
5.1	Specific Contract Management Systems	The Bidder shall have in place and comply with an occupational health and safety	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Present current and valid certificate

¹⁴ The requirement can be met through a specialized sub-contractor, in accordance with ITB 34.3.

¹⁵ In the case of JV, the value of contracts completed by its members shall not be aggregated to determine whether the requirement of the minimum value of a single contract has been met. Instead, each contract performed by each member shall satisfy the minimum value of a single contract as required for single entity. In determining whether the JV meets the requirement of total number of contracts, only the number of contracts completed by all members each of value equal or more than the minimum value required shall be aggregated.

Eligibility and Qualification Criteria			Compliance Requirements			Documentation	
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Parties Combined	Each Member	One Member	
		management system which is compliant with OHSAS 18000 (http://certificationeurope.com/ohsas-18000-health-safety-managment-standards/) or equivalent, acceptable to the Employer.					

4. Personnel

The Bidder must demonstrate that it will have a suitably qualified Contractor's Representative and suitably qualified (and in adequate numbers) Key Personnel, as described in the table below.

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

The Contractor shall require the Employer's consent to substitute or replace the Contractor's Representative (reference General Conditions of Contract Sub Clause 4.3) and any of the Key Personnel (reference the Particular Conditions of Contract Sub Clause 1.1.2.7).

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

No.	Position	Total Work Similar Experience (years)	In Similar Works Experience (years)
1	Design Team Leader	15	10
2	Pavement Design Engineer with knowledge/experience of geotechnical engineering	10	5 ¹⁶
3	Drainage Design Engineer	10	5 ¹⁷
4	Construction Manager	15	10
5	Senior Quality Assurance Engineer	10	5 ¹⁸
6	Occupational Health and Safety Officer	10	5 ¹⁹
7	Safeguards Specialist	10 ²⁰	n/a
8	Quantity Surveyor	10	5

¹⁶ To include experience in airport pavement evaluation and design assignments and pavement materials (including asphalt mix design)

¹⁷ To include experience in climate resilient airport drainage design assignments

¹⁸ To include experience in construction and testing of flexible airport pavements and their constituent materials in tropical countries

¹⁹ To include experience with auditing and managing safe working practice of construction sites

²⁰ To include experience in environmental management on civil construction projects and in assessing environmental and social impacts associated with infrastructure projects

The Bidder shall provide details of the proposed personnel, their association with the Bidder (i.e. employee or sub-contractor) and their experience records using Forms PER-1 and PER-2 included in Section IV, Bidding Forms.

5. Equipment

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

No	Equipment Type and Characteristics	Minimum Number
1	Mobile asphalt batching plant (>80t/hr) ²¹	1
2	Asphalt milling / profiling machine, minimum 2m cutting width	1
3	Asphalt milling / profiling machine, minimum 1.2m cutting width	1
4	Asphalt paver with laser paving level control, minimum 5.0m paving width	1
5	Asphalt paver with laser paving level control, minimum 4.0m paving width	1
6	Mobile site laboratory conforming to ISO/IEC 17025:2005	1

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

6. Materials

The Bidder must demonstrate the minimum specification requirements for the proposed aggregates and bitumen, in particular testing results (completed within the last year) demonstrating compliance.

Testing certificates from a testing laboratory with an accreditation conforming with ISO/IEC 17025:2005 systems and an ILAC member must be provided by the Bidder.

²¹ If the design includes Warm Mix Asphalt (WMA) to include capability for producing WMA mixes and use of additives (polymers, epoxies etc) and an ability to store 20,000 litres of bitumen

Section IV. Bidding Forms

Letter of Bid

Date: _____
ICB No.: SAA/ICBW/S-A15.4

To: _____

We, the undersigned, declare that:

(a) We have examined and have no reservations to the Bidding Documents, including Addenda issued in accordance with Instructions to Bidders (ITB 8) _____;

(b) We meet the eligibility requirements and have no conflict of interest in accordance with ITB 4;

(c) 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 4.6.

(d) We offer to execute in conformity with the Bidding Documents the following Works: _____;

(e) The total price of our Bid, excluding any discounts offered in item (f) below is: total price of the Bid _____

insert the total price of the bid in words and figures, indicating the various amounts and the respective currencies.

(f) The discounts offered and the methodology for their application are:

i) The discounts offered are: _____

ii) The exact method of calculations to determine the net price after application of discounts is shown below: _____

_____;

(g) 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;

- (h) We are not participating, as a Bidder or as a subcontractor, 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;
- (i) We, along with any of our subcontractors, suppliers, consultants, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by a member of the World Bank Group or a debarment imposed by the World Bank Group in accordance with the Agreement for Mutual Enforcement of Debarment Decisions between the World Bank and other development banks. Further, we are not ineligible under the Employer's country laws or official regulations or pursuant to a decision of the United Nations Security Council;
- (k) We are not a government owned entity/ We are a government owned entity but meet the requirements of ITB 4.5;²²
- (l) We have paid, or will pay the following commissions, gratuities, or fees with respect to the bidding process or execution of the Contract:

Name of Recipient	Address	Reason	Amount
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

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

- (m) 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 is prepared and executed; and

²² Bidder to use as appropriate.

²³ List of existing testing in Samoa (by the Engineering Laboratory of the LAND TRANSPORT AUTHORITY) is available *here*:

<https://www.dropbox.com/s/wgame8pufc48r70/17%2005%2009%20LAB%20Work%20Order%20Rates.xls?dl=0>

(n) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive.

(o) 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* _____

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 of _____,

*: In the case of the Bid submitted by joint venture specify the name of the Joint Venture as Bidder

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

Appendix to Bid

Tables A and B. Not used

Table C. Summary of Payment Currencies

Table: Alternative B

To be used only with Alternative B. Prices directly quoted in the currencies of payment. (Clause ITB 15.1)

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

Name of currency	Amounts payable
Foreign currency #1: _____	
Foreign currency #2: _____	
Foreign currency #3: _____	
Provisional sums _____ _____	<p>Equivalent of US\$100,000 for employment of a specialized bio-engineering firm to implement low cost greening activities</p> <p>Equivalent of US\$200,000 for additional sampling and testing as instructed by the Supervising Engineer.²³</p> <p>Equivalent of US\$400,000 for preparation/submission and implementation of all aspects of the OHS plan and training in accordance with the Particular Conditions of Contract for staff and personnel.</p> <p>Equivalent of US\$50,000 to ensure compliance with the HIV/AIDS, Gender Based Violence (GBV) and Child Abuse & Exploitation (CAE) training requirements.</p>

²³ List of existing testing in Samoa (by the Engineering Laboratory of the LAND TRANSPORT AUTHORITY) is available *here*:
<https://www.dropbox.com/s/wqame8pufc48r70/17%2005%2009%20LAB%20Work%20Order%20Rates.xls?dl=0>

Schedule of Prices

Schedule of Prices can be downloaded from the link below.

<https://www.dropbox.com/s/hd56demnxiax7j7/17%2006%2019%20Faleolo%20Airport%20Schedule%20of%20Quantities.xlsx?dl=0>

1.1 Preamble

1.1.1 Item Description

In the Schedule of Prices, the item description identifies the work covered and shall be read in conjunction with the basis of payment. The Contractor shall determine the nature and extent of the work from the Contract Technical Requirements and Conditions of Contract.

1.1.2 Item Quantity

All the quantities in the Schedule of Prices are indicative only. Payment will be made based on the "Price" – total price – of each item.

1.1.3 Item Rate

Each item in the Schedule of Prices shall have a rate entered against it. Where no rate is entered, it shall be considered to be included in the price of other items.

The rate tendered in the Schedule of Prices shall be considered to include the costs of meeting all conditions, obligations and liabilities in the Contract Documents. It shall be considered to be inclusive of, but not limited to, supplying all Plant, labour, Materials and transportation required to complete the item of work.

All amounts for items in the Schedule of Prices shall include all of the costs associated with matters such as miscellaneous items, accommodation, supervision, contingencies, normally expected risks, transport of equipment, incidental work, temporary works, survey, setting out, inspections, reporting, attendances at meetings, communications, programming, records, quantity measurement, claims for payment, testing and quality control measures, permits, administration, as well as On-Site Overheads and Off-Site Overheads and Profit, except that, if any one of those matters is scheduled separately as a result of an item description expressly identifying that particular matter, that matter will not be included in the rate for that item.

1.1.4 Item Unit

Units of measurement shown in the "unit" column of the schedule of prices has been abbreviated as follows:

Abbreviation	Description
PI	Provisional Item
PS	Provisional Sum
LS	Lump Sum
Day	Calendar Day
M	Linear metre
m2	Square metre
No.	Number
Hr	Hour
T	Tonne
%	Percent
Km	Kilometre

1.1.5 Provisional Items

Provisional Items provide for work that may or may not be carried out by the Contractor, shall be priced by the Contractor. This work shall only be performed on the instruction of the Engineer.

The amount payable to the Contractor for work covered by provisional items shall be for the quantity or work directed by Engineer, at the tendered rate.

The tendered rate for provisional items shall fully compensate the Contractor for all their costs for that item, including but not limited to: labour, Plant, Materials, On-Site Overheads, Off-Site Overheads and Profit.

1.1.6 Provisional Sums

Provisional Sums are amounts of money entered in the Schedule of Prices by the Employer. These sums provide for work that may or may not be carried out by the Contractor. Such work shall only be performed on the written instruction of the Engineer.

1.1.7 Quality Assurance

Unless scheduled separately, all costs incurred by the Contractor in undertaking and completing all quality assurance testing as outlined in the Contract Documents shall be considered to be included in the tendered amounts.

1.2 Valuing Scope Changes

1.2.1 Variations

Variations that constitute a change to the detailed design must be ordered by the Engineer in writing and shall be valued according to the procedures outlined the General Conditions of Contract.

Variations may be valued as positive (increased scope), or negative (reduced scope).

1.2.2 Changes to Lump Sum Amounts

Lump sum amounts in the Schedule of Prices shall not be changed because of any extensions in the due date for completion, or ordered variation to the Contract Works. The value of any changes to lump sum items will be paid as variations to the contract.

Where the Contractor identifies a possible change in scope of a lump sum item they shall advise the Engineer in writing prior to carrying on with the revised scope of work.

1.2.3 Unscheduled Work

In general, payment for unscheduled work shall be made on a lump sum basis. No payment shall be made for any unscheduled work without the Engineer's written approval.

The representative must provide the original record sheet within 24 hours of the work being carried out.

Each record sheet shall contain:

- Description of the work undertaken, including date undertaken, location and extent
- Labour hours,
- Type of plant, total plant hours, rate and total value claimed for each item of plant
- All invoices for Materials used, certified by the contractor as being accurate. Invoices for materials used which are not available within 24 hours of the work being carried out shall be forwarded to the Engineer within 48 hours of receipt of these invoices from the supplier,
- Signature and name of the Contractor's personnel supervising the work.

METHOD OF MEASUREMENT AND BASIS OF PAYMENT**A Preliminary and General****A1 Bond and Insurance – Works Period and Defects Period**

Payment for this item will be made on a lump sum basis. Progress claims shall only be made in full once receipt of the approved insurance certificates by the Employer is achieved.

A2 Mobilisation and De-mobilisation

Payment for this item will be made on a lump sum basis.

- A claim of 60% payment of the Lump Sum may be made once evidence of the transportation all Contractor plant and equipment from TECH 4 from the Contractor's usual place of business to Airport Site is achieved; and
- A claim of the remaining 40% payment of the Lump Sum will be made on completion of demobilisation of all Contractor plant from the airport site is achieved.

A3 Site Establishment, Management and Dis-establishment

Payment for this item will be made on a lump sum basis.

- Claims of 30% payment of the Lump Sum shall be made on completion of the site establishment and offices.
- Claims of the remaining 50% payment of the Lump Sum shall be made on a time pro-rata basis as the contract progresses.
- Claims of the remaining 20% payment of the Lump Sum shall be made on completion of site dis-establishment

Progress claims shall be made on a time pro rata basis as the contract progresses.

A4 Preparation and Implementation of Contract management documentation

Payment for this item will be made on a lump sum basis.

- Claims of 30% payment of the Lump Sum shall be made on receipt of the approved and Final version of all the Plans.
- Claims of the remaining 50% payment of the Lump Sum shall be made on a time pro-rata basis as the contract progresses.
- Claims of the remaining 20% payment of the Lump Sum shall be made on receipt of As built documentation

A5 Preparation and Implementation of OHS Management Plan

Payment for this item will be made as a provisional sum (Ref. 1.1.6 of the Preamble).

Claims up to 10% payment pro-rata of the Lump Sum on receipt of the approved and Final version of the OHS Management Plan

Claims up to the remaining 90% payment of the Lump Sum will be made on a time pro-rata basis as the contract progresses.

A6 Comply with HIV/AIDS, GBV and CAE Training

Payment for this item will be made as a provisional sum (Ref. 1.1.6 of the Preamble), to be paid upon completion of the training.

The Contractor is to pay the approved training vendor monthly over the course of the contract.

A7 Bio-engineering procurement and coordination

Payment for this item will be made as a provisional sum (Ref. 1.1.6 of the Preamble), to be paid upon completion of the implementation.

The Contractor is to pay the approved bio-engineering company.

B Contractors Design

Payment for this item will be made on a lump sum basis on completion of the 30%, 50%, 70% and 100% milestones as determined by the Engineering Supervisor.

C Airside Construction**C1 Airside construction safety**

Payment for this item will be made on a lump sum basis.

Claims of 10% payment pro-rata of the Lump Sum on receipt of the approved and Final version of the MOWP.

Claims of the remaining 90% payment of the Lump Sum will be made on a time pro-rata basis as the contract progresses.

**C2 Stand Down Due to Weather or Emergency Conditions
(Provisional Item) (Ref. 1.1.5 of the Preamble)**

Payment for this item will be made on a per hour basis and shall be included in the progress claim for the weeks falling within the month which is being claimed.

The Contractor is to price for 24 hours of stand down time (based on 3 x 8hr shifts) and claim only those hours for which the SAA would not allow works to

commence.

A stand down will not apply should the Contractor be notified of a changed flight time at least 7 days prior to commencement of the new flight time.

The Contractor and Employer each acknowledge that the Contract Works are to be undertaken in an operating environment namely, Faleolo Airport. Due to the nature of the Employer's airport operation the Employer may require access to the Site at any time in relation to airport operations. If this event occurs the Contractor will, if required, and at the Engineer's request, cease work on the Site and/or vacate and clear the Site for such period of time as the Engineer directs. Such event will be deemed to be circumstances not reasonably foreseeable by an experienced Contractor for the purposes of variations, except where such event occurs as a direct result of the Contractor's actions or omissions in breach of this Contract. The rate in Schedule of Prices item C2 will be used for assessing all adjustments relating to Contract Clauses 13.1 through 13.8 on this work cessation item.

D Quality Assurance

D1 Sampling and Production Testing

Payment for this item will be made on a lump sum basis.

Claims of 5% payment pro-rata of the Lump Sum will be made on receipt of the approved and Final version of the Inspection and Testing Plan (ITP).

Claims of 5% payment pro-rata of the Lump Sum will be made on completion of the approved Asphalt Mix Designs.

Claims of 15% payment pro-rata of the Lump Sum will be made on completion of the Asphalt Trials.

Claims of the remaining 75% payment of the Lump Sum will be made on a time pro-rata basis as the contract progresses.

D2 Sampling and Production Testing - Additional

No work will be measured against this section of the Schedule of Prices unless it is carried out in response to a written instruction by the Engineer, and cost has been agreed for the undertaking of each additional test.

E Site Clearance, Strip Grading and Turfing

E1 Site Clearance, Strip Grading and Turfing

Payment for this item will be made on a lump sum basis with the proportion of work completed meeting the following milestones:

- 15% payment pro-rata of the Lump Sum when 30% of the topsoil strip work area is complete;
- 10% payment pro-rata of the Lump Sum when 50% of the topsoil strip

work area is complete;

- 10% payment pro-rata of the Lump Sum when 70% of the topsoil strip work area is complete;
- 15% payment pro-rata of the Lump Sum when 100% of the topsoil strip work area is complete;
- 15% payment pro-rata of the Lump Sum when 30% of the grading and topsoil reinstatement work area is complete;
- 10% payment pro-rata of the Lump Sum when 50% of the grading and topsoil reinstatement work area is complete;
- 10% payment pro-rata of the Lump Sum when 70% of the grading and topsoil reinstatement work area is complete; and
- 15% payment pro-rata of the Lump Sum when 100% of the grading and topsoil reinstatement work area is complete and satisfactory grass germination is approved in all areas.

F Pavement Construction

F1 Taxiway A, Taxiway B and Shoulders

Payment for this item will be made on a lump sum basis with the proportion of work completed meeting the following milestones:

- 30% payment when either, 30% of the total works area is complete, or 100% of the total area has the excavation and subgrade preparation works items complete;
- 20% payment when either, 50% of the total works area is complete, or 75% of the total area has the flexible pavement construction (total pavement less the asphalt layers) items complete;
- 20% payment when either, 70% of the total works area is complete, or 100% of the total area has the flexible pavement construction (total pavement less the asphalt layers) items complete; and
- 30% payment when the works are fully complete.

Claims will only be approved were all conforming quality assurance documentation exists for areas of completion.

F2 Apron Extension

Payment for this item will be made on a lump sum basis with the proportion of work completed meeting the following milestones:

- 30% payment when either, 30% of the total works area is complete, or 100% of the total area has the excavation and subgrade preparation

works items complete;

- 20% payment when either, 50% of the total works area is complete, or 75% of the total area has the flexible pavement construction (total pavement less the asphalt layers) items complete;
- 20% payment when either, 70% of the total works area is complete, or 100% of the total area has the flexible pavement construction (total pavement less the asphalt layers) items complete; and
- 30% payment when the works are fully complete.

Claims will only be approved were all conforming quality assurance documentation exists for areas of completion.

F3 Taxiway B, Apron and shoulder areas

Payment for this item will be made on a lump sum basis with the proportion of work completed meeting the following milestones:

- 30% payment when 30% of the total works area is complete;
- 20% payment when 50% of the total works area is complete;
- 20% payment when 70% of the total works area is complete;
- 30% payment when the works are fully complete.

Claims will only be approved were all conforming quality assurance documentation exists for areas of completion.

F4 Concrete Parking Aprons

Payment for this item will be made on a lump sum basis with the proportion of work completed meeting the following milestones:

- 30% payment when 30% of the total works area is complete;
- 20% payment when 50% of the total works area is complete;
- 20% payment when 70% of the total works area is complete;
- 30% payment when the works are fully complete.

Claims will only be approved were all conforming quality assurance documentation exists for areas of completion.

F5 Undercut of unsuitable material

Payment for this item will be made on a lump sum basis with the proportion of work completed to be included in the progress claim for that month.

The Contractors claim for this item shall include the cost of all works associated with the Technical Requirements.

F6 Co-ordination with Terminal Infrastructure Contract

Claims of payment of the Lump Sum will be made on a time pro-rata basis as the contract progresses.

G Paint Markings**G1 Paint Marking Installation**

Payment for this item will be made on a lump sum basis with the proportion of work completed meeting the following milestones:

- 15% payment pro-rata of the Lump Sum when all markings associated with Stands 4 and 5 are complete;
- 15% payment pro-rata of the Lump Sum when all markings associated with Stand 3 are complete;
- 15% payment pro-rata of the Lump Sum when all markings associated with Stand 2 are complete;
- 15% payment pro-rata of the Lump Sum when all markings associated with Stand 1 are complete;
- 20% payment pro-rata of the Lump Sum when all apron lead-in centreline and edge markings are complete; and
- 20% payment pro-rata of the Lump Sum when all taxiway markings are complete;

Claims will only be approved were all conforming quality assurance documentation exists for areas of completion.

H Airfield Ground Lighting (AGL)**H1 Supply and Installation of necessary Temporary AGL installations**

Payment for this item will be made on a lump sum basis. Claims of payment of the Lump Sum will be made on a time pro-rata basis as the contract progresses.

H2 Supply and Installation of necessary Permanent AGL installations

Payment for this item will be made on a lump sum basis with the proportion of items completed to be included in the progress claim for that month.

H3 Coordination, planning and integration of new AGL infrastructure

Payment for this item will be made on a lump sum basis. Claims of payment of the Lump Sum will be made on a time pro-rata basis as the contract progresses.

The Contractors claim for this item shall include the costs associated with the

integration of the new AGL infrastructure into the civil works program, the preparation and attendance at site coordination meetings.

I Fuel Distribution network

I1 Construction of fuel network

Payment for this item will be made on a lump sum basis with the proportion of work completed meeting the following milestones:

- 40% payment pro-rata of the Lump Sum when all storage, pumping, and electrical control systems are installed;
- 20% payment pro-rata of the Lump Sum when all fuel distribution requirements associated with Stand 3 are complete;
- 20% payment pro-rata of the Lump when all fuel distribution requirements associated with Stand 2 are complete; and
- 20% payment pro-rata of the Lump Sum when all when all fuel distribution requirements associated with Stand 1 are complete.

I2 Testing and Commissioning

Payment for this item will be made on a lump sum basis. Contractor's claims are to be made on approval of the testing/commissioning by the Engineer.

J Drainage

J1 Construction of drainage infrastructure

Payment for this item will be made on a lump sum basis with the proportion of work completed meeting the following milestones:

- 20% payment pro-rata of the Lump Sum when all materials are supplied to site;
- 30% payment pro-rata of the Lump Sum when all stormwater upgrade requirements associated with the eastern RESA are complete;
- 15% payment pro-rata of the Lump when all stormwater upgrade requirements associated with the grass island between Taxiways A and B and Runway are complete;
- 20% payment pro-rata of the Lump Sum when all stormwater upgrade requirements associated with the western half of the existing apron and its interface with the new airside road are complete; and
- 15% payment pro-rata of the Lump Sum when all stormwater upgrade requirements associated with the eastern apron extension are complete.

Claims will only be approved were all conforming quality assurance documentation exists for length of completion.

The Contractors claim for this item shall include the cost for the undertaking the work in conformance with the Technical Requirements.

J2 Construction of Slot Drain along airside frontage of new terminal

Payment for this item will be made on a lump sum basis with the proportion of work completed meeting the following milestones:

- 30% payment when 30% of the total length is complete;
- 20% payment when 50% of the total length is complete;
- 20% payment when 70% of the total length is complete;
- 30% payment when the works are fully complete.

Claims will only be approved were all conforming quality assurance documentation exists for length of completion.

K Apron Flood Lighting

K1 Construction of Flood Lighting

Payment for this item will be made on a lump sum basis with the proportion of work completed meeting the following milestones:

- 40% payment when all materials are supplied to site; and
- 60% payment when the total number of floodlights are installed and operational.

The Contractors final claim will only be approved on receipt of LUX measurements matching that of the design requirements.

The Contractors claim for this item shall include the cost for the undertaking the work in conformance with the Technical Requirements.

K2 Testing and Commissioning

Payment for this item will be made on a lump sum basis. Contractor's claims are to be made on approval of the testing/commissioning by the Engineer.

L Contractors Design

Payment for this item will be made on a lump sum basis on completion of the 30%, 50%, 70% and 100% milestones as determined by the Engineering Supervisor.

M Airside Construction

M1 Airside construction safety

Payment for this item will be made on a lump sum basis.

Claims of 10% payment pro-rata of the Lump Sum on receipt of the approved and Final version of the MOWP.

Claims of the remaining 90% payment of the Lump Sum will be made on a time pro-rata basis as the contract progresses.

**M2 Stand Down Due to Weather or Emergency Conditions
(Provisional Item) (Ref. 1.1.5 of the Preamble)**

Payment for this item will be made on a per hour basis and shall be included in the progress claim for the weeks falling within the month which is being claimed.

The Contractor is to price for 24 hours of stand down time (based on 3 x 8hr shifts) and claim only those hours for which the SAA would not allow works to commence.

A stand down will not apply should the Contractor be notified of a changed flight time at least 7 days prior to commencement of the new flight time.

N Quality Assurance

N1 Sampling and Production Testing

Payment for this item will be made on a lump sum basis.

Claims of 5% payment pro-rata of the Lump Sum will be made on receipt of the approved and Final version of the Inspection and Testing Plan (ITP).

Claims of 5% payment pro-rata of the Lump Sum will be made on completion of the approved Asphalt Mix Designs.

Claims of 15% payment pro-rata of the Lump Sum will be made on completion of the Asphalt Trials.

Claims of the remaining 75% payment of the Lump Sum will be made on a time pro-rata basis as the contract progresses.

N2 Sampling and Production Testing - Additional

No work will be measured against this section of the Schedule of Prices unless it is carried out in response to a written instruction by the Engineer, and cost has been agreed for the undertaking of each additional test.

O Site Clearance, Strip Grading and Turfing

O1 Site Clearance, Strip Grading and Turfing

Payment for this item will be made on a lump sum basis with the proportion of work completed meeting the following milestones:

- 15% payment pro-rata of the Lump Sum when 30% of the topsoil strip work area is complete;

- 10% payment pro-rata of the Lump Sum when 50% of the topsoil strip work area is complete;
- 10% payment pro-rata of the Lump Sum when 70% of the topsoil strip work area is complete;
- 15% payment pro-rata of the Lump Sum when 100% of the topsoil strip work area is complete;
- 15% payment pro-rata of the Lump Sum when 30% of the grading and topsoil reinstatement work area is complete;
- 10% payment pro-rata of the Lump Sum when 50% of the grading and topsoil reinstatement work area is complete;
- 10% payment pro-rata of the Lump Sum when 70% of the grading and topsoil reinstatement work area is complete; and
- 15% payment pro-rata of the Lump Sum when 100% of the grading and topsoil reinstatement work area is complete and satisfactory grass germination is approved in all areas.

P Pavement Construction

P1 Runway central mill and fill

Payment for this item will be made on a lump sum basis with the proportion of work completed meeting the following milestones:

- 30% payment when 30% of the total works area is complete;
- 20% payment when 50% of the total works area is complete;
- 20% payment when 70% of the total works area is complete;
- 30% payment when the works are fully complete.

Claims will only be approved were all conforming quality assurance documentation exists for areas of completion.

P2 Runway overlay

Payment for this item will be made on a lump sum basis with the proportion of work completed meeting the following milestones:

- 30% payment when 30% of the total works area is complete;
- 20% payment when 50% of the total works area is complete;
- 20% payment when 70% of the total works area is complete;
- 30% payment when the works are fully complete.

Claims will only be approved were all conforming quality assurance documentation exists for areas of completion.

P3 08 Runway turning node

Payment for this item will be made on a lump sum basis with the proportion of work completed meeting the following milestones:

- 30% payment when either, 30% of the total works area is complete, or 50% of the total area has the flexible pavement construction (total pavement less the asphalt layers) items complete;
- 20% payment when either, 50% of the total works area is complete, or 75% of the total area has the flexible pavement construction (total pavement less the asphalt layers) items complete;
- 20% payment when either, 70% of the total works area is complete, or 100% of the total area has the flexible pavement construction (total pavement less the asphalt layers) items complete; and
- 30% payment when the works are fully complete.

Claims will only be approved were all conforming quality assurance documentation exists for areas of completion.

P4 Runway Shoulders

Payment for this item will be made on a lump sum basis with the proportion of work completed meeting the following milestones:

- 30% payment when 30% of the total works area is complete;
- 20% payment when 50% of the total works area is complete;
- 20% payment when 70% of the total works area is complete;
- 30% payment when the works are fully complete.

Claims will only be approved were all conforming quality assurance documentation exists for areas of completion.

P5 Undercut of unsuitable material

Payment for this item will be made on a lump sum basis with the proportion of work completed to be included in the progress claim for that month.

The Contractors claim for this item shall include the cost of all works associated with the Technical Requirements.

P6 Runway End Surface Rejuvenation

Payment for this item will be made on a lump sum basis. Progress claims shall only be made in full on completion of the approved surface enrichment.

P7 Friction Testing

Payment for this item will be made on a lump sum basis. Progress claims shall only be made in full on completion of the testing.

Q Paint Markings**Q1 Paint Marking Installation**

Payment for this item will be made on a lump sum basis with the proportion of work completed meeting the following milestones:

- 30% payment pro-rata of the Lump Sum when all markings associated with 30% of the runway length are complete;
- 20% payment pro-rata of the Lump Sum when all markings associated with 50% of the runway length are complete;
- 20% payment pro-rata of the Lump Sum when all markings associated with 70% of the runway length are complete; and
- 30% payment of the Lump Sum when all markings are complete.

Claims will only be approved were all conforming quality assurance documentation exists for areas of completion.

R Airfield Ground Lighting (AGL)**R1 Supply and Installation of necessary Temporary AGL installations**

Payment for this item will be made on a lump sum basis. Claims of payment of the Lump Sum will be made on a time pro-rata basis as the contract progresses.

R2 Supply and Installation of necessary Permanent AGL installations

Payment for this item will be made on a lump sum basis with the proportion of items completed to be included in the progress claim for that month.

R3 Coordination, planning and integration of new AGL infrastructure

Payment for this item will be made on a lump sum basis. Claims of payment of the Lump Sum will be made on a time pro-rata basis as the contract progresses.

The Contractors claim for this item shall include the costs associated with the integration of the new AGL infrastructure into the civil works program, the preparation and attendance at site coordination meetings.

Technical Proposal

PART 1

TECH-1 Tender Design

PART 2

TECH-2 Construction Schedule

TECH-3 Details of Aggregates and Bitumen

TECH-4 ESHS Management Strategies and Implementation Plans

TECH-5 Key Personnel Schedule

TECH-1

Tender Design

The Tender design shall include the following information as a minimum:

- **Tender Design Report** – providing a description for all the proposed works and materials meeting the requirements described in the Technical Requirements
- **Tender Drawings** – providing detail and layout of all the proposed works and materials meeting the requirements described in the Technical Requirements, including but not limited to:
 - Pavement design analysis and calculations
 - Pavement Surfacing Layout Plan (s)
 - Typical Pavement Cross section (s) of each pavement type, including shoulders and slopes
 - Geometrical longitudinal profile of the runway, both taxiways and the apron
 - Geometrical cross sectional profiles of the runway, both taxiways and the apron
 - Operational Staging Plans
 - Construction Details associated with asphaltic surfacing works (grooving (if required), temporary ramps, AGL raising etc)
 - Layout Plan (s) for hydrant refuelling design
 - Construction Detail (s) of hydrant refuelling design
 - Layout Plan (s) for Floodlighting design showing LUX levels
 - Construction Detail (s) for the Floodlighting design
 - Layout Plan (s) for the drainage design, including any regrading of the areas around drain pipe inlets and open channels
 - Construction Detail (s) of the drainage design (inclusive of manholes, outfalls and trench reinstatement). Drainage design needs to include the necessary regrading of the open channel to prevent back up into the pipes, and the inlet areas to permit swales and ponding areas.
 - Layout Plan showing Paint Marking details

- o Layout Plan and construction details (as needed) for service roads (airside)
 - o Plans for environmental mitigation
 - o Construction details for the installation of air bridges
 - o Interface with terminal building
- **Design Phase Activities:** proposal on how the detailed design will be prepared to meet the specifications and well as schedule for completion of detailed design.

TECH-2

Construction Schedule

Proposed Construction Schedule shall be realistic, adequately detailed, identify the critical path, all significant activities, take due account of sequencing of works when operating in a live airport environment, rainy season, environmental constraints, etc. including, but not limited to, the following key activities:

- (a) Mobilisation of plant and materials
- (b) Site establishment including Contractor's Site facilities
- (c) Aggregate quarrying, handling and storage
- (d) Hot mix asphalt paving
- (e) Pavement construction
- (f) AGL interfacing
- (g) Concrete parking stands
- (h) Paint marking
- (i) Drainage works
- (j) Fuel Hydrant Installations
- (k) High Mast Floodlighting
- (l) Terminal building interfacing, including installation of airbridges and other terminal related infrastructure

This schedule in a form of a fully itemised Gantt chart implementation program shall be inclusive of shipping details, mobilisation timelines, haulage timelines of aggregates, wet weather allowances, airport operational compliance.

TECH-3

Details of Aggregates and Bitumen

Details of aggregates and bitumen, in particular:

- Materials source – location and production history
- testing results (completed within the last year)
- Transportation to site

- Biosecurity requirements (if imported)

demonstrating compliance with the minimum specification requirements.

TECH-4

ESHS Management Strategies and Implementation Plans (ESHS-MSIP)

The Bidder shall submit comprehensive and concise Environmental, Social, Health and Safety Management Strategies and Implementation Plans (ESHS-MSIP) as required by ITB 11.1 (h) of the Bid Data Sheet.

In developing these strategies and plans, the Bidder shall have regard to the ESHS provisions of the contract including those as may be more fully described in the following:

1. *The Project Environmental and Social Management Plan V6.4;*
2. *The Technical requirements of this bid package*
3. *The Works Requirements described in Section VII*
4. *The consent conditions of the Development Consents*
5. *Samoan Codes of Environmental Practice*
6. *World Bank Group EHS Guidelines*

Namely, these plans shall include:

1. Code of Conduct for Gender Based Violence (GBV) and Violence Against Children (VAC)

The Bidder shall submit the Code of Conduct that will apply to the Contractor's employees and subcontractors as required by ITB 11.1 (h) of the Bid Data Sheet. The Code of Conduct shall ensure compliance with the ESHS provisions of the contract, including those as may be more fully described in the following:

1. *The Project Environmental and Social Management Plan V6.4 (2017)*
2. *The SAIP Codes of Conduct and Action Plan for the Prevention of Gender Based Violence and Child Abuse and Exploitation*
<https://www.dropbox.com/s/jl3dr2qgwr5g6h5/SAIP%20Codes%20of%20Conduct%20for%20GBV%20and%20CAE%20-%20Final%20for%20bids.docx?dl=0>
3. *Works Requirements described in Section VII*

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

2. Code of Conduct (ESHS)

The Bidder shall submit its Code of Conduct that will apply to Contractor's Personnel (as defined in Sub-clause 1.1.2.7 of the GC), to ensure compliance with its Environmental, Social, Health and Safety (ESHS) obligations under the contract. The Code, in accordance with Section VII- Works Requirements is required to address the risks associated with the influx of overseas or regional workers, prevention of discriminating practices in the workplace and community, maintaining a safe and healthy work environment, respect of local customs and culturally appropriate interaction with local communities.

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

The Contractor shall be required to implement the agreed Code of Conduct.

3. Management Strategies and Implementation Plans (MSIP) to manage the (ESHS) risks

The below strategies and plans shall describe in detail the actions, materials, equipment, management processes etc. that will be implemented by the Contractor, and its subcontractors.

i. Occupational Health and Safety Plan Outline

- (a) Responsibilities
- (b) Method of Work Plan (MOWP)
- (c) Worker induction and training
- (d) Emergency action plan
- (e) First aid facilities

ii. Traffic Management Plan Outline

- (a) Intended haulage routes
- (b) haulage load management strategies
- (c) traffic management strategies
- (d) public road monitoring and damage repair
- (e) Responsibilities
- (f) Airside traffic management

iii. Waste Management Plan Outline

- (a) Responsibilities
- (b) Identification of waste streams and disposal locations
- (c) Reuse and recycle plans
- (d) On site waste storage systems
- (e) Septic waste disposal methods
- (f) Worker induction and training

iv. Quarry Management Plan (if required)

- (a) Responsibilities
- (b) Adherence to COEP 8
- (c) Development consents
- (d) Worker Induction and training
- (e) Public consultations

TECH-5

Key Personnel Schedule

Form PER -1

Contractor's Representative and Key Personnel Schedule

Bidders should provide the names and details of the suitably qualified Contractor's Representative and Key Personnel to perform the Contract. The data on their experience should be supplied using the Form PER-2 below for each candidate.

Contractor' Representative and Key Personnel

1.	Title of position: Contractor's Representative	
	Name of candidate:	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment: for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart]</i>
2.	Title of position: <i>[Environmental Specialist]</i>	
	Name of candidate:	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment: for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart]</i>
3.	Title of position: <i>[Health and Safety Specialist]</i>	
	Name of candidate:	

	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment: for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart)]</i>
4.	Title of position: <i>[Social Specialist]</i>	
	Name of candidate:	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment: for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart)]</i>
5.	Title of position: <i>[insert title]</i>	
	Name of candidate	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment: for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart)]</i>

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

Name of Bidder

Position [# 1]: <i>[title of position from Form PER-1]</i>		
Personnel information	Name:	Date of birth:
	Address:	E-mail:
	Professional qualifications:	
	Academic qualifications:	
	Language proficiency: <i>[language and levels of speaking, reading and writing skills]</i>	
Details	Address of employer:	
	Telephone:	Contact (manager / personnel officer):
	Fax:	
	Job title:	Years with present employer:

Summarize professional experience in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

Project	Role	Duration of involvement	Relevant experience
<i>[main project details]</i>	<i>[role and responsibilities on the project]</i>	<i>[time in role]</i>	<i>[describe the experience relevant to this position]</i>

Declaration

I, the undersigned *[insert either "Contractor's Representative" or "Key Personnel" as applicable]* , 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:	<i>[insert period (start and end dates) for which this Contractor's Representative or Key Personnel is available to work on this contract]</i>
Time commitment:	<i>[insert period (start and end dates) for which this Contractor's Representative or Key Personnel is available to work on this contract]</i>

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

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

Name of Contractor's Representative or Key Personnel: *[insert name]*

Signature: _____

Date: (day month year): _____

Countersignature of authorized representative of the Bidder:

Signature: _____

Date: (day month year): _____

Bidders Qualification

To establish its qualifications to perform the contract in accordance with Section III (Evaluation and Qualification Criteria) the Bidder shall provide the information requested in the corresponding Information Sheets included hereunder.

Form ELI -1.1

Bidder Information Form

Date: _____
 ICB No. and title: _____
 Page _____ of _____ pages

Bidder's name
In case of Joint Venture (JV), name of each member:
Bidder's actual or intended country of registration: <i>[indicate country of Constitution]</i>
Bidder's actual or intended year of incorporation:
Bidder's legal address [in country of registration]:
Bidder's authorized representative information Name: _____ Address: _____ Telephone/Fax numbers: _____ E-mail address: _____
1. Attached are copies of original documents of <ul style="list-style-type: none"> <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITB 4.3. <input type="checkbox"/> In case of JV, letter of intent to form JV or JV agreement, in accordance with ITB 4.1. <input type="checkbox"/> In case of Government-owned enterprise or institution, in accordance with ITB 4.5 documents establishing: <ul style="list-style-type: none"> • Legal and financial autonomy • Operation under commercial law • Establishing that the Bidder is not dependent agency of the Employer
2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

Form ELI -1.2

Bidder's JV Information Form (to be completed for each member of Bidder's JV)

Date: _____
ICB No. and title: _____
Page _____ of _____ pages

Bidder's JV name:
JV member's name:
JV member's country of registration:
JV member's year of constitution:
JV member's legal address in country of constitution:
JV member's authorized representative information Name: _____ Address: _____ Telephone/Fax numbers: _____ E-mail address: _____
1. Attached are copies of original documents of <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or registration documents of the legal entity named above, in accordance with ITB 4.3. <input type="checkbox"/> In case of a Government-owned enterprise or institution, documents establishing legal and financial autonomy, operation in accordance with commercial law, and absence of dependent status, in accordance with ITB 4.5.
2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

Historical Contract Non-Performance, Pending Litigation and Litigation History

Bidder's Name: _____

Date: _____

JV Member's Name _____

ICB No. and title: _____

Page _____ of _____ pages

Non-Performed Contracts in accordance with Section III, Evaluation and Qualification Criteria			
<input type="checkbox"/> Contract non-performance did not occur since 1 st January <i>[insert year]</i> specified in Section III, Evaluation and Qualification Criteria, Sub-Factor 2.1.			
<input type="checkbox"/> Contract(s) not performed since 1 st January <i>[insert year]</i> specified in Section III, Evaluation and Qualification Criteria, requirement 2.1			
Year	Non-performed portion of contract	Contract Identification	Total Contract Amount (current value, currency, exchange rate and US\$ equivalent)
<i>[insert year]</i>	<i>[insert amount and percentage]</i>	Contract Identification: <i>[indicate complete contract name/ number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Reason(s) for non performance: <i>[indicate main reason(s)]</i>	<i>[insert amount]</i>
Pending Litigation, in accordance with Section III, Qualification Criteria and Requirements			
<input type="checkbox"/> No pending litigation in accordance with Section III, Qualification Criteria and Requirements, Sub-Factor 2.3.			
<input type="checkbox"/> Pending litigation in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.3 as indicated below.			
Year of dispute	Amount in dispute (currency)	Contract Identification	Total Contract Amount (currency), USD Equivalent (exchange rate)

		Contract Identification: _____ Name of Employer: _____ Address of Employer: _____ Matter in dispute: _____ Party who initiated the dispute: ____ Status of dispute: _____	
<input type="checkbox"/> No pending litigation in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.3. <input type="checkbox"/> Pending litigation in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.3 as indicated below.			
Year of award	Outcome as percentage of Net Worth	Contract Identification	Total Contract Amount (currency), USD Equivalent (exchange rate)
		Contract Identification: Name of Employer: Address of Employer: Matter in dispute: Party who initiated the dispute: Status of dispute:	

Form FIN – 3.1:

Financial Situation and Performance

Bidder's Name: _____

Date: _____

JV Member's Name _____

ICB No. and title: _____

Page _____ of _____ pages

1. Financial data

Type of Financial information in (currency)	Historic information for previous _____ years, _____ (amount in currency, currency, exchange rate*, USD equivalent)				
	Year 1	Year 2	Year 3	Year 4	Year 5
Statement of Financial Position (Information from Balance Sheet)					
Total Assets (TA)					
Total Liabilities (TL)					
Total Equity/Net Worth (NW)					
Current Assets (CA)					
Current Liabilities (CL)					
Working Capital (WC)					
Information from Income Statement					
Total Revenue (TR)					
Profits Before Taxes (PBT)					
Cash Flow Information					
Cash Flow from Operating Activities					

*Refer to ITB 15 for the exchange rate

2. Sources of Finance

Specify sources of finance to meet the cash flow requirements on works currently in progress and for future contract commitments.

No.	Source of finance	Amount (US\$ equivalent)
1		
2		
3		

2. Financial documents

The Bidder and its parties shall provide copies of financial statements for _____years pursuant Section III, Evaluation and Qualifications Criteria, Sub-factor 3.1. The financial statements shall:

- (a) reflect the financial situation of the Bidder or in case of JV member , and not an affiliated entity (such as parent company or group member).
- (b) be independently audited or certified in accordance with local legislation.
- (c) be complete, including all notes to the financial statements.
- (d) correspond to accounting periods already completed and audited.

Attached are copies of financial statements²⁴ for the _____years required above; and complying with the requirements

²⁴ If the most recent set of financial statements is for a period earlier than 12 months from the date of bid, the reason for this should be justified.

Form FIN – 3.2:

Average Annual Construction Turnover

Bidder's Name: _____

Date: _____

JV Member's Name _____

ICB No. and title: _____

Page _____ of _____ pages

		Annual turnover data (construction only)	
Year	Amount Currency	Exchange rate	USD equivalent
<i>[indicate year]</i>	<i>[insert amount and indicate currency]</i>		
Average Annual Construction Turnover *			

* See Section III, Evaluation and Qualification Criteria, Sub-Factor 3.2.

Form FIN – 3.3:**Financial Resources**

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

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, Tel, Fax	Value of Outstanding Work [Current US\$ Equivalent]	Estimated Completion Date	Average Monthly Invoicing Over Last Six Months [US\$/month]
1					
2					
3					
4					
5					

Form EXP - 4.1

General Construction Experience

Bidder's Name: _____

Date: _____

JV Member's Name _____

ICB No. and title: _____

Page _____ of _____ pages

Starting Year	Ending Year	Contract Identification	Role of Bidder
		Contract name: _____ Brief Description of the Works performed by the Bidder: _____ Amount of contract: _____ Name of Employer: _____ Address: _____	
		Contract name: _____ Brief Description of the Works performed by the Bidder: _____ Amount of contract: _____ Name of Employer: _____ Address: _____	
		Contract name: _____ Brief Description of the Works performed by the Bidder: _____ Amount of contract: _____ Name of Employer: _____ Address: _____	



Form EXP - 4.2(a)

Specific Construction and Contract Management Experience

Bidder's Name: _____

Date: _____

JV Member's Name _____

ICB No. and title: _____

Page _____ of _____ pages

Similar Contract No.	Information			
Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contract or <input type="checkbox"/>	Member in JV <input type="checkbox"/>	Management Contractor <input type="checkbox"/>	Sub- contract or <input type="checkbox"/>
Total Contract Amount			US\$	
If member in a JV or sub-contractor, specify participation in total Contract amount				
Employer's Name:				
Address:				
Telephone/fax number				
E-mail:				
Scope of works meeting the minimum requirements in Section III				



Form EXP - 4.2(a) (cont.)**Specific Construction and Contract Management Experience (cont.)**

Similar Contract No.	Information
Description of the similarity in accordance with Sub-Factor 4.2(a) of Section III:	
1. Amount	
2. Physical size of required works items	
3. Complexity	
4. Methods/Technology	
5. Construction rate for key activities	
6. Other Characteristics	

Form EXP - 4.2(b)

Construction Experience in Key Activities

Bidder's Name: _____

Date: _____

Bidder's JV Member Name: _____

Sub-contractor's Name²⁵ (as per ITB 34.2 and 34.3): _____

ICB No. and title: _____

Page _____ of _____ pages

All Sub-contractors for key activities must complete the information in this form as per ITB 34.2 and 34.3 and Section III, Qualification Criteria and Requirements, Sub-Factor 4.2.

1. Key Activity No One: _____

	Information			
Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contractor <input type="checkbox"/>	Member in JV <input type="checkbox"/>	Managem ent Contractor <input type="checkbox"/>	Sub- contractor <input type="checkbox"/>
Total Contract Amount			US\$	
Quantity (Volume, number or rate of production, as applicable) performed under the contract per year or part of the year	Total quantity in the contract (i)	Percentage participation (ii)		Actual Quantity Performe d (i) x (ii)
Year 1				
Year 2				

²⁵ If applicable

	Information		
Year 3			
Year 4			
Employer's Name:			
Address:			
Telephone/fax number			
E-mail:			

2. Activity No. Two

3.

	Information
Description of the key activities in accordance with Sub-Factor 4.2(b) of Section III:	

Form EXP-4.3 **Specific Design Experience**

Bidder's Name: _____

Name of firm or individual who will be carrying out the Designs: _____

Date: _____

JV Member's Name _____

ICB No. and title: _____

Page _____ of _____ pages

Similar Contract No.	Information			
Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Consultant/Contractor <input type="checkbox"/>	Member in JV <input type="checkbox"/>	Management Contractor <input type="checkbox"/>	Sub-Consultant/contractor <input type="checkbox"/>
Total Contract Amount			US\$	
If member in a JV or sub-contractor, specify participation in total Contract amount				
Employer's Name:				
Address:				
Telephone/fax number				
E-mail:				



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 <input type="checkbox"/> Owned <input type="checkbox"/> Rented <input type="checkbox"/> Leased <input type="checkbox"/> Specially manufactured	

Omit the following information for equipment owned by the Bidder.

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

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

[The following table shall be filled in for the Bidder, each member of a Joint Venture and each Specialized Subcontractor]

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

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

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

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

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

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

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

Form of Bid Security
(Demand Guarantee)

Beneficiary: _____

Invitation for Bids No: _____

Date: _____

BID GUARANTEE No.: _____

Guarantor: _____

We have been informed that _____ (hereinafter called "the Applicant") has submitted or will submit to the Beneficiary its bid (hereinafter called "the Bid") for the execution of _____ under 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 Applicant, we, _____, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of _____ (_____) upon receipt by us of the Beneficiary's complying demand, supported by the Beneficiary's statement, whether in the demand itself or a separate signed document accompanying or identifying the demand, stating that either the Applicant:

- (a) has withdrawn its Bid during the period of bid validity set forth in the Applicant's Letter of Bid ("the Bid Validity Period"), or any extension thereto provided by the Applicant; or
- (b) having been notified of the acceptance of its Bid by the Beneficiary during the Bid Validity Period or any extension thereto provided by the Applicant, (i) has failed to execute the contract agreement, or (ii) has failed to furnish the Performance Security and, if required, the Environmental, Social, Health and Safety (ESHS) Performance Security, in accordance with the Instructions to Bidders ("ITB") of the Beneficiary's Bidding document.

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

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

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

[signature(s)]

Section V. Eligible Countries

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

1. In reference to ITB 4.7 and 5.1, for the information of the Bidders, at the present time firms, goods and services from the following countries are excluded from this bidding process:

Under ITB 4.7(a) and 5.1: *none*

Under ITB 4.7(b) and 5.1: *none*

Section VI. Bank Policy - Corrupt and Fraudulent Practices

Guidelines for Procurement of Goods, Works, and Non-Consulting Services under IBRD Loans and IDA Credits & Grants by World Bank Borrowers, dated January 2011.

"Fraud and Corruption:

1.16 It is the Bank's policy to require that Borrowers (including beneficiaries of Bank loans), bidders, suppliers, contractors and their agents (whether declared or not), sub-contractors, sub-consultants, service providers or suppliers, and any personnel thereof, observe the highest standard of ethics during the procurement and execution of Bank-financed contracts.²⁶ In pursuance of this policy, the Bank:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) "corrupt practice" is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;²⁷
 - (ii) "fraudulent practice" is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;²⁸
 - (iii) "collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;²⁹

²⁶ In this context, any action to influence the procurement process or contract execution for undue advantage is improper.

²⁷ For the purpose of this sub-paragraph, "*another party*" refers to a public official acting in relation to the procurement process or contract execution. In this context, "*public official*" includes World Bank staff and employees of other organizations taking or reviewing procurement decisions.

²⁸ For the purpose of this sub-paragraph, "party" refers to a public official; the terms "benefit" and "obligation" relate to the procurement process or contract execution; and the "act or omission" is intended to influence the procurement process or contract execution.

²⁹ For the purpose of this sub-paragraph, "parties" refers to participants in the procurement process (including public officials) attempting either themselves, or through another person or entity not participating in the procurement or selection process, to simulate

- (iv) "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;³⁰
- (v) "obstructive practice" is
 - (aa) deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or
 - (bb) acts intended to materially impede the exercise of the Bank's inspection and audit rights provided for under paragraph 1.16(e) below.
- (b) will reject a proposal for award if it determines that the bidder recommended for award, or any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- (c) will declare misprocurement and cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the procurement or the implementation of the contract in question, without the Borrower having taken timely and appropriate action satisfactory to the Bank to address such practices when they occur, including by failing to inform the Bank in a timely manner at the time they knew of the practices;
- (d) will sanction a firm or individual, at any time, in accordance with the prevailing Bank's sanctions procedures,³¹ including by publicly

competition or to establish bid prices at artificial, non-competitive levels, or are privy to each other's bid prices or other conditions.

³⁰ For the purpose of this sub-paragraph, "party" refers to a participant in the procurement process or contract execution.

declaring such firm or individual ineligible, either indefinitely or for a stated period of time: (i) to be awarded a Bank-financed contract; and (ii) to be a nominated³²;

- (e) will require that a clause be included in bidding documents and in contracts financed by a Bank loan, requiring bidders, suppliers and contractors, and their sub-contractors, agents, personnel, consultants, service providers, or suppliers, to permit the Bank to inspect all accounts, records, and other documents relating to the submission of bids and contract performance, and to have them audited by auditors appointed by the Bank.”

³¹ A firm or individual may be declared ineligible to be awarded a Bank financed contract upon: (i) completion of the Bank’s sanctions proceedings as per its sanctions procedures, including, inter alia, cross-debarment as agreed with other International Financial Institutions, including Multilateral Development Banks, and through the application the World Bank Group corporate administrative procurement sanctions procedures for fraud and corruption; and (ii) as a result of temporary suspension or early temporary suspension in connection with an ongoing sanctions proceeding. See footnote 14 and paragraph 8 of Appendix 1 of these Guidelines.

³² A nominated sub-contractor, consultant, manufacturer or supplier, or service provider (different names are used depending on the particular bidding document) is one which has either been: (i) included by the bidder in its pre-qualification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification requirements for the particular bid; or (ii) appointed by the Borrower.

PART 2 –WORKS REQUIREMENTS

Section VII. Works Requirements

Contents

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Technical Requirements

<https://www.dropbox.com/s/ykja4dg2wyt3rnf/17%2006%2009%20Design%20and%20Build%20-%20Technical%20Requirements.doc?dl=0>

Drawings

<https://www.dropbox.com/sh/1qjvgy57rqbbup2/AADLmXI-sCsjPUwBD1L-wwtFa?dl=0>

Supplementary Information -

Environmental, social, health and safety requirements

SAMOA AIRPORT AUTHORITY PROJECT ENVIRONMENTAL AND SOCIAL POLICY

Samoa Airport Authority's (SAA) mission is to comply fully with all applicable legislations, standards and practices to enhance safety and sustain profitable service delivery.

SAA has developed a Works Environmental and Social Policy ("the Policy") for all activities and works relating to the Samoa Aviation Investment Project ("Project"). The Policy stems from Samoan national policy, World Bank ESHS requirements and good international industry practices and principles in adopting and promoting environmentally and socially responsible principles for the aviation development sector.

The Policy incorporates environmental and social considerations into all of SAA's Project activities in a cross-cutting way from project development through to implementation and includes decision making, management, monitoring and evaluation.

SAA aims to:

- Ensure that all activities comply with Samoan National legislation including the Planning and Urban Management Act 2004 (and the associated Samoa Codes of Environmental Practice); Waste Management Act 2010; Labour and Employment Relations Act 2013 and Operational Safety and Health Act 2002.
- Apply World Bank Environmental, Social, Health and Safety Standards through the correct implementation of the Project Environmental Social and Management Plan (PESMP)
- Apply good international industry practice to protect and conserve the natural environment and to minimize unavoidable impacts;
- provide and maintain a healthy and safe work environment and safe systems of work;
- protect the health and safety of local communities and users, with particular concern for those who are disabled, elderly, or otherwise vulnerable;
- ensure that terms of employment and working conditions of all workers engaged in the Works meet the requirements of the ILO labour conventions to which the host country is a signatory;
- be intolerant of, and enforce disciplinary measures for illegal activities. To be intolerant of, and enforce disciplinary measures for GBV, child defilement, and sexual harassment;

- incorporate a gender perspective and provide an enabling environment where women and men have equal opportunity to participate in, and benefit from, planning and development of the Works;
- work co-operatively, including with end users of the Works, relevant authorities, contractors and local communities;
- engage with and listen to affected persons and organizations and be responsive to their concerns, with special regard for vulnerable, disabled, and elderly people;
- provide an environment that fosters the exchange of information, views, and ideas that is free of any fear of retaliation;
- minimize the risk of HIV transmission and to mitigate the effects of HIV/AIDS associated with the execution of the Works;

The Policy is also tightly linked with the need to monitor the Project for compliance of all applicable environmental and social requirements as prescribed in national legislation and Project safeguard instruments. Monitoring for compliance across all Project activities prescribed in the Project safeguard instruments SAA remains responsible for ensuring that all monitoring is undertaken. Evaluation of the Project processes will be ongoing and consultation with the wider stakeholder group will form an integral part of Project evaluation through all Project processes. Relevant procedures have been developed within the safeguard instruments to cover these aspects.

The Policy covers environmental and social impacts, benefits, opportunities and risks, both directly and indirectly associated with the Project. In addressing these, SAA's key considerations include: environmental impact management, community health and safety, labour rights and working conditions and occupational health and safety.

The Policy is applied to the Project as a whole and over its whole life cycle including design, planning, implementation and decommissioning of construction sites.

SAA uses its best efforts to ensure that the Project complies with the relevant Samoan legislation and actively works towards reaching compliance with IFC environmental and social safeguard standards.

SAA procures Contractors and consultants to carry undertaken works on behalf of the Project. SAA expects these contractors and consultants to:

- assess and manage the social and environmental risks, impacts and opportunities associated with their activities
- be in compliance with the relevant local environmental and social legislation
- depending on the level of environmental and social impacts and risks associated with the project, be in compliance (or reach compliance within a reasonable period) with all Project safeguard instruments based on the IFC's

Performance Standards and World Bank Group Environmental Health and Safety Guidelines; the ILO's Core labour Standards and Basic Terms and Conditions at Work as well as relevant aviation sector specific standards as described in IFC's Environmental Health and Safety Guidelines for Airports.

- work towards continuous improvement of their environmental and social management and performance using, as necessary, action plans and management systems with sufficient resources
- work towards avoidance, prevention and mitigation of negative environmental and social impacts and risks and promotion of environmental and social benefits and opportunities
- communicate and engage as and when possible with stakeholders
- provide timely and adequately the information needed for SAA's reporting and monitoring of the environmental and social management and performance of the contractors and the Project

SAA strives to enhance its accountability through public disclosure especially regarding the environmental and social impacts of the projects financed, in line with the requirements of the relevant legislation, while observing normal commercial confidentiality.

MINIMUM CONTENT OF ESHS REQUIREMENTS

As described in the Technical Requirements of this bid package, the Contractor is required to develop a Contractors Environmental and Social Management Plan (C-ESMP) following award of the contract. The Management Strategies and Implementation Plans (also described as sub-plans) listed in Section IV of this document are a requirement of the bid document and will be carried forward by the Contractor to form part of the C-ESMP post-award. During the bid evaluation process, The Management Strategies and Implementation Plans will be reviewed against the minimum requirements described in the PESMP, and discrepancies or insufficiencies will be addressed by the Contractor to the satisfaction of the Employer before approval for civil works is granted. Detailed specifications for the ESHS requirements can be referred to by the Contractor in:

- SAIP APW Project Environmental and Social Management Plan (PESMP) V6.4 (2017)
- Development Consent conditions for SAIP Project Works and Development Consent conditions for quarry sites.
- World Bank Group EHS Guidelines
- Samoa Codes of Environmental Practice (COEP), Planning and Urban Management Act, Solid Waste Management Act, Operational Health and Safety Act, Labour Act.
- Waigani Convention, International Labour Organisation's Declaration of Fundamental Principles and Rights at Work.

- The PESMP grievance redress mechanism which should be implemented by the Contractor, regardless of any internal or established GRMs that the Contractor may already employ.

The Management Plans, Implementation Strategies and C-ESMP should be prepared in manner that does not conflict with the relevant General Conditions of Contract and Particular Conditions of Contract

MINIMUM REQUIREMENTS FOR THE CODE OF CONDUCT

A Code of Conduct and Action Plan for the prevention of GBV and CAE has been developed for the Project and it is a contractual requirement of the Contractor to adopt this as a minimum Code of Conduct, and to fully implement the agreed action plan (see Appendix of the PCC). In addition to the GBV and CAE Code of Conduct, the Contractor is required to develop a Code of Conduct to facilitate respectful working environments and to help overseas or regional workers interact with communities in a culturally respectful manner and abide by local laws and customs. The minimum requirements for these codes of conduct are detailed in the following documents:

- SAIP APW Environmental and Social Management Plan V6.4 (2017)
- Particular Conditions of Contract
- World Bank Group EHS Guidelines
- Workers' Accommodation: Process and Standards (IFC and EBRD)

CODE OF CONDUCT REQUIREMENTS

A satisfactory code of conduct will contain obligations on all project staff (including sub-contractors and day workers) that are suitable to address the following issues, as a minimum. Additional obligations may be added to respond to particular concerns of the region, the location and the project sector or to specific project requirements. The issues to be addressed include:

1. Compliance with applicable laws, rules, and regulations of the jurisdiction
2. Compliance with applicable health and safety requirements (including wearing prescribed personal protective equipment, preventing avoidable accidents and a duty to report conditions or practices that pose a safety hazard or threaten the environment)
3. The use of illegal substances
4. Non-Discrimination (for example on the basis of family status, ethnicity, race, gender, religion, language, marital status, birth, age, disability, or political conviction)
5. Interactions with community members (for example to convey an attitude of respect and non-discrimination)
6. Expected conduct within any workers accommodations with regard to other workers and visitors to the camp (including any time restrictions on visiting hours)

7. Respect of local customs such as the Sunday rest day law (when work duties allow), conservative dress code in public areas, governance structure of local communities and any other customs as identified by the Employer.
8. Sexual harassment (for example to prohibit use of language or behavior, in particular towards women or children, that is inappropriate, harassing, abusive, sexually provocative, demeaning or culturally inappropriate)
9. Violence or exploitation (for example the prohibition of the exchange of money, employment, goods, or services for sex, including sexual favors or other forms of humiliating, degrading or exploitative behavior)
10. Protection of children (including prohibitions against abuse, defilement, or otherwise unacceptable behavior with children, limiting interactions with children, and ensuring their safety in project areas)
11. Sanitation requirements (for example, to ensure workers use specified sanitary facilities provided by their employer and not open areas)
12. Avoidance of conflicts of interest (such that benefits, contracts, or employment, or any sort of preferential treatment or favors, are not provided to any person with whom there is a financial, family, or personal connection)
13. Respecting reasonable work instructions (including regarding environmental and social norms)
14. Protection and proper use of property (for example, to prohibit theft, carelessness or waste)
15. Duty to report violations of this Code
16. Non retaliation against workers who report violations of the Code, if that report is made in good faith.

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

- received a copy of the code;
- had the code explained to them;
- acknowledged that adherence to this Code of Conduct is a condition of employment; and
- understood that violations of the Code can result in serious consequences, up to and including dismissal, with immediate referral to legal authorities when warranted.

PAYMENT FOR ESHS REQUIREMENTS

With the exception of Occupational Health and Safety (OHS) activities (which include GBV, CAE and HIV/AIDS), the payment for the delivery of ESHS requirements shall be a subsidiary obligation of the Contractor covered under the prices quoted for other Schedule of Prices items. The OHS activities are funded through a provisional sum based on the actual expenditures, and the time costs for staff attending training. All payments will be reimburseable based on the actuals.

PART 3 – CONDITIONS OF CONTRACT AND CONTRACT FORMS

Section VIII. General Conditions

Samoa Airport Authority (SAA)

Procurement of Physical Works for Airport Pavements, Drainage and Service Infrastructure, Faleolo International Airport, Samoa

The General Conditions of Contract shall be the "Conditions of Contract for Plant and Design-Build" 1st edition 1999 prepared by the *Fédération Internationale des Ingénieurs-Conseils* (FIDIC). These General Conditions are subject to the variations and additions set out in Sub-Section 4.2 entitled "Particular Conditions" (PC)

Copies of the FIDIC Conditions of Contract can be obtained from:

FIDIC Secretariat
P.O. Box 86
1000 Lausanne 12
Switzerland
Facsimile: 41 21 653 5432
Telephone: 41 21 653 5003

And the FIDIC official web site

WWW.FIDIC.ORG

Section IX. Particular Conditions of Contract

The following Particular Conditions of Contract (PCC) shall supplement the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

Part A – Contract Data

Ref GCC Sub-Clause	Subject	Data
1.1.1.13	Project	The "Project", as referred to in the Contract Documents, is Procurement of Physical Works for Airport Pavements, Drainage and Service Infrastructure, Faleolo International Airport, Samoa. Wherever the context so implies, the word "project" used in the Technical Requirements, Section VII means "the Contract, to be financed under the Samoa Aviation Investment Project.
1.1.2.2, 1.1.2.13 & 1.3	Employer's name and address	Government of Samoa represented by Samoa Airport Authority Authorized Representative The person occupying the position of General Manager, Samoa Airport Authority
1.1.2.4	Engineer's name	[insert]
1.1.2.11	Bank's name	World Bank
1.1.2.12	Borrower's name	The Government of Samoa
1.1.2.14	Key Personnel	[insert]
1.1.2.14	Major Subcontractors a. Cost of subcontract higher than: b. Critical components or services:	

1.1.2.15	Senior Representatives	For the Employer: Rusetaneti Taaloga ruseta.taaloga@saip.ws For the Contractor: [insert position, and name of person currently holding position]
1.1.3.3	Time for Completion	18 months Completion of each phase of the Contract shall be in accordance with the time schedule provided in Section D of the Technical Requirements.
1.1.3.7	Defects Notification Period	36 months
1.1.5.6	Sections	Separable Portion 1 - Taxiways and Apron Separable Portion 2- Runway The Contractor shall ensure that delay in one Separable Portion will not affect the duration and resources of the other Separable Portion.
1.1.6.13	Latent Defect Period	If nothing stated, 4 years.
1.3(a)	Electronic transmission systems	Email
1.3(b)	Address of the Employer for Communications	Rusetaneti Taaloga ruseta.taaloga@saip.ws
1.3(b)	Address of the Contractor for Communications	[insert]
1.3(b)	Address of the Engineer for Communications	[insert]
1.4	Governing Law	The law of the Government of Samoa
1.4	Ruling language	English
1.4	Language for communications	English
2.1	Time for access to the Site	3 days after Commencement Date
3.1	Engineer's Duties	Variations resulting in an increase of the Accepted Contract Amount in excess of

	and Authority	10% shall require approval of the Employer.
4.2	Performance Security	An unconditional performance security in the amount(s) of 10 % of the Contract Price.
6.5	Normal working hours	between 19:00 hours and 0700 hours local time and generally from Monday to Saturday. However, some work may need to be undertaken during the day or on Sundays subject to prior agreement between both parties
8.1(c)	Possession of Site at Commencement	3 days after Commencement Date
8.7 & 14.15(b)	Delay damages for the Works	0.05% of the final Contract Price per day for each day between the Time For Completion and the Time of Completion.
8.7	Maximum amount of delay damages	10% of the final Contract Price.
13.2	Percentage for Value Engineering	50 %
13.5(b)(ii)	Provisional Sums	15 %
14.2	Total advance payment	20% of the Accepted Contract Amount payable in the currencies and proportions in which the Accepted Contract Amount is payable The Advance Payment shall be paid to the Contractor no later than 30 days from the Commencement Date, provided an unconditional bank guarantee for the advance amount has been received and accepted by the Employer.
14.2(a)	Percentage of Accepted Contract Amount to be exceeded before commencement of deductions	10 %
14.2(b)	Repayment amortization of advance payment	30 %
14.3B(c)	Percentage of Retention	10 %

14.3B(c)	Limit of Retention Money	10 % of the Contract Price.
14.5(b)	Plant and Materials	Not applicable
14.5(c)	Plant and Materials	Not applicable
14.6	Minimum Amount of Interim Payment Certificates	20 % of the Accepted Contract Price.
14.15(b)	Currencies for Damages	currencies in which the Accepted Contract Amount is payable
17.6	Maximum total liability of the Contractor to the Employer	the Accepted Contract Amount
18.1	Periods for submission of insurance: a. Evidence of insurance b. Relevant policies	28 days from the Commencement Date 28 days from the Commencement Date
18.2(d)	Maximum amount of deductibles for insurance of the Employer's risks	<ul style="list-style-type: none"> • for loss or damage to the Works, Plant and Materials: US\$5,000. • For loss or damage to Equipment: US\$5,000. • for loss or damage to property (except the Works, Plant, Materials, and Equipment) in connection with Contract US\$5,000 • for personal injury or death: US\$5,000
18.3	Minimum amount of third party insurance	US\$2,000,000 limit per occurrence for third party insurance
20.10	Place of arbitration hearing shall be:	UNCITRAL Secretariat Headquarters - Vienna, Austria

Part B – Special Provisions

1 General Provisions

1.1.1.4 Letter of Tender	Replace the words "entitled letter of tender" with "entitled Letter to Bid".
1.1.1.6 Schedules	Delete the words "completed by the Contractor and submitted with the Letter of Tender,"
1.1.1.9 Appendix to Tender	Replace the words "entitled appendix to tender" with "entitled Appendix to Bid".
1.1.1.11 Contract Data	Insert new definition as follows: "Contract Data" means Part A of the Particular Conditions of Contract.
1.1.1.12 Contract Programme	Insert new definition as follows: "Contract Programme" means the fully detailed programme to be provided by the Contractor to the Engineer for its approval and certification in accordance with Sub-Clause 8.3 [<i>Contract Programme</i>] and any update to such Contract Programme approved and certified by the Engineer in accordance with the Contract.
1.1.1.13 Project	Insert new definition as follows: "Project" means the project described in the Contract Data.
1.1.2.7 Contractor's Personnel	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."
1.1.2.3 Contractor	After the words "Letter of Tender" add the "and in the Contract Agreement".
1.1.2.9 DAB	Replace the definition with "Not Used".
1.1.2.11	Insert new definition as follows: "Bank" means the financing institution (if any) named in

Bank	the Contract Data.
1.1.2.12 Borrower	Insert new definition as follows: "Borrower" means the person (if any) named as the borrower in the Contract Data".
1.1.2.13 Employer's Representative	Insert new definition as follows: "Employer's Representative" means the authorised representative for the Employer included in the Contract Data.
1.1.2.14 Key Personnel	Insert new definition as follows: "Key Personnel" means the Contractor's Personnel named in nominated positions included in the Contract Data.
1.1.2.14 Major Subcontractor	Insert new definition as follows: "Major Subcontractor" means a Subcontractor providing goods or services under a subcontract under which a Major Subcontractor provides goods or services costing more than the sum specified in the Contract Data, or involving certain critical components or services of the Works specified in the Contract Data.
1.1.2.15 Senior Representatives	Insert new definition as follows: "Senior Representatives" means the senior representatives of the Parties set out in the Contract Data.
1.1.3.3 Time for Completion	Replace definition with: "Time for Completion" means the time by which the Contractor must achieve Taking Over of the Works or a Section (as the case may be), as stated in the Contract Data (with any extension under Sub-Clause 8.4 [<i>Extension of Time for Completion</i>]).
1.1.3.4 Tests on Completion	Replace the words "taken over" with "Taken Over".
1.1.3.6 Tests after Completion	Replace the words "taken over" with "Taken Over".
1.1.3.9 Day	At the end of this Sub-Clause, add the following: and "month" and "year" and all dates shall be calculated according to the Gregorian calendar, and time referred to shall be Government of Samoa standard time.

<p>1.1.3.10 Milestone</p>	<p>Insert new definition as follows:</p> <p>“Milestone” means the milestone for the completion of a part of the Works by the Contractor, as specified in the Contract Programme.</p>
<p>1.1.3.11 Milestone Date</p>	<p>Insert new definition as follows:</p> <p>“Milestone Date” means the dates for completing the Milestones set out in the Contract Programme (with any extension under Sub-Clause 8.4 [<i>Extension of Time for Completion</i>]).</p>
<p>1.1.3.12 Punch-List Items</p>	<p>Insert new definition as follows:</p> <p>“Punch-List Items” means minor items of work forming part of the Works that, as determined by the Engineer, remain to be completed by the Contractor as at the Taking Over Date, but they do not affect the safe, efficient and convenient use of the whole of the Works or contravene any requirements of any Laws.</p>
<p>1.1.3.13 Taken Over</p>	<p>Insert new definition as follows:</p> <p>“Taken Over” means the stage when a Taking Over Certificate has been issued for the Works or relevant Section as the case may be.</p>
<p>1.1.3.14 Taking Over</p>	<p>Insert new definition as follows:</p> <p>“Taking Over” means the stage in the execution of the whole of the Works, or the relevant Section or part of the Works (as the case may be), when:</p> <ul style="list-style-type: none"> (a) the whole of the Works, or the Works comprised in such Section, are complete (except for minor omissions and minor defects) and in accordance with all Contract requirements and the Works or such Section comply with applicable Laws; (b) the Engineer, in its sole and absolute discretion, is satisfied that: <ul style="list-style-type: none"> (i) those omissions and defects do not prevent the whole of the Works or the relevant Section or part of the Works, and the Site from being used for their intended purpose; (ii) those omissions and defects do not cause any restriction under any Law or under any direction of any government authority on the use or the occupation of the whole of the Works, or the relevant Section or part of the Works; (iii) the Contractor has reasonable grounds for

	<p>not promptly rectifying those omissions and defects; and</p> <p>(iv) failure to promptly rectify those omissions and defects will not prejudice the safe, efficient and convenient use of the whole of the Works, or the relevant Section or part of the Works, and the Site for their intended purpose;</p> <p>(c) the Punch-List Items and corresponding dates for completion of those items have been agreed between the Parties;</p> <p>(d) all commissioning and testing required under the Contract have been passed in accordance with Clause 9 [<i>Tests on Completion</i>];</p> <p>(e) unless warranties have already been made in favour of the Employer, all warranties with respect to any Plant or Materials used in the execution of the Works have been novated, assigned or otherwise made available to the Employer or such entity that the Employer nominates, except to the extent that certain warranties cannot be made in favour of the Employer, novated, assigned or otherwise made available to the Employer, in which case the Contractor must provide written reasons to the Employer's satisfaction and otherwise comply with Sub-Clause 4.26.</p> <p>(f) all information to be provided by the Contractor to the Employer under the Contract has been supplied to the Engineer, including:</p> <p>(i) Contractor's Documents;</p> <p>(ii) one original with five copies together with one electronic copy of all As-Built Documents in the form approved by the Engineer and related documents including a complete set of specifications and drawings (if any) to be prepared by or on behalf of the Contractor pursuant to the Contract;</p> <p>(iii) results of all tests performed in accordance with Clause 9 [<i>Tests on Completion</i>];</p> <p>(iv) operation and maintenance manuals (if any); and</p> <p>(v) the warranties specified in the Contract and any other warranties normally provided by suppliers, manufacturers and Subcontractors for work of similar scope and complexity to</p>
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	<p>the Works;</p> <p>(g) all payments due and payable from the Contractor to the Employer as at the date of Taking Over have been paid to the Employer;</p> <p>(h) any certificate or approval, which shall be issued or given by a government authority to lawfully occupy or use the whole of the Works, or the relevant Section or part of the Works, has been issued or given by that government authority and provided to the Engineer;</p> <p>(f) the cleaning of the entire Works, or the relevant Section or part of the Works, throughout, including cleaning of interior and exterior surfaces, cleaning debris from the Site and removing waste and surplus materials from the Site;</p> <p>(g) dismantling and removing the Temporary Works from Site, including scaffolding, hoardings, barricades and foot crossings specific to the Works or the relevant Section or part of the Works; and</p> <p>(h) making good access to the Works, including roads, footpaths, kerbs and gutters adjacent to the Works including any rectification work required under Sub-Clause 4.15.</p>
<p>1.1.3.15 Taking Over Date</p>	<p>Insert new definition as follows:</p> <p>"Taking Over Date" means the date stated in the Taking Over Certificate for the Works or a Section, as applicable, or the date a Taking Over Certificate is deemed to be issued in respect of the Works or a Section in accordance with Sub-Clause 10.2 [<i>Taking Over of Part of the Works</i>] or Sub-Clause 10.3 [<i>Interference with Tests on Completion</i>].</p>
<p>1.1.5.8 Works</p>	<p>Immediately after "as appropriate" insert "and all other things which the Contractor shall do in order to fulfil its obligations in respect to the carrying out of the Works and Temporary Works under the Contract".</p>
<p>1.1.5.9 Employer's Equipment</p>	<p>Insert new definition as follows:</p> <p>"Employer's Equipment" means the apparatus, machinery and vehicles (if any) made available by the Employer for the use of the Contractor in the execution of the Works, as stated in the Employer's Requirements but does not include Plant which has not been Taken Over by the Employer</p>

<p>1.1.6.1 Contractor's Documents</p>	<p>Immediately after "(if any)" insert "including working drawings and shop drawings".</p>
<p>1.1.6.10 ICAO Standards</p>	<p>Insert new definition as follows: "ICAO Standards" means the civil aviation standards adopted by the International Civil Aviation Authority as in effect on the date of execution of the Contract.</p>
<p>1.1.6.11 Industry Best Practices</p>	<p>Insert new definition as follows: "Industry Best Practices" means Australia, New Zealand or equivalent technical standards acceptable to the Employer, World Bank Safeguards Standards, the ICAO Standards, good engineering practices and other practices, methods, equipment and procedures which are generally engaged in or observed by leading international construction industries and that degree of skill, diligence, prudence and foresight which would reasonably be expected to be observed by a skilled, qualified and experienced engineer and contractor engaged in works of a similar size, type, nature, scope, purpose and complexity to the Works and which, with respect to any objective, may be expected, in the exercise of reasonable judgment, to accomplish that objective in a manner consistent with applicable Laws, reliability, safety, environmental protection, economy and expediency.</p>
<p>1.1.6.12 Latent Defect</p>	<p>Insert new definition as follows: "Latent Defect" means any defect in the Works attributable to: (i) the design and/or construction of the Works for which the Contractor is responsible; (ii) Plant, Materials or workmanship not being in accordance with the Contract; or (iii) failure of the Contractor to comply with any other obligation under the Contract, which a reasonable examination by the Employer prior to expiry of the last Defects Notification Period would not have disclosed, and such defect results in the Works or part of the Works not being able to be used for the purposes for which they are intended by the Employer, and/or threatens the stability or safety of the Works.</p>
<p>1.1.6.13 Latent Defect Period</p>	<p>Insert new definition as follows: "Latent Defect Period" means the period as stated in the Contract Data, commencing from the date on which the Performance Certificate is issued by the Employer.</p>
<p>1.1.6.14</p>	<p>Insert new definition as follows:</p>

Management Meetings	"Management Meetings" mean meetings called by either the Engineer or the Contractor under Sub-Clause 3.6 [<i>Management Meetings</i>], which the Engineer, or his delegated representative, and the Contractor's Representative must attend.
1.1.6.15 World Bank Safeguards Standards	Insert new definition as follows: "World Bank Safeguard Standards" means the environmental, social, occupational health and safety, and fiduciary standards and related policies of the World Bank as in effect on the date of execution of the Contract."
1.2 Interpretation	<p>At the end of sub-paragraph (d) of this Sub-Clause, delete "and" and at the end of sub-paragraph (e) replace "." with "and" and replace the last two paragraphs with the following:</p> <ul style="list-style-type: none"> (f) "including", "include" and "includes" shall be read as if followed by "(without limitation)"; (g) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning; (i) a reference to the Contract includes all Schedules, exhibits and annexures to the Contract; (j) a reference to any law, legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provisions substituted for, and any subordinate legislation issued under that legislation or legislative provision; (k) the marginal words and other headings shall not be taken into consideration in the interpretation of the General Conditions, Contract Data or the Particular Conditions of Contract; (l) where references are made in the Contract to industry or technical codes and standards in accordance with which the Works are to be executed, the edition or the revised version of such codes and standards current at the Base Date applies, unless otherwise specified; and (m) no provision or part of this Contract will be interpreted against the interests of a Party merely because that Party is responsible for the inclusion of such provision or part. <p>In these Conditions, provisions including the expression "Cost-plus profit" require this profit to be one-twentieth (5%) of this Cost unless otherwise indicated in the Contract Data.</p>

<p>1.3 Communications</p>	<p>At the end of this Sub-Clause, add the following paragraphs:</p> <p>All software used for electronic communication, if permitted under the Contract, shall be the latest version or the one immediately before it. Reports, drawings and other documents shall be submitted in portable document format (.PDF). These shall be accompanied by the original files. Unless otherwise approved by the Engineer, the original files shall be compatible with: Microsoft Word for word processing, spread sheet files shall use Microsoft Excel, database files shall use Microsoft Access, critical path programming shall use Primavera SureTrak or Microsoft Project, and AutoCAD for drawing files.</p> <p>All of the Contractor's Documents named in Sub-Clause 4.21 [<i>Progress Reports</i>], Sub-Clause 14.2 [<i>Advance Payment</i>], Sub-Clause 14.3 [<i>Application for Interim Payment Certificate</i>], Sub-Clause 14.10 [<i>Statement of Completion</i>], Sub-Clause 14.11 [<i>Application for Final Payment Certificate</i>] be submitted as one original with five copies together with one electronic copy. Unless stated otherwise in the Contract, Contractor's Documents shall be submitted in one original plus one copy with electronic copy and "As Built Documents" shall be submitted as one original plus two copies with one electronic copy. If colour is used in an original, all copies shall also be in colour. The electronic copy shall use the applicable software specified in this Sub-Clause.</p>
<p>1.5 Priority of Documents</p>	<p>Delete Sub-Clause 1.5 and replace with the following:</p> <p>(a) The documents forming the Contract are to be taken as mutually explanatory of one another and shall be read as a whole. For the purposes of interpretation, the priority of the documents shall be as listed in the Contract Agreement.</p> <p>(b) If either Party discovers an ambiguity or discrepancy in or between the documents forming the Contract, that Party shall immediately notify the Engineer, who shall issue any necessary clarification or instruction to the Parties and the Contractor shall implement such clarification or instruction with due expedition and without delay.</p> <p>(c) Notwithstanding the priority of documents set out in Sub-Clause 1.5(a), if there is any ambiguity or discrepancy in or between the documents forming the Contract in regards to the obligations or requirements for the standard or quality of work, then the higher or more</p>

	<p>onerous obligation or requirement shall prevail unless otherwise instructed in writing by the Engineer.</p> <p>(d) If the Contractor suffers delay and/or incurs Cost as a result of failure of the Engineer to issue any necessary clarification or instruction, the Contractor shall give a notice to the Engineer and shall be entitled to, subject to Sub-Clause 20.1 [<i>Contractor's Claims</i>], claim:</p> <p>(i) an extension of time for any such delay, if completion is or will be delayed; and</p> <p>(ii) payment of any such Cost, which shall be added to the Contract Price as a Variation.</p> <p>(e) After receiving the notice under Sub-Clause 1.5(d), the Engineer shall proceed under Sub-Clause 20.1 [<i>Contractor's Claims</i>] and Sub-Clause 3.5 [<i>Determinations</i>] to agree or determine the matters described in Sub-Clause 1.5(d).</p>
<p>1.8 Care and Supply of Documents</p>	<p>Delete the last sentence of the second paragraph.</p> <p>Insert the following words at the end of the last sentence of Sub-Clause 1.8 and add the following:</p> <p style="padding-left: 40px;">"and the Engineer shall issue any necessary clarification or instruction".</p>
<p>1.9 Errors in the Employer's Requirements</p>	<p>Delete sub-paragraph 1.9(b) and replace with the following:</p> <p style="padding-left: 40px;">(b) payment of any such Cost-plus reasonable profit, which shall be added to the Contract Price as a Variation.</p>
<p>1.10 Employer's Use of Contractor's Documents</p>	<p>In the second paragraph of Sub-Clause 1.10, after the words "to copy, use and communicate the Contractor's Documents", insert "or any other documents created by or on behalf of the Contractor in connection with the Project".</p> <p>In the last paragraph, after the words "without the Contractor's consent", insert "(which must not be unreasonably withheld)".</p>
<p>1.12 Confidential Details</p>	<p>Delete Sub-Clause 1.12 and replace with the following:</p> <p>The Contractor's 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.</p> <p>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</p>

	with applicable Laws. Each of them shall not publish or disclose any particulars of the Works prepared by the other Party without the previous agreement of the other Party. However, the Contractor shall be permitted to disclose any publicly available information, or information otherwise required to establish his qualifications to compete for other projects.
<p>1.13</p> <p>Compliance with Laws</p>	<p>Delete Sub-Clause 1.13 and replace with the following:</p> <p>The Contractor shall, in performing the Contract, comply with applicable Laws. Unless otherwise stated in the Particular Conditions:</p> <p>(a) the Employer shall have obtained (or shall obtain) the planning, zoning, building permit or similar permission for the Permanent Works, and any other permissions described in the Specification as having been (or to be) obtained by the Employer; and the Employer shall indemnify and hold the Contractor harmless against and from the consequences of any failure to do so; and</p> <p>(b) the Contractor shall give all notices, pay all taxes, duties and fees, and obtain all permits, licences and approvals, as required by the Laws in relation to the execution and completion of the Works and the remedying of any defects; and the Contractor shall indemnify and hold the Employer harmless against and from the consequences of any failure to do so, unless the Contractor is impeded to accomplish these actions and shows evidence of its diligence.</p>
<p>1.14</p> <p>Joint and Several Liability</p>	<p>At the end of Sub-Clause 1.14(b) delete "and". At the end of Sub-Clause 1.14(c) replace "." with "; and" and insert the following new sub-paragraph (d):</p> <p>(d) the Employer may proceed against any or all of these persons for failure of the Contractor to comply with any obligation, whether arising under the Contract or otherwise.</p>
<p>1.15</p> <p>Inspections and Audit by the Bank</p>	<p>Insert new Sub-Clause as follows:</p> <p>The Contractor shall permit, and shall cause its agents (whether declared or not), sub-contractors, sub-consultants, service providers, suppliers and any personnel thereof, to permit, the Employer, the Bank and/or persons appointed by the Bank to inspect the Site and all accounts and records relating to the performance of the Contract and the submission of the bid, and to have such accounts and records audited by auditors appointed by the Employer or the Bank if requested by the Employer or the Bank (as the case may be).</p> <p>The Contractor and its agents (whether declared or not), sub-contractors, sub-consultants, service providers,</p>

	<p>suppliers and any personnel thereof attention is drawn to Sub-Clause 15.6 [Corrupt or Fraudulent Practices] which provides, inter alia, that acts intended to materially impede the exercise of the Bank's inspection and audit rights provided for under Sub-Clause 1.15 constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to the Bank's prevailing sanctions procedures).</p>
<p>1.19 Entire Agreement</p>	<p>Insert new Sub-Clause as follows:</p> <p>The Contract constitutes the entire agreement between the Employer and the Contractor with respect to the subject matter of the Contract and supersedes all prior arrangements, representations, communications, negotiations, agreements and contracts (whether written or oral) made between or entered into by the Parties with respect to the subject matter of the Contract prior to the date of execution of the Contract.</p>
<p>1.20 Severability</p>	<p>Insert new Sub-Clause as follows:</p> <p>If the enforcement or operation of any provision, or part thereof, of the Contract is prohibited by Law or if any provision, or part thereof, of the Contract is by Law rendered void, invalid or unenforceable, such prohibition, voidness, invalidity or unenforceability shall not affect the validity or enforceability of the rest of that provision and/or any other provisions and conditions of the Contract.</p>
<p>1.22 Independent Contractor</p>	<p>Insert new Sub-Clause as follows:</p> <p>The Contractor shall be an independent contractor performing the Contract. The Contract does not create any partnership, joint venture or other joint relationship between the Employer on the one hand and the Contractor on the other hand.</p>
<p>1.23 Privity</p>	<p>Insert new Sub-Clause as follows:</p> <p>No provision of the Contract is intended to or does confer upon any third party (including any Subcontractor) any implied benefit or right enforceable at the option of the third party against the Employer.</p>
<p>1.24 Waiver</p>	<p>Insert new Sub-Clause as follows:</p> <p>None of the terms, provisions or conditions of the Contract shall be considered waived by the Employer unless a waiver is given in writing by the Employer.</p> <p>Any waiver of the Employer's rights, powers or remedies under the Contract shall be dated and signed by an</p>

	authorised representative of the Employer granting such waiver, and shall specify the right and the extent to which it is being waived.
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2 The Employer

2.1 Right of Access to the Site	<p>In the first paragraph of Sub-Clause 2.1, after "within the time (or times) stated in the Appendix to Tender." insert "The Contractor shall arrange and agree with the Employer areas on Site for the Contractor's temporary facilities, including storage areas."</p> <p>In the third paragraph of Sub-Clause 2.1, after the words "and shall be entitled subject to Sub-Clause 20.1 [<i>Contractor's Claims</i>] to", insert "claim".</p> <p>Delete sub-paragraph 2.1(b) and replace with the following:</p> <p style="padding-left: 40px;">(b) payment of any such Cost-plus profit, which shall be added to the Contract Price as a Variation.</p>
2.5 Employer's Claims	<p>Insert the following at the end of the clause:</p> <p style="padding-left: 40px;">The Employer's failure to provide notice within time will not invalidate or bar the claim, but any payment or compensation made by the Contractor in connection with the claim will take account of the extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim.</p>

3 The Engineer

3.1 Engineer's Duties and Authority	<p>In subparagraph 3.1(a), delete "deemed to act for the Employer" and replace with "deemed to act as an agent for the Employer".</p> <p>Delete sub-paragraph 3.1(b) to 3.1(c) and replace with:</p> <p style="padding-left: 40px;">(b) the Engineer will have no authority to relieve the Contractor of any duties, obligations or responsibilities under the Contract without written authorisation and approval from the Employer;</p> <p style="padding-left: 40px;">(c) no approval, comment, check, certificate, consent, examination, inspection, instruction, notice, proposal, request, test or similar act (including absence of disapproval or comment) by or on behalf of the Employer, Engineer or the Employer's Personnel shall relieve the Contractor from any of its warranties, obligations or liabilities under or in connection with the Contract, including responsibility or liability for error, omissions, discrepancies, defects and non-</p>
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	<p>compliances;</p> <p>Add new sub-clause 3.1 (e); and</p> <p>(d) (e) The Engineer is responsible for approving a proposal for a Section submitted by the Contractor in accordance with Sub-Clause 1.16.</p>
<p>3.3 Instructions of the Engineer</p>	<p>Append the following to the end of the first sentence of the second paragraph of Sub-Clause 3.3:</p> <p>"with due expedition and without delay".</p>
<p>3.6 Management Meetings</p>	<p>Insert new Sub-Clause as follows:</p> <p>The Engineer or the Contractor's Representative may require the other to attend a Management Meeting, on giving no less than 2 days' notice, in order to review the arrangements for future work or discuss any other matters. The Engineer shall record the business of Management Meetings, including conclusions reached or agreements made, and supply copies of the record to the Contractor and other organisations attending the meeting, and send a copy to the Employer. The Employer shall be entitled to attend Management Meetings.</p>

4 The Contractor

<p>4.1 Contractor's General Obligations</p>	<p>In the first paragraph of Sub-Clause 4.1, delete the last sentence and replace with:</p> <p>The Contractor warrants and guarantees that when completed, the Works shall be fit for the purposes for which the Works are intended as defined in the Contract.</p> <p>Insert in the fifth paragraph after the words "<i>The Contractor shall, whenever required by the Engineer, submit details of the arrangements and methods which the Contractor proposes to adopt for the execution of the Works.</i>"</p> <p>"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 Engineer is satisfied that appropriate measures are in place to address environmental, social, health and safety risks and impacts.</p> <p>At a minimum, the Contractor shall apply the Management Strategies and Implementation Plans and Code of Conduct, submitted as part of the Bid and agreed as part of the Contract.</p>
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	<p>The Contractor shall submit, on a continuing basis, for the Engineer's prior approval, such supplementary Management Strategies and Implementation Plans as are necessary to manage the ESHS risks and impacts of ongoing works. These Management Strategies and Implementation Plans will form part of the Contractor's Environmental and Social Management Plan (C-ESMP). The C-ESMP shall be approved prior to the commencement of construction activities (e.g. excavation, earth works, bridge and structure works, stream and road diversions, quarrying or extraction of materials, concrete batching and asphalt manufacture). The approved C-ESMP shall be reviewed, periodically (but not less than every six (6) months), and updated in a timely manner, as required, by the Contractor to ensure that it contains measures appropriate to the Works activities to be undertaken. The updated C-ESMP shall be subject to prior approval by the Engineer.</p> <p>Insert new paragraphs at the end of Sub-Clause 4.1 as follows:</p> <p style="padding-left: 40px;">All equipment, material, and services to be incorporated in or required for the Works shall have their origin in any eligible source country as defined by the Bank.</p> <p style="padding-left: 40px;">Prior to the commencement of the Tests on Completion, the Contractor shall submit to the Engineer the "as-built" documents and, if applicable, operation and maintenance manuals in accordance with the Employer's Requirements and in sufficient detail for the Employer to operate, maintain, dismantle, reassemble, adjust and repair this part of the Works. Such part shall not be considered to be completed for the purposes of Taking Over under Sub-Clause 10.1 [<i>Taking Over of the Works and Sections</i>] until these documents and manuals have been submitted to the Engineer. In the event that the "as-built" documents have not been supplied by the Contractor when a request is made for a Taking Over Certificate for the Works or a Section under Sub-Clause 10.1 [<i>Taking Over of the Works and Sections</i>] then the Engineer may, at the Employer's sole discretion, issue a Taking Over Certificate and the following conditions will then apply until the "as-built" documents are delivered:</p> <p style="padding-left: 40px;">(a) delay damages for the remainder of the Works will not be reduced under Sub-Clause 10.2 [<i>Taking Over of Parts of the Works</i>]; and</p> <p style="padding-left: 40px;">(b) a proportion of the Retention Money will not be certified and paid under Clause 14.9 [<i>Payment of Retention Money</i>].</p> <p>The Contractor shall undertake all works which are necessary to satisfy the Employer's Requirements, or can be implied from the Contract, and all other works which (although not expressly mentioned in the Contract) are</p>
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	<p>necessary for the stability and/or for the completion, and/or safe and proper operation of the Works.</p> <p>Nothing in the Contract will be construed to authorise the Contractor to effect any unilateral change in the execution of the Works, the Contract Price and/or the Contract without the Employer's and Engineer's prior written approval.</p>
<p>4.2 Performance Security</p>	<p>Replace sub-clause 4.2 in its entirety with the following:</p> <p>" 4.2 Performance Security and ESHS Performance Security</p> <p>The Contractor shall obtain (at its cost) a Performance Security for proper performance and, if applicable, an Environmental, Social, Safety and Health (ESHS) Performance Security for compliance with the Contractor's ESHS obligations, in the amounts stated in the Contract Data and denominated in the currency(ies) of the Contract or in a freely convertible currency acceptable to the Employer. If amounts are not stated in the Contract Data, this Sub-Clause shall not apply.</p> <p>The Contractor shall deliver the Performance Security and, if applicable, an ESHS Performance Security to the Employer within 28 days after receiving the Letter of Acceptance, and shall send a copy to the Engineer. The Performance Security shall be issued by a reputable bank or financial institution selected by the Contractor, and shall be in the form annexed to the Particular Conditions, as stipulated by the Employer in the Contract Data, or in another form approved by the Employer. The ESHS Performance Security shall be issued by a reputable bank selected by the Contractor, and shall be in the form annexed to the Particular Conditions, as stipulated by the Employer in the Contract Data, or in another form approved by the Employer.</p> <p>The Contractor shall ensure that the Performance Security and, if applicable, the ESHS Performance Security are valid and enforceable until the Contractor has executed and completed the Works and remedied any defects. If the terms of the Performance Security and, if applicable, ESHS Performance Security specify its expiry date, and the Contractor has not become entitled to receive the Performance Certificate (which, if applicable, includes satisfactory performance of the ESHS obligations), by the date 28 days prior to the expiry date, the Contractor shall extend the validity of the Performance Security and, if applicable, the ESHS Performance Security until the Works have been completed and any defects have been remedied.</p> <p>The Employer shall not make a claim under the Performance Security and, if applicable, the ESHS Performance Security,</p>

	<p>except for amounts to which the Employer is entitled under the Contract.</p> <p>The Employer shall indemnify and hold the Contractor harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from a claim under the Performance Security and, if applicable, the ESHS Performance Security to the extent to which the Employer was not entitled to make the claim.</p> <p>The Employer shall return the Performance Security and, if applicable, the ESHS Performance Security to the Contractor within 21 days after receiving a copy of the Performance Certificate.</p> <p>Without limitation to the provisions of the rest of this Sub-Clause, whenever the Engineer determines an addition or a reduction to the Contract Price as a result of a change in cost and/or legislation, or as a result of a Variation, amounting to more than 25 percent of the portion of the Contract Price payable in a specific currency, the Contractor shall at the Engineer's request promptly increase, or may decrease, as the case may be, the value of the Performance Security and, if applicable, the ESHS Performance Security in that currency by an equal percentage."</p> <p>In the following sub-clauses the term "Performance Security" is replaced with: "Performance Security and, if applicable, an Environmental, Social, Health and Safety (ESHS) Performance Security":</p> <ul style="list-style-type: none"> 2.1- Right of Access to the Site 14.2- Advance Payment 14.6- Issue of Interim Payment Certificate 14.7(a)- Payment 14.9- Payment of Retention money 14.12- Discharge 15.2(a)- Termination 15.5- Employer's Entitlement to Termination for Convenience 16.4(a)- Payment on termination" <p>Despite any other provision of the Contract, provision of the Performance Security is a condition precedent to the entitlement of the Contractor to receive any payment from the Employer under the Contract and no payment shall be due or payable until the Performance Security is received by the Employer.</p>
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	All fees, taxes and expenses associated with procuring, preparing, completing, extending, replacing and stamping (if applicable) the Performance Security shall be paid by the Contractor.
<p>4.4</p> <p>Subcontractors</p>	<p>Replace the first paragraph of Sub-Clause 4.4 with the following:</p> <p>The Contractor shall not subcontract the whole of the Works. The Contractor shall only subcontract part of the Works to a Subcontractor with the prior written consent of the Engineer.</p> <p>For the purposes of obtaining the Engineer's prior written consent, the Contractor shall give the Engineer detailed particulars of any proposed Subcontractor, which shall include:</p> <ul style="list-style-type: none"> (a) the relevant experience of the proposed Subcontractor; (b) the proposed terms and conditions of the subcontract; and (c) financial or other information that the Engineer may require to satisfy itself that the proposed Subcontractor is an appropriate entity to execute the relevant part of the Works.
<p>4.5</p> <p>Nominated Subcontractors</p>	<p>Insert new paragraphs at the end of Sub-Clause 4.5 as follows:</p> <p>Before issuing a Payment Certificate to the Contractor which includes an amount payable to a nominated Subcontractor, the Engineer may request the Contractor to supply reasonable evidence that the nominated Subcontractor has received all amounts due in accordance with previous Payment Certificates, less applicable deductions for retentions or otherwise. Unless the Contractor submits this reasonable evidence to the Engineer, or</p> <ul style="list-style-type: none"> (a) satisfies the Engineer in writing that the Contractor is reasonably entitled to withhold or refuse to pay these amounts; and (b) submits to the Engineer reasonable evidence that the nominated Subcontractor has been notified of the Contractor's entitlement, <p>then the Employer may (at its sole discretion) pay, direct to the nominated Subcontractor, part or all of such amounts previously certified (less applicable deductions) as are due to the nominated Subcontractor and for which the Contractor has failed to submit the evidence described in either Sub-Clause 4.5(a) or 4.5 (b), such amounts shall immediately become a debt due and payable by the Contractor to the Employer. The Contractor shall then repay, to the Employer, the</p>

	amount which the nominated Subcontractor was directly paid by the Employer.
4.7 Setting Out	<p>Insert new paragraph at the end of Sub-Clause 4.7 as follows:</p> <p>The Contractor is not entitled to an extension of time or any increase to the Contract Price arising out of or in connection with any errors in original points, lines and levels of reference specified in the Contract or notified by the Engineer, that are discovered after the Contractor has commenced setting out the corresponding part of the Works.</p>
4.8 Safety Procedures	<p>Delete Sub-Clause 4.8 and replace with the following:</p> <p>The Contractor shall, throughout the execution and completion of the Works and the remedying of any defects:</p> <ul style="list-style-type: none"> (a) unless otherwise stated in the Contract, be responsible for the safety of all persons on the Site and keep the Site and the Works in an orderly state appropriate to the avoidance of danger to such persons; (b) comply with the requirements of all Laws and the policies, guidelines, procedures and requirements specified in the Contract relating to safety; and (c) provide and maintain, at its own cost all lights, guards, fencing, warning signs, watching, and other temporary works when and where necessary or required by the Engineer or by a duly constituted government authority or any Laws, for the protection of the Works and for the safety and convenience of the public and of owners and occupiers of adjacent land or others. <p>Within twenty-eight (28) days of the Commencement Date, and before commencing any construction on Site, the Contractor shall provide a Occupational Health and Safety Management Plan (OHS Management Plan), which shall be subject to the Engineer's consent, specifically for the Site which shall establish all of the requirements for effecting and maintaining a safe working environment for Contractor's and Employer's Personnel and any other authorised personnel entering the Site in accordance with the Contractor's obligations stated herein. The OHS Management Plan shall include safety requirements for all Site activities and personal protective equipment required for each working area with particular attention being given to working in and over water and exposed to the elements. The OHS Management Plan shall be revised as deemed necessary by the Contractor's OHS Safety Officer or,</p>

	<p>without relieving the Contractor of any of his obligations or responsibilities under the Contract, at the request of the Engineer.</p>
<p>4.9 Quality Assurance</p>	<p>Insert new paragraphs at the end of Sub-Clause 4.9 as follows:</p> <p>The Contractor and all Major Subcontractors shall establish, implement and maintain a quality management system which complies with the requirements of ISO 9001:2008 or equivalent and includes all aspects of the administration of the Contract and the requirements of the Employer's Requirements and other documents forming the Contract.</p> <p>The scope of certification of the Contractor's and Major Subcontractor's quality management systems shall include all activities and functions which the Contractor or Subcontractor, as applicable, is required to perform in execution of the Works.</p> <p>The Contractor shall provide the Engineer, with the first Statement and otherwise on request, controlled copies of documented procedures, and records and other information which form part of the Contractor's and Subcontractor's quality management systems to the extent required, as determined by the Engineer, for assessment of the Contractor's or his Subcontractors' compliance and performance. The Contractor providing to the Employer controlled copies of documented procedures, and records and other information which form part of the Contractor's and Subcontractor's quality management systems is a precondition to payment of the amount certified in the first Interim Payment Certificate.</p> <p>The Engineer or the Employer may arrange for audits of the Contractor's quality management system, or seek access to reports on audits performed by others on the Contractor's quality management system, in order to assess any aspects of the Contractor's operations in relation to the provisions of the Contract.</p>
<p>4.10 Site Data</p>	<p>Delete the last sentence of the first paragraph of Sub-Clause 4.10, and replace with the following:</p> <p>The Contractor shall be responsible for verifying and interpreting all such data and undertaking any such further independent tests or investigations that it deems required in order to establish the veracity of such data.</p> <p>In the second paragraph of Sub-Clause 4.10, delete "To the extent which was practicable (taking account of cost and time)," and replace with:</p> <p>"To the extent expected of an experienced and</p>

	competent contractor".
4.12 Unforeseeable Physical Conditions	<p>Delete the second paragraph of Sub-Clause 4.12 and replace with the following:</p> <p style="padding-left: 40px;">If the Contractor encounters adverse physical conditions which it considers to have been Unforeseeable and which could not reasonably have been contemplated by the Contractor based on any information which is readily available in the public domain, or reports that are produced by (or on behalf of) the Employer or the Contractor on the Site conditions and/or from the data referred to in Sub-Clause 4.10, the Contractor shall give a notice to the Engineer immediately and not later than 14 days of such conditions being encountered. Notwithstanding any other provision of the Contract, the Contractor is not entitled to an extension of time or any increase to the Contract Price arising out of or in connection with such Unforeseeable physical conditions, if it fails to give such notice within 14 days of such conditions being encountered.</p> <p>In the fourth paragraph, delete "which are Unforeseeable, gives such a notice," and replace with:</p> <p style="padding-left: 40px;">"which the Engineer determines are Unforeseeable, gives a notice in accordance with this Sub-Clause,".</p> <p>In the fourth paragraph of Sub-Clause 4.12, after the words "the Contractor shall be entitled subject to notice under Sub-Clause 20.1 [<i>Contractor's Claims</i>] to", insert "claim".</p> <p>Delete sub-paragraph 4.12(b) and replace with the following:</p> <p style="padding-left: 40px;">(b) payment of any such Cost, which shall be added to the Contract Price as a Variation.</p>
4.13 Rights of Way and Facilities	<p>Insert new paragraph at the end of Sub-Clause 4.13 as follows:</p> <p style="padding-left: 40px;">If the Contractor fails to provide or maintain the diversions for roads and services according to the Contract after written notification by the Employer, then the Employer shall be entitled to employ and pay other persons to carry out the required works and all direct and reasonable Costs incurred by the Employer arising out of or in connection with such default shall be recoverable from the Contractor by the Employer or may be deducted by the Employer from any monies due or which may become due to the Contractor.</p>
4.14 Avoidance of Interference	<p>Insert new paragraphs at the end of Sub-Clause 4.14 as follows:</p> <p style="padding-left: 40px;">If any land outside the Site which is the property of or under the control of the Employer is made available to the Contractor, this shall be used strictly in accordance with the instructions of the Employer.</p>

	<p>The Contractor shall observe all agreements entered into by the Employer and made known to the Contractor with any person or persons relating to the occupation of land and properties by the Employer which are affected by the execution of the Works, provided always that compliance with such agreements shall not relieve the Contractor of its obligations under this Sub-Clause 4.14. The Contractor shall be given, on request, copies of any agreement relating to such matters.</p>
<p>4.15 Access Routes</p>	<p>Insert new sentence at the end of the first paragraph of Sub-Clause 4.15 as follows:</p> <p style="padding-left: 40px;">If any structure, road surface or any other property is damaged by the carrying out of the Works then the Contractor shall rectify such damage at its own cost.</p>
<p>4.18 Protection of the Environment</p>	<p>This clause shall be amended as follows:</p> <p>The Contractor shall take all reasonable steps to protect the environment (both on and off the Site) and to limit damage and nuisance to people and property resulting from pollution, noise and other results of his operations. The Contractor will ensure that there are compliant with the Samoa Codes of Environmental Practice, the conditions of the Development Consent, the PESMP and the C-ESMP at all times.</p> <p>The Contractor shall ensure that emissions, surface discharges and effluent from the Contractor's activities shall not exceed the values stated in the technical Specification for the works, or as prescribed by applicable Laws.</p> <p>The Contractor shall comply with all national, provincial and local environmental laws and regulations.</p> <p><u>Prior to commencing civil works</u> the Contractor shall:</p> <ul style="list-style-type: none"> • Ensure that all Development Consents (DC) are secured before commencement of works and ensure that all environmental and social planning responds to any conditions stipulated in the DC. <p>The Contractor is responsible for ensuring that any quarries used for the Project are subject to a current Development Consent or is responsible for securing a new Development Consent and providing all documentation needed to apply for new DCs.</p> <ul style="list-style-type: none"> • Prepare and submit to the Engineer for acceptance the "Contractor's Environmental and Social Management Plan" (C-ESMP) which provides a detailed explanation of how the Contractor shall comply with the project's safeguard documents such as the Project Environmental and Social Management Plan (PESMP) that were provided as part of the bid documents and/or have been publicly disclosed. <p>Once accepted by the Engineer, the C-ESMP will be</p>

	<p>provided to the Employer for public disclosure through the project web site and other means that the Employer may deem appropriate.</p> <ul style="list-style-type: none"> • Prepare and submit to the Engineer for acceptance any Management Implementation Plans required as part of the C-ESMP and stipulated in the Project Environmental and Social Management Plan (PESMP) and in this bid document. • Shall allocate sufficient resources in terms of budget and specialist staff experienced in safeguard management to carry out the provisions of the approved C-ESMP. • Attend public meetings at the Contractor's own expense as requested by the Engineer to discuss the C-ESMP or any other aspects of the project's environmental and social compliance of interest to the public. <p>Once construction has started, the Contractor shall:</p> <ul style="list-style-type: none"> • Carry out the project in accordance with the approved C-ESMP. • Attend public meetings at the Contractor's own expense as requested by the Engineer to discuss the C-ESMP or any other aspects of the project's environmental and social compliance of interest to the public. • Submit monthly reports on the C-ESMP implementation progress to the Engineer in an agreed format. • Adhere to the OHS reporting requirements adopted by the project and embodied in the C-ESMP. • Update the C-ESMP as necessary—in particular when there are design changes, (e.g. changes in the alignment, lay down areas, working hours or practices, etc.) that impact on the project area of influence or the public—or upon instruction by the Engineer for re-approval and re-disclosure. • For plant and materials to be imported from overseas, the Contractor shall determine and comply with all importation related inspection and quarantine requirements, including fumigation and other such treatments, and allow for these in their procurement planning and works pricing. Appropriate quarantine certificates are to be provided to the Engineer prior to importing of material and/or equipment.
<p>4.20 Employer's Equipment and Free-Issue Materials</p>	<p>Append the following to the end of the last sentence of the last paragraph of Sub-Clause 4.20:</p> <p style="padding-left: 40px;">", except to the extent that such shortage, defect or default has arisen due to an act or omission of the Contractor".</p>

<p>4.21 Progress Reports</p>	<p>In the first paragraph of Sub-Clause 4.21, after "prepared by the Contractor" insert ", in a form approved by the Engineer,".</p> <p>Sub-Clause 4.21 (g) is replaced by the following:</p> <p>"4.21 (g) the Environmental, Social, Health and Safety (ESHS) metrics set out in Appendix C"</p> <p>At the end of, and as part of Sub-Clause 4.21 add a new paragraph as follows:</p> <p>"The Contractor shall provide immediate notification to the Engineer of incidents in the following categories. Full details of such incidents shall be provided to the Engineer within the timeframe agreed with the Engineer.</p> <ul style="list-style-type: none"> (a) confirmed or likely violation of any law or international agreement; (b) any fatality or serious (lost time) injury; (c) significant adverse effects or damage to private property (e.g. vehicle accident, damage from fly rock, working beyond the boundary) (d) major pollution of drinking water aquifer or damage or destruction of rare or endangered habitat (including protected areas) or species; or (e) any allegation of sexual harassment or sexual misbehavior, child abuse, defilement, or other violations involving children. <p>In sub-paragraph 4.21(h), delete the full stop and replace with "; and" and then insert new sub-paragraph as follows:</p> <ul style="list-style-type: none"> (i) the contractor shall report to the Engineer within 5 working days of the end of the month the health and safety information detailed in Section 6.7; and, (j) any other matters as may be set out in the Contract or other information reasonably required by the Employer or the Engineer from time to time; and, <p>Insert new paragraph at the end of Sub-Clause 4.21 as follows:</p> <p>If the Contractor fails to submit a monthly progress report in accordance with this Sub-Clause 4.21, the Employer may, in its absolute discretion, withhold payments due to the Contractor until such monthly progress report has been submitted.</p> <p>Failure to adhere to the project OHS reporting</p>
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	<p>requirements</p> <p>As part of the monthly progress reports, the Contractor shall prepare monthly environmental reports, HIV-AIDS and Health & Safety Program Reports, to be submitted in the same number of copies and at the same time as the progress reports, to cover all specified monitoring of the obligations in Sub-Clauses 4.18, 6.1, 6.4, 6.7, 6.20, and 6.21, including all incidents and issues that have arisen during the period.</p>
<p>4.22 Security of the Site</p>	<p>At the end of sub-paragraph 4.22(a), delete the word "and".</p> <p>In sub-paragraph 4.22(b), delete the full stop and replace with "; and" and then insert new sub-paragraph as follows:</p> <p style="padding-left: 40px;">(c) the security and safety of the Site, the Contractor's Equipment, the Employer's Equipment, Plant, Materials and all other property or personnel on the Site is the sole responsibility of the Contractor.</p>
<p>4.23 Contractor's Operations on Site</p>	<p>Insert new paragraphs at the end of Sub-Clause 4.23 as follows:</p> <p>The Contractor shall not use any part of the Site for any purpose not connected with the execution of the Works without the prior written approval of the Employer. The Contractor shall not destroy, damage or pull down any tree, hedge, wall or building outside the area occupied by the Permanent Works but within the Site without the prior written consent of the Employer unless specifically stated otherwise in the Contract.</p> <p>At all times, the Contractor is responsible for the safe and sound disposal of all solid waste generated by the Works.</p> <p>The Contractor is responsible for developing a Waste Management Plan as part of the C-ESMP, and guided by the PESMP and Samoan legislation, and is required to submit this to the Engineer for approval. In-country waste disposal sites must be pre-existing sites with current permits for waste disposal.</p> <p>Any waste which All other waste or any waste referred to in Sub-Clause 4.23(d) or 4.23(e)) that for any reason is unable to be disposed within Samoa of as referred to in such Sub-Clauses) is to be disposed of offshore in permitted or licensed facilities. It is the Contractor's responsibility to obtain all necessary permissions for receipt of waste from the project site into another country and to ensure compliance with all relevant laws. Evidence will need to be supplied to the Engineer of proper disposal of waste at the final location.</p> <p>The export of any hazardous waste must be in compliance with the Waigani Convention and any</p>

	<p>relevant laws enacted by source and the recipient countries.</p> <p>All surplus material from excavations which is not reused by the project or the Employer shall be removed from the Site area and safely disposed of in compliance with any local requirements at the Employer's nominated disposal site(s) and/or disposed of at the Contractor's quarry site(s), before the start of the Defects Liability Period.</p> <p>Unless otherwise instructed by the Engineer, other surplus materials not needed during the Defects Liability Period shall be removed from the Site and the Country in accordance with Sub-Clause 11.1.</p> <p>Any accommodations provided for the worker by the Contractor must be compliant with all safeguard requirements and national regulations stipulated in the Contract documentation.</p>
<p>4.24 Fossils</p>	<p>In the second paragraph of Sub-Clause 4.24, after the words "and shall be entitled subject to Sub-Clause 20.1 [<i>Contractor's Claims</i>] to", insert "claim".</p> <p>Delete sub-paragraph 4.24(b) and replace with the following:</p> <p>(b) payment of any such Cost, which shall be added to the Contract Price as a Variation.</p>

5 Design

<p>5.1 General Design Obligations</p>	<p>Delete Sub-Clause 5.1 and replace with the following:</p> <p>The Contractor shall:</p> <p>(a) carry out, and be responsible for, the design of the Works or any Section in accordance with Industry Best Practices, the Law and the requirements of all government authorities;</p> <p>(b) ensure such design is prepared by appropriately and professionally qualified and experienced designers in accordance with Industry Best Practices, the Law and the requirements of all government authorities and who shall also comply with the additional criteria (if any) stated in the Employer's Requirements;</p> <p>(c) if requested by the Engineer, within 7 days, submit to the Engineer for its consent the names and particulars of each member of the Contractor's design team, including the details of each team members' professional qualifications</p>
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	<p>and experience;</p> <p>(d) ensure the designers are available to attend discussions with the Engineer and/or the Employer at all reasonable times, until the expiry of the relevant Defects Notification Period; and</p> <p>(e) warrant that its design of the Works or any Section:</p> <p>(i) is fit for such purpose for which the Works or any Section is intended as specified in the Contract;</p> <p>(ii) is in accordance with Industry Best Practices;</p> <p>(iii) is in accordance with all Laws and requirements of all government authorities; and</p> <p>(iv) fulfils the other requirements of the Contract.</p>
<p>5.2</p> <p>Contractor's Documents</p>	<p>Delete paragraphs 3 to 6 of Sub-Clause 5.2 and replace with:</p> <p>If the Employer's Requirements describe the Contractor's Documents which are to be submitted to the Engineer for review and/or approval, the Contractor shall:</p> <p>(a) give the Engineer, for its review, 4 copies of:</p> <p>(i) the Contractor's Documents by the dates, or within the times, set out in the Contract or as otherwise agreed in writing between the Parties; and</p> <p>(ii) any amendments proposed to the Contractor's Documents; and</p> <p>(iii) allow 20 days for the Engineer to review and comment on Contractor's Documents or the amended Contractor's Documents as the case may be; and</p> <p>(b) if the Engineer gives the Contractor a written notice, within the time allowed for its review, stating that the Contractor's Documents, or any amended Contractor's Documents, are not acceptable or not in accordance with the Contract:</p> <p>(iv) amend that Contractor's Documents so that it complies with the Contract;</p> <p>(v) promptly submit the amended Contractor's Documents to the Employer for its review; and</p> <p>(vi) allow 20 days for the Engineer to review and comment on the amended Contractor's</p>

	<p style="text-align: center;">Documents.</p> <p>Any amendment which the Contractor proposes to any Contractor's Documents shall be promptly submitted to the Employer with details of:</p> <ul style="list-style-type: none"> (c) the proposed amendment; and (d) the reasons for the proposed amendment, together with any other information and supporting documentation the Engineer reasonably requires. <p>If the Contractor proposes a change to the Contractor's Documents that has previously been submitted to the Engineer, then it shall resubmit the proposed amendment in accordance with the procedures set out in this Sub-Clause.</p> <p>Any review or approval of, or any comment on, any Contractor's Documents by, or on behalf of, the Employer is solely to monitor the performance of the Contractor. No approval, comment or review or similar act (including the absence of disapproval, comment or review) by or on behalf of the Employer, Engineer or the Employer's Personnel shall relieve the Contractor from any of its warranties, obligations or liabilities under or in connection with the Contract, including liability for error, omissions, discrepancies, defects and non-compliances in the Contractor's Documents. Any failure to disapprove any Contractor's Documents shall not constitute approval, and shall therefore not prejudice the right of the Employer to reject the Contractor's Documents under this Sub-Clause or otherwise under the Contract.</p>
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6 Staff and Labour

<p>6.1</p> <p>Engagement of Staff and Labour</p>	<p>Delete the last paragraph of Sub-Clause 6.1 and replace with:</p> <p>The Contractor shall use best endeavours to employ staff and labour with appropriate qualification and experience from sources in the Country.</p>
<p>6.2</p> <p>Rates and Wages and Conditions of Labour</p>	<p>Insert new paragraph at the end of Sub-Clause 6.2 as follows:</p> <p>If requested by the Engineer, the Contractor, within 72 hours of such request, shall provide evidence of all payments made to all its staff and labour. The Parties agree that if the Employer or the Engineer becomes aware that the Contractor has failed to pay its staff and labour in accordance with this Sub-Clause 6.2, and the Engineer gives the Contractor written notice 72 hours before it intends to pay, the Employer may, in its absolute discretion, pay those staff and labour the amount the Employer determines is, or</p>

	<p>may be, owing to the staff and labour and the Employer may recover any such amount paid as a debt due from the Contractor to the Employer.</p>
<p>6.4 Labour Laws</p>	<p>Replace clause 6.4 with the following:</p> <p>The Government will only guarantee the issuing of work permits for Contractor staff with technical skills generally unavailable in the country.</p> <p>Prior to mobilization, or for new staff, the Contractor shall supply the Employer a list of all staff not ordinarily resident in the Employer's country proposed for the project accompanied by a background check.</p> <p>This background check should identify any criminal, arrest, incarceration and/or sex offenses. The Employer reserves the right to reject any proposed staff on the basis of this background check. All costs associated with the Employer rejecting staff due to the background check shall remain with the Contractor.</p> <p>The Contractor shall comply with all the relevant labor Laws applicable to the Contractor's Personnel, including Laws relating to their employment, health (including any medical testing requirements for communicable diseases), safety, welfare, immigration and emigration, and shall allow them all their legal rights.</p> <p>The Contractor shall require his employees to obey all applicable Laws, including those concerning safety at work. The Employer has adopted a 'Code of Conduct and Action Plan to prevent Gender Based Violence and Child Abuse or Exploitation' Child Protection Code of Conduct' which sets stringent standards for personal behavior so as to avoid child exploitation and abuse (see Appendix 3 to PCC). The Contractor shall require his employees, subcontractors, sub-consultants, and any personnel thereof engaged in implementation of the Contract to individually sign and comply with this Code of Conduct.</p> <p>The Contractor shall:</p> <ul style="list-style-type: none"> (a) prepare and implement a Gender Awareness Plan in accordance with the Employer's Requirements; (b) provide equal pay to men and women for work of equal value, in accordance with national laws and international treaty obligations and shall pay women's wages directly to them; (c) not pay its employees less than the minimum wage under the relevant applicable law; (d) provide safe working conditions for male and female workers; and, (e) comply with applicable labour laws and abstain from child labour."

<p>6.7</p> <p>Health and Safety</p>	<p>This clause shall be amended as follows:</p> <p>Health and Safety: Funding for Occupational Health and Safety (OHS) training and activities is provided in the Schedule of Prices as a provisional sum. The Contractor's costs shall be financed from this on proof of record (e.g. time sheets, material invoices etc.) for the following:</p> <ul style="list-style-type: none"> • Recruitment of provider for delivery of HIV/AIDS education training. • Recruitment of provider for delivery of gender based violence (GBV) training. • Expenses related to HIV/AIDS and GBV training • Provision of OHS Safety Officer when acting in the role of OHS Safety Officer • Personal Protective Equipment (PPE) for all workers on the site, and visitors as appropriate • Safety signage, safety literature, HIV/AIDS literature, condoms, voluntary counselling and testing, GBV literature, etc. • Alcohol testing of staff to enforce a zero alcohol tolerance policy • Labor costs for attending: (i) dedicated safety training such as working at heights, confined space training, first aid training etc.; (ii) HIV/AIDS education training; and, (iii) gender based violence (GBV) training. The contractor shall make staff available for initial training of 1.5 days, and a total of at least 0.5 days per month for other such formal trainings. <p>For the purposes of the project, in addition to the national OHS standards the employer is adopting a code of practice for occupational health and safety based on good international industry practice. To be qualified for bidding contractors will be required to have in place an occupational health and safety management system which is compliant with, or equivalent to, OHSAS 18000 (http://certificationeurope.com/ohsas-18000-health-safety-managment-standards/) and is acceptable to the Employer. The contractor shall specify which occupational health and safety standards are to be applicable to the project, and provide evidence of application of such standards on a project of similar size and complexity during the past 5 years. The standards to be adopted may include those of Australia, Canada, New Zealand, the EU and the US, which are referred to in the World Bank Group EHS Guidelines.'</p> <p>Civil works shall not commence until the Engineer has approved the OHS Management Plan, the OHS Safety Officer is mobilized and on site, and staff have undergone induction training.</p> <p>The Contractor shall at all times take all reasonable precautions to maintain the health and safety of the Contractor's Personnel. In collaboration with local health authorities, the Contractor shall</p>
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	<p>ensure that first aid facilities and sick bays are available at all times at the Site, including having a site vehicle available at all times that can be used to transport Contractor's and Employer's Personnel to medical facilities. The Contractor shall ensure that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics.</p> <p>The Contractor shall appoint a certified OHS Safety Officer at the Site, with qualifications acceptable to the Engineer, responsible for maintaining safety and protection against accidents. This person shall have the authority to issue instructions and take protective measures to prevent accidents. Throughout the execution of the Works, the Contractor shall provide whatever is required by this person to exercise this responsibility and authority.</p> <p>The Contractor shall post in clearly accessible places information on how to transport injured Contractor's and Employer's Personnel to medical facilities, including the precise location and contact details of such medical facilities, name and contact details of the site designated OHS Safety Officer.</p> <p>The Contractor shall ensure that all workers on the site have appropriate PPE of an appropriate standard including: (i) impact resistant safety eyewear; (ii) safety footwear with steel toe, sole and heel; (iii) high visibility clothing; (iv) long sleeves and long pants suitable for operating environment; (v) safety helmet with provision of sun protection as necessary; (vi) gloves (carried and worn when manual handling); (vii) hearing protection when working in close proximity to noisy equipment and in all underground environments. For site visitors, the above equipment will be supplied as appropriate based on assessed risks and depending on number of visitors and where they will be on site. See http://tinyurl.com/nzta-ppe-requirements for additional information.</p> <p>The Contractor shall send, to the Engineer, details of any accident as soon as practicable after its occurrence.</p> <p>Within 5 working days of the end of the calendar month the Contractor will be required to report to the Engineer on their performance with the following OHS indicators:</p> <ul style="list-style-type: none"> • Number of fatal injuries (resulting in loss of life of someone associated with the project or the public) • Number of notifiable injuries (an incident which requires notification of a statutory authority under health and safety legislation or the contractor's health and safety management system) • Number of lost time injuries (an injury or illness certified by a medical practitioner that results in absence of work for at least one scheduled day or shift, following the day or shift when the accident occurred) • Number of medical treatment injuries (the management and care of a patient to effect medical treatment or combat disease and disorder excluding: (i) visits solely for the purposes of observation
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	<p>or counseling; (ii) diagnostic procedures (e.g. x-rays, blood tests); or, (iii) first aid treatments as described below)</p> <ul style="list-style-type: none"> • Number of first aid injuries (minor treatments administered by a nurse or a trained first aid attendant) • Number of recordable strikes of services (contact with an above ground or below ground service resulting in damage or potential damage to the service) • Lost Time Injury Frequency Rate (the number of allowed lost time injury and illness claims per 100 full-time equivalent workers for the injury year specified) • Total Recorded Frequency Rate (the number of recordable injuries [recordable/lost time/fatal] per 100 full-time equivalent workers for the injury year specified) <p>The monthly reports shall also include:</p> <ul style="list-style-type: none"> • Number of alcohol tests • Proportion of positive alcohol tests • Number of site health and safety audits conducted by contractor • Number of safety briefings • Number of near misses • Number of traffic management inspections • Number of sub-contractor reviews • Number of stop work actions • Number of positive reinforcements • For each fatality, injury or near miss incident, the Contractor shall provide a corrective action report within the monthly report detailing steps taken to ensure risks of a repeat incident are minimized. <p>HIV-AIDS Prevention. While mobilized for work, the Contractor shall conduct an HIV-AIDS Information, Education and Consultation Communication (IEC) campaign via an service provider approved by the Engineer, 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 not discriminate against people found to have HIV-AIDS as part of the campaign.</p> <p>The Engineer shall provide to the Contractor a list of approved service providers which shall include recognized NGOs and/or recognized local health departments. From the provided list, the Contractor shall enter into agreement with one service provider to undertake the HIV-AIDS IEC campaign. The cost of the campaign shall be funded by the Contractor from the provisional sum provided in the Schedule of Prices. The contractor shall make staff available</p>
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	<p>for a total of at least 0.5 days per month for formal trainings including HIV/AIDS.</p> <p>Prior to contractor mobilization, the approved service provider shall prepare an action plan for the IEC campaign based on the 'Road to Good Health Toolkit' (www.theroadtogoodhealth.org) which shall be submitted to the Engineer for approval.</p> <p>The action plan will clearly indicate (i) the types and frequency of education activities to be done; (ii) the target groups (as a minimum to all the Contractor's employees, all Sub-Contractors and Consultants' employees, and all truck drivers and crew making deliveries to Site for construction activities as well as immediate local communities); (iii) whether condoms shall be provided; and (iv) whether STI and HIV/AIDS screening, diagnosis, counseling and referral to a dedicated national STI and HIV/AIDS program, (unless otherwise agreed) of all Site staff and labor shall be provided.</p> <p>The IEC campaign shall adopt the 'Road to Good Health' Toolkit methodology (www.theroadtogoodhealth.org) and use readily available information for the Project. No specific new information shall be produced unless instructed by the Engineer.</p> <p>The IEC campaign shall be conducted while the Contractor is mobilized in accordance with the approved approach. It shall be addressed to all target groups identified concerning the risks, dangers and impact, and appropriate avoidance behavior with respect to, of Sexually Transmitted Diseases (STD)—or Sexually Transmitted Infections (STI) in general and HIV/AIDS in particular.</p> <p>The Contractor shall include in the program to be submitted for the execution of the Works under Sub-Clause 8.3 the IEC campaign for Site staff and labor 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 program shall indicate when, how and at what cost the Contractor plans to satisfy the requirements of this Sub-Clause and the related specification. For each component, the program shall detail the resources to be provided or utilized and any related sub-contracting proposed. The program shall also include provision of a detailed cost estimate with supporting documentation. Payment to the Contractor for preparation and implementation this program shall not exceed the Provisional Sum dedicated for this purpose.</p> <p>Gender-Based Violence: The Contractor will implement the SAIP Codes of Conduct and Action Plan to Prevent Gender Based Violence as Well as Child Abuse/Exploitation. The Engineer shall provide to the Contractor a list of approved service providers which shall include recognized NGOs and others for conducting training on GBV. From the provided list, the Contractor shall enter into agreement with one service provider to undertake the GBV IEC campaign. The cost of the campaign shall be funded by the Contractor from the provisional sum provided in the Schedule of Prices. The contractor shall make staff available for a total of at least 0.5 days per month for formal trainings including GBV.</p>
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	<p>Prior to contractor mobilization, the approved service provider shall prepare an action plan for GBV IEC campaign which shall be submitted to the Engineer for approval.</p>
<p>6.8 Contractor's Superintendence</p>	<p>Delete the second paragraph of Sub-Clause 6.8 and replace with:</p> <p style="padding-left: 40px;">Superintendence shall be given by a sufficient number of persons having adequate spoken and written skills and knowledge in the language defined under Sub-Clause 1.4 [<i>Law and Language</i>] and adequate knowledge of the operations to be carried out (including the methods and techniques required, the hazards likely to be encountered and methods of preventing accidents), for the proper and safe execution of the Works.</p>
<p>6.9 Contractor's Personnel</p>	<p>Key Personnel</p> <p>Sub-Clauses 6.9 (d) is amended by inserting "or" at the end: "6.9 (d).....; or"</p> <p>Sub-Clauses 6.9 (e) is inserted as follows: "6.9 (e) undertakes behavior which breaches the Code of Conduct (ESHS) (e.g. spreading communicable diseases, sexual harassment, gender based violence, illicit activity or crime)."</p> <p>After the sentence: "If appropriate, the Contractor shall then appoint (or cause to be appointed) a suitable replacement person." the following is added as a new paragraph: "The Contractor's Personnel includes Key Personnel. If the Contractor intends to replace a Key Personnel, the Contractor shall, not less than 30 days before the intended date of replacement, give notice to the Engineer, the name, address, academic qualifications and relevant experience of the intended replacement Key Personnel. The Contractor shall not, without the prior consent of the Engineer, revoke the appointment of the Key Personnel or appoint a replacement."</p> <p>Insert new paragraphs at the end of Sub-Clause 6.9 as follows:</p> <p style="padding-left: 40px;">The Contractor shall ensure that the Key Personnel execute the Works and perform the roles required of their nominated positions and are not removed from those positions without the prior written approval of the Engineer.</p> <p style="padding-left: 40px;">If it is necessary to replace any of the Key Personnel (whether as a result of illness, the application of this Sub-Clause 6.9 or otherwise), the Contractor shall immediately arrange for a replacement by a substitute person with equivalent or better skills approved by the Engineer (such approval not to be unreasonably withheld) to execute the Works required of the replaced person's nominated position.</p>

	<p>If there is a position listed in the Contract Data but no person is named in that particular role then the Contractor shall obtain the Engineer's approval (such approval not to be unreasonably withheld) before appointing a person to fill that particular role.</p>
<p>6.10 Records of Contractor's Personnel and Equipment</p>	<p>Insert new paragraph at the end of Sub-Clause 6.10 as follows:</p> <p>Each piece of Contractor's Equipment shall have a readily visible, unique identification number which shall be used in all records. The records of the Contractor's Equipment shall include a daily record of the status of each major piece of plant and equipment, including operating, standby or under repair, from the date of its arrival on Site to the date the Engineer has given consent to its removal under Sub-Clause 4.17 [<i>Contractor's Equipment</i>]. These records shall be included in the monthly progress reports required under Sub-clause 4.21 [<i>Progress Reports</i>]. If it is under repair, the expected date of returning the equipment to operating condition shall be stated.</p>
<p>6.12 Foreign Personnel</p>	<p>Insert new Sub-Clause as follows:</p> <p>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, national or government permission required for bringing in the Contractor's personnel.</p> <p>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.</p>
<p>6.13 Supply of Foodstuffs</p>	<p>Insert new Sub-Clause as follows:</p> <p>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.</p>
<p>6.14 Supply of Water</p>	<p>Insert new Sub-Clause as follows:</p> <p>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.</p>

<p>6.15 Measures against Insect and Pest Nuisance</p>	<p>Insert new Sub-Clause as follows:</p> <p>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.</p>
<p>6.16 Alcoholic Liquor or Drugs</p>	<p>Insert new Sub-Clause as follows:</p> <p>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.</p>
<p>6.17 Arms and Ammunition</p>	<p>Insert new Sub-Clause as follows:</p> <p>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.</p>
<p>6.18 Festivals and Religious Customs</p>	<p>Insert new Sub-Clause as follows:</p> <p>The Contractor shall respect the Country's recognized festivals, days of rest and religious or other customs.</p>
<p>6.19 Funeral Arrangements</p>	<p>Insert new Sub-Clause as follows:</p> <p>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.</p>
<p>6.20 Forced Labour</p>	<p>Insert new Sub-Clause as follows:</p> <p>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.</p>
<p>6.21 Child Labour</p>	<p>Insert new Sub-Clause as follows:</p> <p>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.</p>

	<p>For the purpose of this Clause 6.21, "children" or "child" means persons under the age of fifteen years. A person under the age of fifteen years shall not be employed or work except with the approval of the Minister for Labour and Employment, and a person under the age of eighteen years shall not be employed or work during the night except with the permission in writing of the Commissioner of Labour.</p>
<p>6.22 Employment Records of Workers</p>	<p>Insert new Sub-Clause as follows:</p> <p>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 Engineer. These records shall be included in the details to be submitted by the Contractor under Sub-Clause 6.10 [<i>Records of Contractor's Personnel and Equipment</i>].</p>
<p>6.23 Workers' Organisations</p>	<p>Insert new Sub-Clause as follows:</p> <p>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.</p>
<p>6.24 Non-Discrimination and Equal Opportunity</p>	<p>Insert new Sub-Clause as follows:</p> <p>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</p>

	<p>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.</p>
<p>6.25 Key Personnel</p>	<p>Insert new Sub-Clause as follows:</p> <p>The Contractor shall provide for the carrying out of relevant obligations under the Contract, the Key Personnel. If any of the nominated personnel are not provided or not intended to be provided, exclusively due to the reasons stated in subparagraph (c) of this Sub-Clause, the Contractor shall submit details of proposed alternative personnel to the Engineer for approval and the proposed personnel shall not be fewer in number and shall have equal or better qualifications and experience than the personnel being replaced.</p> <p>For the key positions specified in the said Schedule, the Contractor shall only employ the personnel nominated for the respective positions stated in the Contract Data, or otherwise approved by the Engineer. The Contractor shall submit details of proposed key personnel or replacement key personnel (as the case may be) to the Engineer for approval.</p> <p>Personnel in those key positions shall not be replaced or removed from the Site during the Contract unless:</p> <ul style="list-style-type: none"> (a) the Engineer approves the replacement or removal; (b) an instruction is given by the Engineer pursuant to Sub-Clause 6.9 [<i>Contractor's Personnel and Equipment</i>]; (c) that person dies, retires or resigns (other than to accept other employment with the Contractor or any associate of the Contractor) or otherwise suffers from ill health or some serious domestic problem; or (d) that Section or part of the Works under the control of the key position has been completed. <p>The Contractor shall be responsible for ensuring the approval for and replacement of key personnel (if required) is arranged in due time so that the progress of the Works shall not be adversely affected. The Contractor shall not mobilise such personnel without the prior approval of the Engineer.</p>

7 Plant, Materials and Workmanship

7.1	<p>Delete Sub-Clause 7.1 and replace with:</p> <p>The Contractor warrants that it shall carry out the</p>
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<p>Manner of Execution</p>	<p>manufacture of Plant, the production and manufacture of Materials, and all other execution of the Works:</p> <ul style="list-style-type: none"> (a) in the manner (if any) specified in the Contract; (b) exercising the standard of skill, care and diligence of competent, qualified and experienced contractors acting in accordance with Industry Best Practices; and (c) with properly equipped facilities and good quality and non-hazardous Materials and Plant, except as otherwise specified in the Contract. <p>All Materials and Plant that are intended to be or will be incorporated in the Permanent Works shall be new, unless specified otherwise, and shall conform to the Employer's Requirements. Such Materials and Plant shall not be or have been used in Temporary Works or for any other purpose unless otherwise agreed by the Engineer.</p>
<p>7.4 Testing</p>	<p>In the fifth paragraph of Sub-Clause 7.4, after the words "and shall be entitled subject to Sub-Clause 20.1 [<i>Contractor's Claims</i>] to", insert "claim".</p> <p>Delete sub-paragraph 7.4(b) and replace with the following:</p> <ul style="list-style-type: none"> (b) payment of any such Cost-plus profit, which shall be added to the Contract Price as a Variation. <p>Insert new paragraphs at the end of Sub-Clause 7.4 as follows:</p> <p>For the purposes of this Sub-Clause, "specified" shall mean Testing required to be carried out by the Contractor to comply with the requirements of the Employer's Requirements. All costs and expenses incurred by the Contractor in verifying compliance of Plant, Materials and Workmanship with the Contract shall be borne by the Contractor.</p>
<p>7.5 Rejection</p>	<p>Append to the following to the end of the first paragraph of Sub-Clause 7.5:</p> <p>The Engineer may in its sole discretion and without in any way relieving the Contractor of any of his obligations and responsibilities under the Contract, allow defective Plant, Materials, design (if any) or workmanship which have already been incorporated in the Works to be retained instead of being removed and re-executed. If additional work is necessary to obviate the necessity for removal and re-execution, such additional work shall be executed at no cost to the Employer and the Contractor shall not be entitled to any extension of the Time for Completion for carrying out the additional work. Should this discretion be exercised to allow the retention of defective Plant, Materials, design (if any) or workmanship, the Engineer shall proceed in accordance</p>

	with Sub-Clause 3.5 [<i>Determinations</i>] to agree or determine the value of such Plant, Materials, design (if any) or workmanship, as the case may be, and the Contract Price shall be reduced accordingly.
7.9 Re-Opening Up	<p>Insert new Sub-Clause as follows:</p> <p>(a) The Engineer may instruct the Contractor to open up for inspection and retest part of the Works which have been covered up, to determine if such part of the Works is defective or otherwise not in accordance with the Contract.</p> <p>(b) If such parts of the Works, referred to under Sub-Clause 7.9(a), are defective or otherwise not in accordance with the Contract, the costs of such opening up (together with the costs of promptly making good the defects) shall be borne by the Contractor and the Contractor shall not be entitled to any extension of time or increase in the Contract Price as a result of any such opening up.</p> <p>(c) Subject to Sub-Clause 7.3, if such parts of the Works, referred to under Sub-Clause 7.9(a), are in accordance with the Contract and the Contractor suffers delay and/or incurs Cost from complying with an instruction by the Engineer to open up for inspection and retest part of the Works which have been covered up, the Contractor shall give a notice to the Engineer and shall be entitled, subject to Sub-Clause 20.1 [<i>Contractor's Claims</i>] to:</p> <p>(i) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [<i>Extension of Time for Completion</i>]; and</p> <p>(ii) payment of any such Cost, which shall be added to the Contract Price as a Variation.</p> <p>(d) After receiving the notice under Sub-Clause 7.5(c), the Engineer shall proceed in accordance with Sub-Clause 20.1 [<i>Contractor's Claims</i>] and Sub-Clause 3.5 [<i>Determinations</i>] to agree or determine the matters described in Sub-Clause 7.5(c).</p>
7.10 Local Plant and Materials	<p>Insert new Sub-Clause as follows:</p> <p>The Contractor shall use its best endeavours to procure Plant and Materials from sources in the Country.</p>

8 Commencement, Delays and Suspension

<p>8.1 Commencement of Works</p>	<p>Delete Sub-Clause 8.1 and replace with:</p> <p>Except as otherwise specified in the Particular Conditions of Contract, the Commencement Date shall be the date at which the following precedent conditions have all been fulfilled and the Engineer's notification recording the agreement of both Parties on such fulfilment and instructing to commence the Work is received by the Contractor:</p> <ul style="list-style-type: none"> (a) signature of the Contract Agreement by both Parties, and if required, approval of the Contract by relevant authorities of the Country; (b) delivery to the Contractor of reasonable evidence of the Employer's financial arrangements (under Sub-Clause 2.4 [<i>Employer's Financial Arrangements</i>]); (c) except if otherwise specified in the Contract Data, effective access to and possession of the Site given to the Contractor to the extent required for the commencement of the Works; (d) receipt by the Contractor of the Advance Payment under Sub-Clause 14.2 [<i>Advance Payment</i>] provided that the corresponding bank guarantee has been delivered by the Contractor; and (e) receipt by the Employer of the Performance Security under Sub-Clause 4.2 [<i>Performance Security</i>]. <p>The Contractor shall commence the execution of the Works (including, without limitation, mobilisation and procurement) promptly after the Commencement Date and shall proceed with the Works with due expedition and without delay in accordance with the Contract Programme submitted under Sub-Clause 8.3 [<i>Contract Programme</i>].</p>
<p>8.2 Time for Completion</p>	<p>Add the following:</p> <p>The Contractor shall achieve:</p> <ul style="list-style-type: none"> (a) the Milestones by the Milestone Dates; and (b) Taking Over under Sub-Clause 10.1 [<i>Taking Over of the Works and Sections</i>] by the Time for Completion for the Works or Section (as the case may be).

<p>8.3 Programme</p>	<p>Append the following to the end of the first paragraph of Sub-Clause 8.3:</p> <p>Each Contract Programme shall be prepared in the format and to the level of detail specified in this Sub-Clause and the Employer's Requirements, and as required by the Engineer, and each Contract Programme together with associated information and documentation shall be submitted in one original and two copies together with an electronic copy in the form specified in Sub-Clause 1.3 [<i>Communications</i>].</p> <p>In the first sentence of the third paragraph of Sub-Clause 8.3, before the word "Engineer" insert "Employer and".</p> <p>In the last paragraph of Sub-Clause 8.3, after the words "to the Engineer" insert the words:</p> <p style="padding-left: 40px;">"within 14 days of receipt of the Engineer's notice and "</p> <p>Insert new paragraph at the end of Sub-Clause 8.3 as follows:</p> <p>The submission to, and review and comment, or rejection by the Engineer of a Contract Programme will not:</p> <ul style="list-style-type: none"> (a) relieve the Contractor from or alter any of the Contractor's duties or responsibilities under the Contract, especially (without limitation) the obligation to complete the Works or, if applicable, any Section by the Time(s) for Completion; (b) evidence or constitute a direction by the Engineer to accelerate, disrupt, prolong or vary any, or all, of the Works; or (c) affect the time for performance of the Engineer's or Employer's obligations under the Contract, including obliging the Engineer or Employer to do anything earlier than is necessary to enable the Contractor to complete the whole of the Works by the Time for Completion.
<p>8.4 Extension of Time for Completion</p>	<p>Delete the first part of the first paragraph of Sub-Clause 8.4 and replace with the following:</p> <p>The Contractor is only entitled, subject to Sub-Clause 20.1 [<i>Contractor's Claims</i>], to an extension to the Time for Completion of the Works, a Section or a Milestone Date if, and to the extent it satisfies the Engineer that, completion for the purposes of Sub-Clause 10.1 [<i>Taking Over of the Works and Sections</i>] of an activity on the critical path of the Contract Programme is or will be delayed to the extent that the Contractor will not be able to achieve a Milestone by a Milestone Date or Taking Over of the Works or a Section by the Time for Completion (as the case may be), by any of the</p>

	<p>following causes:</p> <p>...</p> <p>Insert the following at the start of sub-paragraph 8.4(e):</p> <p>"subject to Sub-Clause 4.6 [<i>Co-operation</i>],"</p> <p>Insert new paragraphs at the end of Sub-Clause 8.4 as follows:</p> <p>If the Engineer agrees or determines that the Contractor is entitled to an extension of the Time for Completion in accordance with Sub-Clause 20.1 [<i>Contractor's Claims</i>], the Contractor shall, within 14 days of such determination, submit a revised draft Contract Programme that shows the effect of the approved extension of Time for Completion on the existing Contract Programme.</p> <p>After receiving the Contractor's proposed revised Contract Programme under Sub-Clause 8.4(c), the Engineer shall proceed in accordance with Sub-Clause 3.5 [<i>Determinations</i>] to agree or determine the adjustment, if any, to the Contract Programme, and such adjusted Contract Programme, certified by the Engineer, shall become the Contract Programme.</p> <p>Despite any other provisions of Clause 8 and notwithstanding that the Contractor is not entitled to or has not claimed an extension of time to the Time for Completion, the Engineer may, in its absolute direction, at any time and from time to time, determine to extend the Time for Completion. The Engineer has no obligation to exercise this discretion for the benefit of the Contractor.</p> <p>The Contractor will not be entitled to an extension of time to the Time for Completion where it is responsible for concurrent delays.</p>
<p>8.5 Delays Caused by Authorities</p>	<p>Insert the following words before the word "and" in subparagraph 8.5(b):</p> <p>"such that it will not be able to complete the Works within the Time for Completion,"</p>
<p>8.6 Rate of Progress</p>	<p>Replace paragraphs (a) and (b) with new numbering (i) and (ii).</p> <p>Insert numbering (a) and (b) at the start of the first and second paragraphs of Sub-Clause 8.6, respectively.</p> <p>In new paragraph (b) delete the words "subject to notice under Sub-Clause 2.5 [<i>Employer's Claims</i>]".</p> <p>Insert new paragraphs at the end of Sub-Clause 8.6 as follows:</p> <p>(c) The Engineer may, at any time, instruct the Contractor initiated either by an instruction from the Employer or by a request from the</p>

	<p>Contractor, to submit a proposal regarding the feasibility of acceleration of the Works for any reason including as an alternative to granting an extension of time to the Time for Completion.</p> <p>(d) If the Engineer requests a proposal under the preceding paragraph, prior to directing the Contractor to accelerate the Works, the Contractor shall respond in writing as soon as practicable and within 14 days by submitting:</p> <ul style="list-style-type: none"> (i) a description of the proposed amendments to the sequence of the Works along with proposed additional resources and materials necessary to accelerate the Works; (ii) the Contractor's proposal for any necessary modifications to the Contract Programme showing the effect of the proposed acceleration direction on the Contract Programme and to the relevant Time for Completion; and (iii) the Contractor's proposal for adjustment to the Contract Price. <p>(e) The Engineer shall, as soon as practicable after receiving such proposal under Sub-Clause 8.6(d), respond with approval and direction to accelerate the Works, disapproval or comments.</p> <p>(f) If the Engineer directs the Contractor to accelerate the Works, except where the direction was issued as a consequence of the failure of the Contractor to fulfil its obligations under the Contract, the Contractor shall, within 14 days of such determination, submit a proposed revised Contract Programme that shows the effect of the acceleration direction on the Contract Programme.</p> <p>(g) After receiving the Contractor's proposed revised Contract Programme under Sub-Clause 8.6(f), the Engineer shall proceed in accordance with Sub-Clause 3.5 [<i>Determinations</i>] to agree or determine the adjustment, if any, to the Contract Programme, and such adjusted Contract Programme, certified by the Engineer, shall become the Contract Programme.</p> <p>(h) If the Contractor incurs Costs in complying with an acceleration direction under Sub-Clause 8.6(c) or Sub-Clause 8.6(e), except where the direction was issued as a consequence of the failure of the Contractor to fulfil its obligations under the Contract, the Contractor shall give a</p>
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	<p>notice in accordance with Sub-Clause 20.1 [<i>Contractor's Claims</i>] and shall be entitled, subject to Sub-Clause 20.1 [<i>Contractor's Claims</i>], to payment of any such Costs, which shall be added to the Contract Price as a Variation.</p>
<p>8.7 Delay Damages</p>	<p>Delete Sub-Clause 8.7 and replace with:</p> <p>If the Taking Over of the Works (or any Section, where the Contract provides for Taking Over in Sections) has not been obtained on or before the relevant Time for Completion for the Works (or relevant Section) the Employer shall be entitled, at any time thereafter, to issue a notice of non-completion to the Contractor to that effect.</p> <p>The Contractor shall pay the Employer delay damages calculated in accordance with the Contract Data for each day or part of day for the period commencing on the day after the relevant Time for Completion and expiring on the Taking Over Date for the Works or relevant Section (as the case may be). Where the Contract provides for Taking Over of the Works in Sections, delay damages in respect of two or more Sections shall run concurrently.</p> <p>Delay damages shall be due and payable or allowed to the Employer at the end of each week (or part) to which they relate.</p> <p>The Parties agree that the delay damages represent an agreed genuine pre-estimate of losses likely to be suffered by the Employer in the event of delay to Taking Over of the Works and/or the Sections (as the case may be) beyond the relevant Time for Completion and are not a penalty. If, for whatever reason, the Employer's right to delay damages is invalidated or unenforceable, the Employer will be entitled to recover general damages at law.</p> <p>Delay damages shall be the only damages payable by the Contractor for Taking Over of the Works or a Section (as the case may be) being delayed beyond the relevant Time for Completion, save that this clause is without prejudice to the rights of the Employer and the Contractor's liabilities pursuant to Sub-Clauses 9.4 and 15. The payment or deduction of such damages shall not relieve the Contractor from its obligations to carry out and complete the Works, or from any other of its obligations and liabilities under the Contract.</p> <p>If Taking Over occurs in relation to any part of the Works and/or any Section for which delay damages are expressed to apply to the whole and not such part of the Works and/or Section, then the relevant delay damages</p>

	<p>shall be reduced pro-rata to the value that the part of the Works and/or Section being taken over have to the value of the whole of such Works and/or Section.</p> <p>The Contractor expressly agrees that the Employer may in its absolute discretion elect to invoke the remedies set out under Sub-Clauses 14.7 [Payment] and 14.16 [Set Off] in recovering such delay damages.</p> <p>If the Employer has become entitled, under this Sub-Clause 8.7, to the aggregate maximum amount of delay damages stated in the Contract Data, it shall be entitled to terminate the Contract in accordance with Sub-Clause 15.2(h).</p>
8.8 Suspension of Work	<p>Insert new paragraph at the end of Sub-Clause 8.8 as follows:</p> <p>During any period of suspension, the Contractor shall not remove from the Site any Materials, Plant or any Contractor's Equipment without the prior written consent of the Engineer.</p>
8.9 Consequences of Suspension	<p>In the first paragraph of Sub-Clause 8.9, after the words "and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to", insert "claim".</p> <p>Delete sub-paragraph 8.9(b) and replace with the following:</p> <p>(b) payment of any such Cost, which shall be added to the Contract Price as a Variation.</p>
8.10 Payment for Plant and Materials in Event of Suspension	<p>In sub-paragraph 8.10(a), delete the word "and" and in sub-paragraph 8.1(b), delete the full stop and replace with "; and" and then insert new sub-paragraph as follows:</p> <p>(c) the Contractor has paid for and properly stored the Plant and/or Materials.</p>
8.12 Resumption of Work	<p>Insert the following sentence at the end of Sub-Clause 8.12:</p> <p>If the cause of the suspension is attributable to or the responsibility of the Contractor, the Contractor shall bear the cost of making good any such deterioration or defect.</p>

9 Tests on Completion

No amendment

10 Employer's Taking Over

10.1	Replace the first paragraph of Sub-Clause 10.1 with the
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<p>Taking Over of the Works and Sections</p>	<p>following:</p> <p>Except as stated in Sub-Clause 9.4 [<i>Failure to Pass Tests on Completion</i>], the Works shall be Taken Over by the Employer when (i) the Contractor has achieved Taking Over and (ii) a Taking-Over Certificate for the Works has been issued, or is deemed to have been issued in accordance with this Sub-Clause.</p> <p>In the second paragraph of Sub-Clause 10.1, replace "taking over" with "Taking Over".</p> <p>Add the following paragraph at the end of Sub-Clause 10.1:</p> <p>The Parties acknowledge and agree that the Works, or any Section or part of the Works, will not be complete and the Employer is not bound to take delivery and responsibility for the care and custody of the Works, unless the Employer has issued a Taking Over Certificate to the Contractor in accordance with this Clause 10.</p>
<p>10.2 Taking Over of Parts of the Works</p>	<p>In the sub-paragraph (a) of Sub-Clause 10.2, replace "taken over" with "Taken Over".</p> <p>Insert new paragraphs at the end of Sub-Clause 10.2 as follows:</p> <p>Notwithstanding any other provisions of Clause 10, the Parties agree that use of any part of the Site by the Employer as a temporary measure or for reasons attributable to the acts, omissions, breaches or defaults of the Contractor or the Contractor's Personnel or which is either specified in the Contract or agreed by both Parties in writing, will not be deemed to be Taking Over. In such cases, the Contractor shall continue to be responsible for the care of such parts of the Works until a Taking Over Certificate is issued to the Contractor in accordance with this Clause 10.</p> <p>Where, for reasons attributable to the acts or omissions of the Contractor, the Employer in its absolute discretion elects to issue a Taking Over Certificate or otherwise uses a part of the Works in accordance with this Sub-Clause 10.2, the Contractor shall not be entitled to any extension of time or any increase to the Contract Price.</p>
<p>10.3 Interference with Tests on Completion</p>	<p>In the third paragraph of Sub-Clause 10.3, delete "this delay in carrying out the Tests on Completion" and replace with "as a result of a delay in carrying out the Tests on Completion for which the Employer is responsible".</p> <p>In the third paragraph of Sub-Clause 10.3, after the words "and shall be entitled subject to Sub-Clause 20.1 [<i>Contractor's Claims</i>] to", insert "claim".</p> <p>Delete sub-paragraph 10.3(b) and replace with the following:</p> <p>(b) payment of any such Cost-plus profit, which shall</p>

	be added to the Contract Price as a Variation.
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11 Defects Liability

<p>11.2 Cost of Remedying Defects</p>	<p>Delete Sub-Clause 11.2 and replace with the following:</p> <p>All work referred to in sub-paragraph (b) of Sub-Clause 11.1 [<i>Completion of Outstanding Work or Remedying Defects</i>] and/or any damage arising from any defect in the Works, shall be executed at the risk and cost of the Contractor, if and to the extent that the work is attributable to:</p> <ul style="list-style-type: none"> (a) the design of the Works, other than a part of the design for which the Employer is responsible; (b) the Works, Plant, Materials or workmanship not being in accordance with the Contract; (c) improper operation or maintenance which was attributable to matters for which the Contractor is responsible; or (d) failure by the Contractor to comply with any other obligation under the Contract. <p>The Contractor must also bear all incidental costs (including any costs of removal) associated with remediation of the defects and/or damage arising from a defect in the Works.</p> <p>If and to the extent that such work is attributable to any other cause, the Contractor shall be notified promptly by (or on behalf of) the Employer, and Sub-Clause 13.3 [Variation Procedure] shall apply.</p>
<p>11.8 Contractor to Search</p>	<p>In the second sentence of Sub-Clause 11.8, delete "plus reasonable profit".</p>
<p>11.9 Performance Certificate</p>	<p>Delete the last paragraph of Sub-Clause 11.9.</p> <p>Insert new paragraphs at the end of Sub-Clause 11.9 as follows:</p> <p>Notwithstanding the issue of a Performance Certificate, the Contractor shall be responsible for remedying at its cost and expense any Latent Defect, as well as any damage to the Works caused by such Latent Defect, which appears or occurs at any time during the Latent Defect Period. The Employer's Representative shall give the Contractor written notice of any such Latent Defect or damage. The Employer shall afford the Contractor</p>

	<p>such access to the Works as may be reasonable in all the circumstances for such purposes. The Contractor shall remedy such Latent Defect or damage as soon as reasonably practicable.</p> <p>If the Contractor fails to remedy any Latent Defect or damage within a reasonable time, a reasonable date may be fixed by (or on behalf of) the Employer, on or by which the Latent Defect or damage is to be remedied. The Contractor shall be given reasonable notice of this date. If the Contractor fails to remedy the Latent Defect or damage by this notified date the Employer may carry out the work himself or by others, in a reasonable manner and at the Contractor's cost (but the Contractor shall have no responsibility for this work) and the Contractor shall pay to the Employer the costs reasonably incurred by the Employer in remedying the Latent Defect or damage. This Sub-Clause shall not relieve the Contractor from any of its warranties, obligations or liabilities under or in connection with the Contract or otherwise at law.</p>
<p>11.11 Clearance of Site</p>	<p>Insert the following at the start of the first paragraph of Sub-Clause 11.1:</p> <p style="padding-left: 40px;">"Unless otherwise instructed by the Engineer,".</p> <p>Append the following to the end of the first paragraph of Sub-Clause 11.1:</p> <p style="padding-left: 40px;">"and shall reinstate all Clearance of Site areas disturbed by the Contractor (other than those covered by the Permanent Works) and shall leave the Site in a neat and tidy condition to the satisfaction of the Engineer.".</p> <p>Insert new paragraph at the end of Sub-Clause 11.11 as follows:</p> <p style="padding-left: 40px;">Upon completion of construction, the Contractor shall fully reinstate pathways, other local infrastructure and agricultural land to their pre-contract condition as recorded by the Contractor in accordance with its obligations in Sub-Clause 4.18 [<i>Protection of the Environment</i>].</p>

12 Test after Completion

No amendment

13 Variations and Adjustments

<p>13.1</p>	<p>Insert new paragraphs at the end of Sub-Clause 13.1:</p> <p style="padding-left: 40px;">If the Contractor believes an instruction by the Engineer</p>
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<p>Right to Vary</p>	<p>constitutes or involves a Variation he shall:</p> <ul style="list-style-type: none"> (a) within 14 days of receiving the instruction and before commencing work on the subject matter of the instruction, give notice to the Engineer what he considers the instruction constitutes or involves a Variation; whereupon the Engineer shall either amend or confirm his instruction; (b) if the instruction is not amended, follow the procedures of Sub-Clause 20.1 and submit a written claim to the Engineer; and (c) continue to perform the works in accordance with the Contract and all instructions of the Engineer, including without limitation any instruction in respect of which notice has been given under this Sub-Clause 13.1. <p>Notwithstanding any other provisions of the Contract, no change, modification, addition or deletion to, in or from the Employer's Requirements or the Contractor's Documents, the Works or the Contractor's conditions and methods of working, which are necessary due to any act, omission or default of the Contractor in the performance of its obligations under the Contract, shall be deemed to be a Variation and any such matter shall not result in any adjustment of the Contract Price, extension of time or other relief. Any additional Costs to the Employer caused by such change, modification, addition or deletion which are attributable to such default or breach shall be borne by the Contractor and may be recovered by the Employer in accordance with Sub-Clauses 14.7 [Payment] and 14.16 [Set Off].</p> <p>The Employer and the Engineer shall have the right to instruct a Variation and the Contractor shall be obliged to execute such Variation notwithstanding any failure of the Parties to agree on the changes (if any) to the Contract Price, Contract Programme and/or the Works required as a result of such Variation.</p> <p>No Variation invalidates the Contract. The Contractor acknowledges that any omission or omissions will not constitute a basis to allege that the Employer has repudiated the Contract no matter the extent or timing of the omission or omissions.</p>
<p>13.2 Value Engineering</p>	<p>Insert new sub-paragraph as follows:</p> <p>If a proposal, which is approved by the Employer, includes a change in the design of part of the Permanent Works, then unless otherwise agreed by both Parties:</p> <ul style="list-style-type: none"> (a) the Contractor shall design this part; and

	<p>(b) if the Engineer determines that this change results in a reduction in the Contract Price, the Engineer shall proceed in accordance with Sub-Clause 3.5 [<i>Determinations</i>] to agree or determine a fee (if any), which shall be added to the Contract Price. This fee shall be the percentage set out in the Contract Data of the difference between the following amounts:</p> <ul style="list-style-type: none"> (i) such reduction in the Contract Price, resulting from the change; and (ii) 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. <p>However, if amount (i) is less than amount (ii), no fee shall be added to the Contract Price.</p>
<p>13.3 Variation Procedure</p>	<p>Sub-Clause 13.3. (a) is replaced with the following:</p> <p>“(a) a description of the proposed work to be performed, a programme for its execution and sufficient ESHS information to enable an evaluation of ESHS risks and impacts;”</p> <p>In the first paragraph of Sub-Clause 13.3, after “as soon as practicable” insert “but in any event no later than 14 days after receipt of the Engineer’s request”.</p> <p>In sub-paragraph 13.3(b), after “and to the Time for Completion”, insert “and Milestone Dates”. At the end of sub-paragraph 13.3(b) delete the word “and” and replace sub-paragraph 13.3(c) with:</p> <ul style="list-style-type: none"> (c) the Contractor's proposal for adjustment to the Contract Price (which shall, where applicable, be in accordance with the rates set out in the Contract); and (d) any other information requested by the Engineer. <p>Add the following paragraph at the end of Sub-Clause 13.3:</p> <p>Upon instructing or approving a Variation, the Engineer shall proceed in accordance with Sub-Clause 3.5 [<i>Determinations</i>] to agree or determine adjustments to the Contract Price, valued using rates set out in the Contract, to the extent the Engineer determines that the scope of the varied work is reasonably comparable to the unit descriptions contained in the Contract. To the extent that the scope of the varied work is not reasonably comparable to such unit descriptions, the Engineer shall determine a fair and reasonable valuation.</p>

<p>13.5 Provisional Sums</p>	<p>In Sub-Clause 13.5, delete all references to the term “amounts” and replace with “actual direct, reasonable and properly incurred and substantiated amounts plus profit”.</p> <p>In the last paragraph of Sub-Clause 13.5, delete “, when required by the Engineer,”.</p> <p>Insert new paragraph at the end of Sub-Clause 13.5 as follows:</p> <p style="padding-left: 40px;">If the Engineer instructs the Contractor to supply provisional sum items, the Contractor shall seek quotations from suppliers and/or Subcontractors and submit those quotations to the Engineer for consideration. The Engineer may, if he deems it necessary or desirable, revoke that instruction in whole or in part at any time before acceptance of any quotation. Following his consideration of any quotation submitted to him by the Contractor, the Engineer may instruct the Contractor to, and the Contractor shall, obtain the items from the supplier or Subcontractor giving the quotation at the price and on the terms approved by the Engineer.</p>
<p>13.7 Adjustments for in Changes Legislation</p>	<p>In the second paragraph of Sub-Clause 13.7, after the words “and shall be entitled subject to Sub-Clause 20.1 [<i>Contractor’s Claims</i>] to”, insert “claim”.</p> <p>Delete sub-paragraph 13.7(b) and replace with the following:</p> <p style="padding-left: 40px;">(b) payment of any such Cost, which shall be added to the Contract Price as a Variation.</p>
<p>13.8 Adjustments for Changes in Cost</p>	<p>Delete this Sub-Clause in its entirety.</p>

14 Contract Price and Payment

<p>14.1 The Contract Price</p>	<p>Delete sub-paragraph (a) of Sub-Clause 14.1 and replace with:</p> <p style="padding-left: 40px;">(a) the Contractor shall be paid the Contract Price;</p>
<p>14.3 Application for Interim Payment Certificates</p>	<p>Delete the first paragraph of Sub-Clause 14.3 and replace with the following:</p> <p style="padding-left: 40px;">14.3 A. The Contractor shall submit a Statement in one original and five copies together with an electronic copy to the Engineer after the end of each month, in a form approved by the Engineer, showing in detail the amounts to which the Contractor considers himself to be entitled, together with all supporting documents which</p>

	<p>shall include:</p> <ul style="list-style-type: none"> (a) the report on the progress during this month in accordance with Sub-Clause 4.21 [<i>Progress Reports</i>]; (b) the Quality Product Summary described in the Employer's Requirements (if any); (c) a statutory declaration, in a form acceptable to the Employer, by the Contractor or, where the Contractor is a corporation, by a representative of the Contractor who is in the position to know the facts attested to, that all the Subcontractors who have at any time been engaged on the work under the Contract have been paid all moneys due and payable to them in respect of the Works; and (d) in the case of the first Statement, controlled copies of documented procedures, and records and other information which form part of the Contractor's and Subcontractor's quality management systems. <p>Re-number the second paragraph of 14.3 as "14.3B"</p> <p>In sub-paragraph 14.3B(g) , delete the full stop and replace with "; and" and then insert new sub-paragraph as follows:</p> <ul style="list-style-type: none"> (h) in the case of Milestones achieved, such evidence, supporting documents and other information as may be reasonably requested by the Employer for the purpose of satisfying itself of the proper achievement of any Milestones which entitle the Contractor to relevant Milestone payment (if any) set out in the Contract in the amounts specified therein.
<p>14.4 Schedule Payments</p>	<p>of</p> <p>In Sub-Clause 14.4(a), replace the reference to "Clause 14.3" with "Clause 14.3B".</p> <p>Delete the last paragraph of Sub-Clause 14.4 and replace with the following:</p> <p>If the Contract does not include a schedule of payments, the Contractor shall submit non-binding estimates of the payments which he expects to become due during each monthly period for the duration of the Contract. The first estimate shall be submitted within 42 days after the Commencement Date. Revised estimates shall be submitted at quarterly intervals or at any time when a revised Contract Programme is submitted under Sub-Clause 8.3 [<i>Programme</i>], until the Taking-Over Certificate has been issued for the Works.</p>

<p>14.5 Plant and Materials intended for the Works</p>	<p>In the first paragraph of Sub-Clause 14.5, delete "which have been sent to the Site" and replace with "which have been delivered to the Site".</p> <p>In the first paragraph of Sub-Clause 14.5, replace the reference to "Clause 14.3" with "Clause 14.3B".</p> <p>In the last paragraph of Sub-Clause 14.5, replace the reference to "Clause 14.3" with "Clause 14.3B".</p>
<p>14.6 Issue of Interim Payment Certificates</p>	<p>In the first paragraph of Sub-Clause 14.6, immediately before "supporting documents" insert "all", and between "supporting documents" and ", issue" insert "including the Progress Report in accordance with Sub-Clause 4.21 [<i>Progress Reports</i>]".</p> <p>In sub-paragraph 14.6(a), delete the words "and/or".</p> <p>In sub-paragraph 14.6(b), delete the full stop and replace with "; and/or" and then insert new sub-paragraph as follows:</p> <p>The following is added to the third paragraph as (c):</p> <p>(c) if the Contractor was, or is, failing to perform any ESHS obligations or work under the Contract, the value of this work or obligation, as determined by the Engineer, may be withheld until the work or obligation has been performed, and/or the cost of rectification or replacement, as determined by the Engineer, may be withheld until rectification or replacement has been completed. Failure to perform includes, but is not limited to the following:</p> <ul style="list-style-type: none"> (i) failure to provide specialist ESHS capacity within the Contractor's project team to oversee development of ESHS documentation and implementation of ESHS obligations; (ii) failure to develop fully compliant and professional quality C-ESMP following the outlined structure in the Technical Specifications; (iii) failure to comply with any ESHS obligations or work described in the Works' Requirements which may include: working outside site boundaries, excessive dust, failure to keep public roads in a safe usable condition, damage to offsite vegetation, pollution of water courses from oils or sedimentation, contamination of land e.g. from oils, human waste, damage to archeology or cultural heritage features, air pollution as a result of unauthorized and/or inefficient combustion;

	<ul style="list-style-type: none"> (iv) failure to regularly review C-ESMP and/or update it in a timely manner to address emerging ESHS issues, or anticipated risks or impacts; (v) failure to implement the C-ESMP; (vi) failing to have appropriate consents/permits prior to undertaking Works or related activities; (vii) failure to submit ESHS report/s (as described in Appendix C), or failure to submit such reports in a timely manner; (viii) failure to implement remediation as instructed by the Engineer within the specified timeframe (e.g. remediation addressing non-compliance/s). <p>The following is added to the third paragraph as (d):</p> <ul style="list-style-type: none"> (d) if the Contractor fails to submit a Revised Contract Programme in accordance with Sub-Clause 8.3 [Contract Programme] or monthly progress report in accordance with Sub-Clause 4.21 [Progress Reports], payment may be withheld until such Contract Programme or monthly progress report (as the case may be) has been submitted.
<p>14.7 Payment</p>	<p>Delete sub-paragraph 14.7(b) and replace with:</p> <ul style="list-style-type: none"> (b) the amount certified in each Interim Payment Certificate, except for the Interim Payment Certificate for the first instalment of the advance payment under sub-paragraph (a), within 56 days after the Engineer receives the Statement and all supporting documents including the Progress Report in accordance with Sub-Clause 4.21 [<i>Progress Reports</i>] and the statutory declaration with respect to payment of Subcontractors; or, at a time when the Bank's loan or credit (from which part of the payments to the Contractor is being made) is suspended, the amount shown on any statement submitted by the Contractor within 14 days after such statement is submitted, any discrepancy being rectified in the next payment to the Contractor; and <p>Append the following to the end of the last paragraph of Sub-</p>

	<p>Clause 14.7:</p> <p>“, and the Contractor shall be responsible for and shall pay any bank transfer fees arising out of or in connection with payments made by the Employer to the Contractor pursuant to this Contract”.</p> <p>Insert new paragraphs at the end of Sub-Clause 14.7 as follows:</p> <p>The Contractor undertakes to pay its Subcontractors and suppliers in accordance with the provisions of the relevant contract and to ensure that labourers employed in the execution of the Works, whether by the Contractor or by its Subcontractors, are paid in accordance with their respective contracts and the Laws.</p> <p>Notwithstanding any other provision of the Contract, the Employer may withhold from any payment due to the Contractor amounts the Employer deems reasonably necessary or appropriate to protect it from liability or loss because of any one or more of the following reasons:</p> <ul style="list-style-type: none"> (a) defects and deficiencies in any Works, whether or not payment has been made; (b) failure by the Contractor to provide the Performance Security in accordance with the Contract; (c) failure by the Contractor to procure and maintain insurance policies in accordance with the Contract; (d) reasonable evidence that completion of the Works or a Section will not occur by the Time for Completion and the unpaid balance of the Contract Price will not be adequate to cover amounts that are likely to be payable by the Contractor under Sub-Clause 8.7 [<i>Delay Damages</i>]; (e) failure by the Contractor, in any material respect, to execute the Works; (f) any overpayments made by the Employer in a previous payment; and (g) a dispute exists as to the accuracy or completeness of any Statement (but only with respect to the amount then in dispute).
<p>14.8 Delayed Payment</p>	<p>In Sub-Clause 14.8, in the first sentence:</p> <ul style="list-style-type: none"> • replace the first reference to "the Contractor" with "a Party" • replace the words "Sub-Clause 14.7 [<i>Payment</i>]" with "this Contract"; and

		<ul style="list-style-type: none"> • replace the second reference to "the Contractor" with "that Party" ; • delete "compounded monthly" ; and • in the second sentence of the first paragraph, delete the words "specified in Sub-Clause 14.7 [<i>Payment</i>]" irrespective (in the case of sub-paragraph (b)) of the date on which any Interim Payment Certificate is issued". • In the last paragraph of Sub-Clause 14.8, replace the word "Contractor" with "Party".
14.10 Statement Completion	at	<p>In the first paragraph of Sub-Clause 14.10, delete "six copies" and replace with "one original and five copies together with an electronic copy" and immediately before "supporting" insert "all".</p> <p>Append the following sentence to the end of the first paragraph of Sub-Clause 14.10:</p> <p style="padding-left: 40px;">If colour is used in the original, all copies shall also be in colour. Unless otherwise specified in the Contract or requested by the Engineer, the electronic copy shall use the applicable software specified in Sub-Clause 1.3 [<i>Communications</i>].</p>
14.11 Application for Final Payment Certificate		<p>In the first paragraph of Sub-Clause 14.11, delete "six copies" and replace with "one original and five copies together with an electronic copy" and immediately before "supporting" insert "all".</p> <p>Append the following sentence to the end of the first paragraph of Sub-Clause 14.11:</p> <p style="padding-left: 40px;">If colour is used in the original, all copies shall also be in colour. Unless otherwise specified in the Contract or requested by the Engineer, the electronic copy shall use the applicable software specified in Sub-Clause 1.3 [<i>Communications</i>].</p>
14.12 Discharge		Delete the second sentence of this Sub-Clause.
14.13 Issue of Final Payment Certificate		In the second paragraph of Sub-Clause 14.13, immediately after "application" insert "and a discharge", and the end of the paragraph immediately after "due" insert "and the discharge shall be deemed to be submitted and effective in accordance with the conditions of Sub-Clause 4.12 [<i>Discharge</i>]".
14.14 Cessation of Employer's Liability	of	<p>In sub-paragraph 14.14(b) delete the full stop and replace with "; and" and then insert new sub-paragraph as follows:</p> <p style="padding-left: 40px;">(c) the Engineer has certified such amounts as due and payable to the Contractor.</p>
14.15 Currencies	of	In the first line of the first paragraph of Sub-Clause 14.15, delete "The" and replace with "Except as otherwise stated in this Sub-

<p>Payment</p>	<p>Clause, the".</p> <p>Append the following to the end of sub-paragraph 14.15(e):</p> <p style="padding-left: 40px;">"or, if not so determined by the central bank of the Country, as published by an international bank operating in the Country. If the Base Date is not a business day, then rates on the next business day thereafter."</p> <p>Insert new paragraph at the end of Sub-Clause 14.15 as follows:</p> <p style="padding-left: 40px;">If the Contractor constitutes a joint venture, consortium or other unincorporated grouping of two or more persons, and the foreign partner (if any) of the joint venture, consortium or other unincorporated grouping of two or more persons fails to provide any or all of the resources including personnel or Goods intended to be provided by the foreign partner, to the extent stated or reasonably implied in the Contract, then the Employer shall be entitled to vary the proportions or amounts of Foreign Currencies stated in the Contract as a claim pursuant to Sub-Clause 2.5 [Employer's Claims]. The reduction in the proportions or amounts of Foreign Currencies shall be determined by the Engineer in accordance with Sub-Clause 3.5 [<i>Determinations</i>]. The Engineer shall evaluate the effect on the Costs including profit. The Employer's actions shall not prejudice his entitlement to termination under Sub-Clause 15.2 [<i>Termination by Employer</i>].</p>
<p>14.16</p> <p>Payment of Workers and Subcontractors</p>	<p>Insert new Sub-Clause as follows:</p> <p style="padding-left: 40px;">Before the Employer makes a payment to the Contractor under Sub-Clause 14.7 [<i>Payment</i>], the Contractor is required to give the Employer a statutory declaration, in a form acceptable to the Employer, by the Contractor that his employees and Subcontractors who have at any time been engaged on the Works have been paid all moneys payable to them in respect of their engagement on the Works.</p> <p style="padding-left: 40px;">If within 2 days after the request the Contractor fails to provide the statutory declaration, the Employer may withhold payment of moneys due to the Contractor until the statutory declaration is received.</p> <p style="padding-left: 40px;">If the Contractor provides satisfactory proof of the maximum amount which may be payable to his employees and Subcontractors, the suspension of payment shall not apply to amounts in excess of the maximum amount.</p>

15 Termination by Employer

15.2 Termination	In sub-paragraph 15.2(d), immediately after "Works" add "or a percentage of the Permanent Works in excess of that permitted to be subcontracted under the Contract".
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16 Suspension and Termination by Contractor

16.1 Contractor's Entitlement Suspend Work	to In the fifth paragraph of Sub-Clause 16.1, after the words "and shall be entitled subject to Sub-Clause 20.1 [<i>Contractor's Claims</i>] to", insert "claim". Delete sub-paragraph 16.1(b) and replace with the following: (b) payment of any such Cost-plus profit, which shall be added to the Contract Price as a Variation.
16.4 Payment Termination	on At the end of sub-paragraph (c) insert the words "excluding indirect and consequential losses".

17 Risk and Responsibility

17.4 Consequences Employer's Risks	of In the second paragraph of Sub-Clause 17.4, after the words "and shall be entitled subject to Sub-Clause 20.1 [<i>Contractor's Claims</i>] to", insert "claim". Delete sub-paragraph 17.4(b) and replace with the following: (b) payment of any such Cost-plus reasonable profit, which shall be added to the Contract Price as a Variation. Insert new paragraph at the end of Sub-Clause 17.4 as follows: If such delays and/or Costs arise as a consequence of any risk listed in Sub-Clause 17.3 [<i>Employer's Risks</i>] and any other risk not listed therein, then the agreement or determination in accordance with Sub-Clause 3.5 [<i>Determinations</i>] shall take into account the proportionate responsibility of the Contractor and the Employer.
17.6 Limitation of Liability	Delete Sub-Clause 17.6 and replace with: Neither Party shall be liable to the other Party for loss of any use of any Works, loss of profit, loss of any contract or any indirect or consequential loss or damage which may be suffered by the other Party in connection with the Contract, other than under Sub-Clauses 4.6 [<i>Co-operation</i>], 4.14 [<i>Avoidance of Interference</i>], 4.16 [<i>Transport of Goods</i>], 4.18 [<i>Protection of the Environment</i>], 11.2 [<i>Cost of Remedying Defects</i>]; 15.4 [<i>Payment after Termination</i>]; 16.4 [<i>Payment on</i>

	<p><i>Termination</i>]; 17.4(b) [<i>Consequences of Employer's Risks</i>]; 17.1 [<i>Indemnities</i>] and 17.5 [<i>Intellectual and Industrial Property Rights</i>] and as may be included in any delay damages pursuant to Sub-Clause 4.13 [<i>Rights of Way and Facilities</i>] and 8.7 [<i>Delay Damages</i>].</p> <p>The total liability of the Contractor to the Employer, under or in connection with the Contract other than under Sub-Clauses 4.14 [<i>Avoidance of Interference</i>], 4.16 [<i>Transport of Goods</i>], 4.18 [<i>Protection of the Environment</i>], 4.19 [<i>Electricity, Water and Gas</i>], 4.20 [<i>Employer's Equipment and Free-Issue Material</i>], 17.1 [<i>Indemnities</i>], and 17.5 [<i>Intellectual and Industrial Property Rights</i>] shall not exceed the amount of the aggregate limit of liability stated in the Contract Data, or if no aggregate limit of liability is so stated, the Accepted Contract Amount.</p> <p>This Sub-Clause shall not limit liability:</p> <ul style="list-style-type: none"> (a) in any case of fraud, deliberate default or reckless misconduct by any defaulting Party; (b) for death, personal injury, third party property damage, breach of confidentiality obligations and third party intellectual property infringement; (c) to the extent that the Contractor is paid or indemnified for the liability by an insurer under an insurance policy whether required under this Contract or otherwise, or is entitled to be paid or indemnified for the liability by such an insurer; (d) to the extent the Contractor recovers compensation for its liability from another person (including any Subcontractor), whether by way of indemnity or otherwise; and (e) if the Contractor abandons the Works and/or repudiating the Contract.
<p>17.7 Warranties</p>	<p>Insert new Sub-Clause as follows:</p> <p>Without prejudice to any other warranties expressed elsewhere in the Contract, and despite any inclusion of the Employer Documents in the Contract (including in the Employer's Requirements) or any approval given or withheld by the Employer under the Contract, the Contractor warrants that:</p> <ul style="list-style-type: none"> (a) the Works will be executed with all the skill and care to be expected of appropriately qualified and experienced international contractors with experience in performing works and services of a similar size, type, nature, scope and complexity

	<p>to the Works and in accordance with Industry Best Practices;</p> <p>(b) the Works will be executed in accordance with the Contract, for the Contract Price, and by the Time for Completion and that it will furnish all parts of the Works and all materials and services necessary to make the Works fully and operationally complete as specified in the Contract;</p> <p>(c) when the Works are completed they shall be fit for such purposes for which the Works are intended as are specified in the Employer's Requirements;</p> <p>(d) the Works will be executed with the highest regard for safety and protection of the environment and so that the Works are capable of being operated and utilised in accordance with all applicable Laws and the Contract;</p> <p>(e) the Works and the Plant and Materials utilise proven technology, being a technology that has operated commercially at other similar works and which, as of the Base Date, is capable of being insured on a reasonable commercial basis;</p> <p>(f) the Plant and Materials shall, when first used during the performance of the Works, be new and unused and shall also be, in accordance with the Contract and of a quality reasonably expected in the international construction and design industries, free from material defects and deficiencies of any kind, and free from any encumbrance or security interest and shall conform to the requirements set out in the Contract; and</p> <p>(g) the Works will comply with all applicable Laws and the requirements of all relevant government authorities at Taking Over; and</p> <p>The warranties provided under this Sub-Clause 17.8 survive the completion, termination or expiry of the Contract.</p>
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18 Insurance

<p>18.1</p> <p>General Requirements for Insurance</p>	<p>Add the following paragraph to Sub-Clause 18.1:</p> <p>The Contractor is the insuring Party for the purpose of Clause 18. To the extent possible, the Contractor must ensure that any policies of insurance effected and</p>
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	<p>maintained by the Contractor under the Contract.</p> <p>Append the following to the end of the seventh paragraph:</p> <p>"together with a copy of the evidence or policy, as the case may be".</p>
<p>18.2 Insurance for Works and Contractor's Equipment</p>	<p>In sub-paragraph 18.2(e)(iii), replace "taken over" with "Taken Over".</p>
<p>18.5 Cargo Insurance</p>	<p>Insert new Sub-Clause as follows:</p> <p>The Contractor shall insure against loss, destruction or damage to property and interests of every description for all transits by sea, air or land for all goods intended for the Works where such items are carried for the accounts and interests of the insured. This insurance shall be effective from the date by which the evidence is to be submitted under sub-paragraph (a) of Sub-Clause 18.1 [<i>General Requirements for Insurances</i>], until the date of issue of the Performance Certificate. This insurance shall be for an amount not less than new replacement value plus 10%.</p>

19 Force Majeure

<p>19.1 Definitions of Force Majeure</p>	<p>Append "within the Country" to the end of sub-paragraphs 19.1(i) and 19.1(ii).</p>
<p>19.2 Notice of Force Majeure</p>	<p>Add the following paragraph to Sub-Clause 19.2:</p> <p>Notwithstanding any other provision of this Clause 19, a Force Majeure shall not relieve a Party from an obligation which arose before the occurrence of that event, including the care of the Works prior to the issuance of a Taking Over Certificate.</p>
<p>19.3 Duty to Minimise Delay</p>	<p>In the first paragraph of Sub-Clause 19.3, after "use all reasonable endeavours to" insert "overcome the effects of and".</p>
<p>19.7 Release from Performance</p>	<p>Delete Sub-Clause 19.7 and replace with:</p> <p>(a) Notwithstanding any other provision of the Contract, if any event or circumstance outside the control of the Parties (including, but not limited to, Force Majeure) arises which:</p> <p>(i) makes it impossible or unlawful for either or</p>

	<p>both Parties to fulfil its or their contractual obligations (despite such affected Party using Industry Best Practices to overcome and/or mitigate such circumstances); or</p> <p>(ii) which under Law, entitles the Parties to be released from further performance of the Contract,</p> <p>then either Party may by written notice inform the other Party of such event or circumstance.</p> <p>(b) Upon receiving or issuing such notice (as the case may be) under Sub-Clause 19.7(a), both parties shall request the Engineer to determine these matters in accordance with Sub-Clause 3.5 [<i>Determinations</i>] to agree or determine these matters. Where it is determined by the Engineer that it is impossible or unlawful for a Party or the Parties to complete their contractual obligations or that the law entitles the Parties to be released from such obligations:</p> <p>(i) the Parties shall be discharged from further performance, without prejudice to the rights of either Party in respect of any previous breach of the Contract; and</p> <p>(ii) subject to the Employer's rights under Sub-Clause 14.16 [<i>Set-off</i>] the sum payable by the Employer to the Contractor shall be the same as would have been payable under Sub-Clause 19.6 [<i>Optional Termination, Payment and Release</i>] if the Contract had been terminated under Sub-Clause 19.6.</p>
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20 Claims, Disputes and Arbitration

<p>20.1 Contractor's Claims</p>	<p>In the first paragraph, before the word "Engineer" insert the words "Employer and".</p> <p>In the first sentence of the second paragraph of Sub-Clause 20.1, insert the word "relevant" before the words "Time for Completion".</p> <p>Insert new paragraphs at the end of Sub-Clause 20.1 as follows:</p> <p style="padding-left: 40px;">The Contractor's detailed claim submitted under this Sub-Clause shall include the following:</p> <p style="padding-left: 40px;">(a) the material circumstances of the event including the cause or causes;</p> <p style="padding-left: 40px;">(b) the legal basis of the claim;</p> <p style="padding-left: 40px;">(c) the nature and extent of any delay;</p>
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	<p>(d) the nature and extent of any resultant additional Cost;</p> <p>(e) the corrective action already undertaken or to be undertaken;</p> <p>(f) the effect on the critical path noted on the Contract Programme, including any Milestone Dates;</p> <p>(g) the period, if any, by which in its opinion the Time for Completion in respect of the whole of the Works and any Sections and/or any Milestone Dates should be extended;</p> <p>(h) the adjustment, if any which in its opinion should be made to the Contract Price; and</p> <p>(i) a statement that it is a further notice pursuant to this Sub-Clause 20.1.</p> <p>Despite any other provisions of the Contract, the Engineer may, in its sole and absolute discretion, at any time make a fair and reasonable extension of the relevant Time for Completion. The Employer and the Engineer have no obligation to grant, or to consider whether they should grant, an extension of time and they are not required to exercise this discretion for the benefit of the Contractor.</p> <p>If more than one event causes concurrent delays and the cause of at least one of those events, but not all of them, is a cause of delay which would not entitle the Contractor to an extension of time under Sub-Clause 8.4 [<i>Extension of Time for Completion</i>], then, to the extent of the concurrency, the Contractor will not be entitled to an extension of time.</p> <p>An extension of time granted under this Clause 20 is, unless otherwise stated in the Contract, the Contractor's sole entitlement to compensation for delay or disruption, including delay or disruption caused by the Employer, whether in breach of the Contract or otherwise.</p> <p>Nothing in this Sub-Clause 20.1 creates an additional right or entitlement of the Contractor to an extension to the Time for Completion, additional payment and/or relief from obligations, where such right or entitlement did not otherwise exist under the Contract.</p> <p>Despite any other provision of the Contract, the Contractor shall use its best endeavours, acting in accordance with Industry Best Practices, to mitigate the effects of any event or circumstance which has or may adversely affect the Works, increase the Contract Price or delay the execution of the Works.</p>
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<p>20.2 Appointment of the Dispute Adjudication Board</p>	<p>Delete Sub-Clause 20.2 in its entirety and replace with "Not Used".</p>
<p>20.3 Failure to Agree to Dispute Adjudication Board</p>	<p>Delete Sub-Clause 20.3 in its entirety and replace with "Not Used".</p>
<p>20.4 Obtaining Dispute Adjudication Board's Decision</p>	<p>Delete Sub-Clause 20.4 in its entirety and replace with "Not Used".</p>
<p>20.5 Amicable Settlement</p>	<p>Delete Sub-Clause 20.5 in its entirety and replace with "Not Used".</p>
<p>20.6 Arbitration</p>	<p>Delete Sub-Clause 20.6 in its entirety and replace with "Not Used".</p>
<p>20.7 Failure to Comply with Dispute Adjudication Board's Decision</p>	<p>Delete Sub-Clause 20.7 in its entirety and replace with "Not Used".</p>
<p>20.8 Expiry of Dispute Adjudication Board's Appointment</p>	<p>Delete Sub-Clause 20.8 in its entirety and replace with "Not Used".</p>
<p>20.9 Disputes and Differences</p>	<p>Insert New Sub-Clause as follows:</p> <p>All disputes or disagreements arising out of or in connection with the formation, performance, interpretation, nullification, termination or invalidation of the Contract or the Works, or any other related dispute or disagreement ("Dispute"), shall be resolved in accordance with Sub-Clause 20.10 [<i>Dispute resolution procedures</i>]. Further, if a Dispute arises, the Parties agree that they will, prior to the initiation of any arbitral proceedings, use their best efforts in good faith to reach a reasonable and equitable resolution of the Dispute. The Parties agree that in the event a Dispute cannot be resolved using the procedure in Sub-Clauses 20.10(a) to 20.10(d) then that Dispute will be submitted, if requested</p>

	by either Party, to arbitration in accordance with Sub-Clause 20.10(e).
<p>20.10</p> <p>Dispute Resolution Procedures</p>	<p>Insert New Sub-Clause as follows:</p> <p>(a) In the event of a Dispute, written notice of such Dispute shall be given to the other Party's Representative. That notice shall:</p> <ul style="list-style-type: none"> (i) set out the legal basis of the claim; (ii) set out the facts upon which the claim is based; (iii) have annexed copies of correspondence and any relevant background material; (iv) contain detailed particulars of the quantification of the claim; and (v) if the claim is made by the Contractor, be signed by its chief executive officer (or equivalent officer). <p>(b) If the Employer's Representative and the Contractor's Representative are unable to resolve the Dispute within 28 days after such notice is given, the Dispute shall be referred, if requested by either Party, to the Senior Representatives of the Parties set out in the Contract Data, or any replacement notified in writing.</p> <p>(c) If the Senior Representatives of the Parties are unable to resolve the Dispute within 28 days, either Party may invite the other to conciliate the Dispute in accordance with the provisions of Sub-Clause 20.10(e). Otherwise the Dispute shall be referred, if requested by either Party, directly to arbitration in accordance with the provisions of Sub-Clause 20.10(f).</p> <p>(d) Service of the notices under, and compliance with the process outlined in, Sub-Clauses 20.10(a) to 20.10(c) are conditions precedent to the commencement of any conciliation or arbitration in respect of a Dispute.</p> <p>(e) In accordance with Sub-Clause 20.10(c), either Party may invite the other to conciliate a Dispute under the UNCITRAL Permanent Court of Arbitration Optional Conciliation Rules, 1996 (the "Conciliation Rules") provided that:</p> <ul style="list-style-type: none"> (i) the language of the conciliation shall be in English; (ii) one conciliator shall be appointed by

	<p>agreement between the Parties; or</p> <p>(iii) if the Parties are unable to agree on the appointment of a conciliator within 14 days after the matter has been referred to conciliation, the conciliator will be appointed by the Secretary-General of the Permanent Court of Arbitration in accordance with the Conciliation Rules.</p> <p>If the Parties do not reach agreement under the Conciliation Rules, the Dispute shall be referred, if requested by either Party, to arbitration in accordance with Sub-Clause 20.10(f).</p> <p>(f) If the Parties are unable to resolve the Dispute in accordance with Sub-Clause 20.10(c) or 20.10(e), the Dispute shall be referred, if requested by either Party, to and finally resolved by arbitration in accordance with the UNCITRAL Arbitration Rules then in effect ("Rules") provided that:</p> <p>(iv) there shall be no seat or place of arbitration. The place of hearing shall be the place stated in the Contract Data;</p> <p>(v) the language of the arbitration shall be English;</p> <p>(vi) the arbitral tribunal shall have no authority to award punitive damages; and</p> <p>(vii) the Parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute, controversy, or claim.</p> <p>(g) The arbitral proceedings and any information and documents relating to these proceedings shall be regarded as confidential in accordance with the meaning contemplated in Sub-Clause 1.12 [<i>Confidential Details</i>].</p>
<p>20.11</p> <p>Dispute resolution not to delay execution of the Works</p>	<p>Insert new Sub-Clause as follows:</p> <p>Despite any activation of the dispute resolution procedures under Sub-Clause 20.10 [<i>Dispute resolution procedures</i>], the Contractor shall continue to execute the Works and its other obligations under or in connection with the Contract.</p>
<p>20.12</p> <p>Survival</p>	<p>Insert new Sub-Clause as follows:</p> <p>This Sub-Clause 20 survives the completion, expiry or termination of the Contract.</p>

APPENDIX A

Environmental, Social, Health and Safety (ESHS)

Metrics for Progress Reports

Metrics for regular reporting:

- a. environmental incidents or non-compliances with contract requirements, including contamination, pollution or damage to ground or water supplies;
- b. health and safety incidents, accidents, injuries and all fatalities that require treatment;
- c. interactions with regulators: identify agency, dates, subjects, outcomes (report the negative if none);
- d. status of all permits and agreements:
 - i. work permits: number required, number received, actions taken for those not received;
 - ii. status of permits and consents:
 - list areas/facilities with permits required (quarries, asphalt & batch plants), dates of application, dates issued (actions to follow up if not issued), dates submitted to resident engineer (or equivalent), status of

- area (waiting for permits, working, abandoned without reclamation, decommissioning plan being implemented, etc.);
 - identify major activities undertaken in each area this month and highlights of environmental and social protection (land clearing, boundary marking, topsoil salvage, traffic management, decommissioning planning, decommissioning implementation);
 - for quarries: status of relocation and compensation (completed, or details of monthly activities and current status).
- e. health and safety supervision:
- i. OHS Safety Officer: number days worked, number of full inspections & partial inspections, reports to construction/project management;
 - ii. number of workers, work hours, metric of PPE use (percentage of workers with full personal protection equipment (PPE), partial, etc.), worker violations observed (by type of violation, PPE or otherwise), warnings given, repeat warnings given, follow-up actions taken (if any);
- f. worker accommodations:
- iii. number of expats housed in accommodations, number of locals;
 - iv. date of last inspection, and highlights of inspection including status of accommodations' compliance with national and local law and good practice, including sanitation, space, etc.;
 - v. actions taken to recommend/require improved conditions, or to improve conditions.
- g. HIV/AIDS: provider of health services, information and/or training, location of clinic, number of non-safety disease or illness treatments and diagnoses (no names to be provided);
- h. gender (for expats and locals separately): number of female workers, percentage of workforce, gender issues raised and dealt with (cross-reference grievances or other sections as needed);
- i. training:
- vi. number of new workers, number receiving induction training, dates of induction training;
 - vii. number and dates of toolbox talks, number of workers receiving Occupational Health and Safety (OHS), environmental and social training;
 - viii. number and dates of HIV/AIDS sensitization training, no. workers receiving training (this month and in the past); same questions for gender sensitization, flaglady/flagman training.
- j. environmental and social supervision:

- ix. environmentalist: days worked, areas inspected and numbers of inspections of each (road section, work camp, accommodations, quarries, borrow areas, spoil areas, swamps, forest crossings, etc.), highlights of activities/findings (including violations of environmental and/or social best practices, actions taken), reports to environmental and/or social specialist/construction/site management;
- x. sociologist: days worked, number of partial and full site inspections (by area: road section, work camp, accommodations, quarries, borrow areas, spoil areas, clinic, HIV/AIDS center, community centers, etc.), highlights of activities (including violations of environmental and/or social requirements observed, actions taken), reports to environmental and/or social specialist/construction/site management; and
- xi. community liaison person(s): days worked (hours community center open), number of people met, highlights of activities (issues raised, etc.), reports to environmental and/or social specialist /construction/site management.
- k. Grievances: list this month's and unresolved past grievances by date received, complainant, how received, to whom referred to for action, resolution and date (if completed), data resolution reported to complainant, any required follow-up(Cross-reference other sections as needed):
 - xii. Worker grievances;
 - xiii. Community grievances
- l. Traffic and vehicles/equipment:
 - xiv. traffic accidents involving project vehicles & equipment: provide date, location, damage, cause, follow-up;
 - xv. accidents involving non-project vehicles or property (also reported under immediate metrics): provide date, location, damage, cause, follow-up;
 - xvi. overall condition of vehicles/equipment (subjective judgment by environmentalist); non-routine repairs and maintenance needed to improve safety and/or environmental performance (to control smoke, etc.).
- m. Environmental mitigations and issues (what has been done):
 - xvii. dust: number of working bowsers, number of waterings/day, number of complaints, warnings given by environmentalist, actions taken to resolve; highlights of quarry dust control (covers, sprays, operational status); % of rock/muram/spoil lorries with covers, actions taken for uncovered vehicles;

- xviii. erosion control: controls implemented by location, status of water crossings, environmentalist inspections and results, actions taken to resolve issues, emergency repairs needed to control erosion/sedimentation;
 - xix. quarries, borrow areas, spoil areas, asphalt plants, batch plants: identify major activities undertaken this month at each, and highlights of environmental and social protection: land clearing, boundary marking, topsoil salvage, traffic management, decommissioning planning, decommissioning implementation;
 - xx. spill cleanups, if any: material spilled, location, amount, actions taken, material disposal (report all spills that result in water or soil contamination);
 - xxi. waste management: types and quantities generated and managed, including amount taken offsite (and by whom) or reused/recycled/disposed on-site;
- n. compliance:
- xxii. compliance status for conditions of all relevant consents/permits, for the Work, including quarries, etc.): statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance;
 - xxiii. compliance status of C-ESMP requirements: statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance
 - xxiv. other unresolved issues from previous months related to environmental and social: continued violations, continued failure of equipment, continued lack of vehicle covers, spills not dealt with, continued compensation or blasting issues, etc. Cross-reference other sections as needed.

APPENDIX B TO PCC: CHILD PROTECTION CODE OF CONDUCT

Employer's Child Protection Code of Conduct To Be Signed By All Employees, Sub-contractors, Sub-consultants, and Any Personnel thereof

I, insert name agree that in the course of my association with the Employer, I must:

- treat children with respect regardless of race, colour, gender, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status;
- not use language or behaviour towards children that is inappropriate, harassing, abusive, sexually provocative, demeaning or culturally inappropriate;
- not engage children under the age of 18 in any form of sexual intercourse or sexual activity, including paying for sexual services or acts;
- wherever possible, ensure that another adult is present when working in the proximity of children;
- not invite unaccompanied children into my place of residence, unless they are at immediate risk of injury or in physical danger;
- not sleep close to unsupervised children unless absolutely necessary, in which case I must obtain my supervisor's permission, and ensure that another adult is present if possible;
- use any computers, mobile phones, video cameras, cameras or social media appropriately, and never to exploit or harass children or access child exploitation material through any medium;
- not use physical punishment on children;
- not hire children for domestic or other labour which is inappropriate given their age or developmental stage, which interferes with their time available for education and recreational activities, or which places them at significant risk of injury;
- comply with all relevant local legislation, including labour laws in relation to child labour;
- immediately report concerns or allegations of child exploitation and abuse and policy non-compliance in accordance with appropriate procedures;
- immediately disclose all charges, convictions and other outcomes of an offence, which occurred before or occurs during my association with the Employer that relate to child exploitation and abuse.

When photographing or filming a child or using children's images for work-related purposes, I must:

- assess and endeavour to comply with local traditions or restrictions for reproducing personal images before photographing or filming a child;
- Obtain informed consent from the child and parent or guardian of the child before photographing or filming a child. As part of this I must explain how the photograph or film will be used;

- ensure photographs, films, videos and DVDs present children in a dignified and respectful manner and not in a vulnerable or submissive manner. Children should be adequately clothed and not in poses that could be seen as sexually suggestive;
- ensure images are honest representations of the context and the facts;
- ensure file labels, meta data or text descriptions do not reveal identifying information about a child when sending images electronically or publishing images in any form;

I understand that the onus is on me, as a person associated with the Employer, to use common sense and avoid actions or behaviours that could be construed as child exploitation and abuse.

Signed:

Date:

Section X. Contract Forms

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Notification of Award

LETTER OF ACCEPTANCE

[letterhead paper of the Employer]

[date]

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

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

You are requested to furnish the Performance Security within 28 days in accordance with the Conditions of Contract, using for that purpose one of the Performance Security Forms 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 executed by the Contractor, and has accepted a Bid by the Contractor for the execution and completion of these Works and the remedying of any defects therein,

The Employer and the Contractor agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.

2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.

- (i) the Letter of Acceptance
- (ii) the Letter of Bid
- (iii) the addenda Nos _____(if any)
- (iv) the Particular Conditions
- (v) the General Conditions;
- (vi) the Specification
- (vii) the Drawings; and
- (viii) the completed Schedules and any other documents forming part of the contract, including, but not limited to:
 - i. the ESHS Management Strategies and Implementation Plans; and
 - ii. Code of Conduct (ESHs).

3. In consideration of the payments to be made by the Employer to the Contractor as specified in this Agreement, the Contractor hereby covenants

with the Employer to execute the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract.

4. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the 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.

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)

Performance Security

Option 1: (Demand Guarantee)

Beneficiary: _____

Date: _____

PERFORMANCE GUARANTEE No.: _____

Guarantor: _____

We have been informed that _____ (hereinafter called "the Applicant") has entered into Contract No. _____ dated _____ with the Beneficiary, for the execution of _____ (hereinafter called "the Contract").

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

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

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

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

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

[signature(s)]

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

² Insert the date twenty-eight days after the expected completion date as described in GC Clause 11.9. The Employer should note that in the event of an extension of this date for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

Option 2: Performance Bond

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

WHEREAS the Contractor has entered into a written Agreement with the Employer dated the _____ day of , 20 __, for _____ in accordance with the documents, plans, specifications, and amendments thereto, which to the extent herein provided for, are by reference made part hereof and are hereinafter referred to as the Contract.

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

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

paragraph, shall mean the total amount payable by Employer to Contractor under the Contract, less the amount properly paid by Employer to Contractor; or

- (3) pay the Employer the amount required by Employer to complete the Contract in accordance with its terms and conditions up to a total not exceeding the amount of this Bond.

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

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

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

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

SIGNED ON _____ on behalf of _____

By _____ in the capacity of _____

In the presence of _____

SIGNED ON _____ on behalf of _____

By _____ in the capacity of _____

In the presence of _____

Advance Payment Security

Demand Guarantee

Beneficiary: _____

Date: _____

ADVANCE PAYMENT GUARANTEE No.: _____

Guarantor: _____

We have been informed that _____ (hereinafter called "the Applicant") has entered into Contract No. _____ dated _____ with the Beneficiary, for the execution of _____ (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum _____ (_____) is to be made against an advance payment guarantee.

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

(c) has used the advance payment for purposes other than the costs of mobilization in respect of the Works; or

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

(d) has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount which the Applicant has failed to repay.

A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the advance payment referred to above has been credited to the Applicant on its account number _____ at _____..

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

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

[signature(s)]

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

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

Retention Money Security

Demand Guarantee

_____ [Guarantor letterhead or SWIFT identifier code]

Beneficiary: _____ [Insert name and Address of Employer]

Date: _____ [Insert date of issue]

RETENTION MONEY GUARANTEE No.: [Insert guarantee reference number]

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

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

Furthermore, we understand that, according to the conditions of the Contract, the Beneficiary retains moneys up to the limit set forth in the Contract ("the Retention Money"), and that when the Taking-Over Certificate has been issued under the Contract and the first half of the Retention Money has been certified for payment, payment of [insert the second half of the Retention Money or if the amount guaranteed under the Performance Guarantee when the Taking-Over Certificate is issued is less than half of the Retention Money, the difference between half of the Retention Money and the amount guaranteed under the Performance Security and, if required, the ESHS Performance Security] is to be made against a Retention Money guarantee.

At the request of the Applicant, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of _____ [insert amount in figures] (_____) [amount in words]¹

¹ The Guarantor shall insert an amount representing the amount of the second half of the Retention Money or or if the amount guaranteed under the Performance Guarantee when the Taking-Over Certificate is issued is less than half of the Retention Money, the difference between half of the Retention Money and the amount guaranteed under the Performance Security and denominated either in the currency(ies) of the second half of

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...², and any demand for payment under it must be received by us at the office indicated above on or before that date.

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

[signature(s)]

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

the Retention Money as specified in the Contract, or in a freely convertible currency acceptable to the Beneficiary.

² *Insert the same expiry date as set forth in the performance security, representing the date twenty-eight days after the completion date described in GC Clause 11.9. The Employer should note that in the event of an extension of this date for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."*

