



REPUBLIC OF GHANA

**STANDARD
TENDER DOCUMENTS**

**Procurement of
Technical Services**

**Public Procurement Authority
Accra, Ghana**

July 2018

Preface

This Standard Tender Document (STD)) for the procurement of Technical Services has been prepared for use by Procurement Entities of the Republic of Ghana in accordance with the Public Procurement Act, 2003 (Act 663) as amended in the procurement of Technical Services through National Competitive Tendering (NCT) and International Competitive Tendering (ICT).

Before preparing the STD, the user must be familiar with the appropriate procurement method to be used, the provisions of the Public Procurement Act as amended, the Regulations and the Procurement Manuals for the selection of Tenderers.

This Standard Tender Document (STD) is intended as model lump-sum types of Contract, which are the most common in Technical Services contracting. Lump sum contracts are used in particular for Technical Services which are well defined and are unlikely to change in quantity or specification, and where encountering difficult or unforeseen site conditions is unlikely¹.

Care shall be taken to check the relevance of the provisions of the standard documents against the requirements of the specific Services to be procured. The following directions shall be observed when using the documents:

- (a) All the documents listed in the Table of Contents are normally required for the procurement of Technical Services; however, they shall be adapted as necessary to the circumstances of the particular Project.
- (b) Details to be provided by the Employer prior to release of the tender documents are limited to the Invitation for Tenders (Section I), Instructions to Tenderers (Section II), Tender Data Sheet (Section III), and Special Conditions of Contract (Section V), in addition to Sections VI and VII, which deal with Performance Specifications and Drawings, and Activity Schedule, respectively. Specific details shall be furnished in the spaces indicated by italicized notes inside brackets. Those details not filled in by the Employer are the responsibility of the Tenderer.

The Instructions to Tenderers and the General Conditions of Contract shall not be modified. Any special conditions relating to the assignment shall be described in the Tender Data Sheet or the Special Conditions of Contract.

However, relevant information specific to each Contract to be provided by the Procurement Entity shall only be included by substituting/filling-in the provided sections of Contract marked with italicized text in box brackets i.e. [*insert here*] or dashes i.e. _____.

All italicized text (including footnotes) are for use in preparing the Tender documents and shall not be included in the final product.

¹ Lump sum contracts should be used for services that can be defined in their full physical and qualitative characteristics before tenders are called, or where the risks of substantial design or performance variations are minimal. In lump sum contracts, the concept of priced “activity schedules” has been introduced, to enable payments to be made as “activities” are completed. Payments can also be made on the basis of percentage completion of each activity.

INVITATION FOR TENDERS (IFT)

IFT No: _____

Title of Technical Services: _____

Project Name: _____

Employer: _____

Date: _____

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SECTION I : INVITATION FOR TENDERS

Invitation for Tenders

[on letterhead of Employer]

Tender No.

for

[Insert title or brief description of the technical service]

Invitation for Tenders

Date:

1. This Invitation for Tenders follows the General Procurement Notice for this Project which appeared in *[insert media]* Issue no. *[insert the issue No]* dated *[insert dates of issue of GPN]*.

The Government of Ghana has set aside funds for the operation of the *[insert the name of Procurement Entity]* during the financial year *[insert the year under financing]*. It is intended that part of the proceeds of the fund will be used to cover eligible payment under the contract for the *[insert the name of the contract]*

Or

The _____ *[insert name of Procurement Entity/Employer]* intends to apply part of its budgetary allocation to fund eligible payments under the contract for *[insert the name of the contract i.e. the description of the particular technical service]* towards the realization of the above cited procurement.

2. The *[insert name of Procurement Entity]* now invites sealed Tenders from eligible Tenderers for the procurement of *[insert brief description of the technical services]*.

Tendering will be conducted through the National and International Competitive Tendering procedures specified in the Public Procurement Act, 2003 (Act 663) as amended and in the Guidelines of the Public Procurement Authority of the Republic Ghana.

3. Interested eligible Tenderers may obtain further information from *[insert name of Procurement Entity]* and inspect the Tender document at the address given below *[state address at end of document]* from *[insert office hours]*.
4. A complete set of Tender document in English may be purchased by interested Tenderers on the submission of a written application to the address below *[state address at the end of this document]* and upon a payment of a non-refundable fee *[insert amount in Cedis or any free convertible currency]*.

5. Tenders must be delivered to the address below *[state address at the end of this document]* at or before *[insert time and date]*. Tenders shall be valid for a period of *[insert number of days as specified in Tender Data Sheet]* days after the deadline of Tender submission. All Tenders must be accompanied by a Tender Security not less than *Two percent (2%) of the Tender price or as stated in the Tender Data Sheet*.
6. Late Tenders will not be accepted and will be returned unopened to the Tenderer. Tenders will be opened in the presence of the Tenderers' representatives who choose to attend at the address below *[state address at end of this document]* at *[insert time and date]*. A register of potential tenderers who have purchased the tender document may be inspected at the address below.
7. It is mandatory that Tenderers include in their tender the underlisted statutory requirements.
- Valid GRA Tax Clearance Certificate.
 - Valid SSNIT Clearance Certificate.
 - Valid VAT Registration Certificate (if applicable).
 - Valid Business Registration Certificate with up to date renewal receipt.
 - Valid Certificate of Incorporation with up to date renewal receipt.
 - Valid Certificate of Commencement with up to date renewal receipt.
 - Valid Registration Certificate from PPA

Note: These requirements may not apply in International Competitive Tendering.

Address(es):

[Insert name of office].

[Insert name of officer].

[Insert postal address] and/or [Insert street address].

[Insert telephone number, indicate country and city code].

[Insert facsimile and/or email address].

SECTION II: INSTRUCTIONS TO TENDERERS

Instructions to Tenderers

A. Introduction

- 1. Scope of Tender** 1.1 The Employer indicated in the **Tender Data Sheet** (TDS), invites Tenders for the provision of Services as specified in the **Tender Data Sheet, Section VI-Performance Specifications** and Drawings; and **Section VII-Activity Schedule**.
- The name and identification number of the Contract** is provided in the **Tender Data Sheet**. The name, description and identification number of lots comprising this contract is in the **Tender Data Sheet**.
- 1.2 The successful Tenderer will be expected to provide the service(s) within the period stated in the **Tender Data Sheet** from the start date specified in the **Tender Data Sheet**.
- 2. Source of Funds** 2.1 The Government of the Republic of Ghana has set aside sufficient funds for the operations of the Procurement Entity/ Employer named in the **Clause 1.1** above during the Financial Year indicated in the **Tender Data Sheet**. It is intended that part of the proceeds of the funds will be applied to cover eligible payments under the contract for the provision of services as described in **Clause 1.1**.
- Or
- The Government of the Republic of Ghana through the Employer named in the **Tender Data Sheet** has applied for/received/ intends to apply for a [loan/ credit] grants from the financing institution named in the **Tender Data Sheet** towards the cost of the Project named in the **Tender Data Sheet**. The Republic of Ghana intends to apply a part of the proceeds of this loan/credit to payments under the Contract for the provision of services described in the **Tender Data Sheet**.
- 2.2 Payments will be made directly by the Employer (or by financing institution specified in the **Tender Data Sheet** upon request of the Entity to so pay) and will be subject in all respects to the terms and conditions of the resulting Contract placed by the Employer
- 3. Eligible Tenderers** 3.1 A Tenderer may be natural persons, companies or firms of The Republic of Ghana and/or foreign countries subject to **ITT Clause 3.4**, or any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a joint venture, consortium, or association. In the case of a joint venture, consortium, or

association, all members shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms. The joint venture, consortium, or association shall nominate a Lead Member who shall have the authority to conduct all business for and on behalf of any and all the members of the joint venture, consortium, or association during the tendering process and, in the event the joint venture, consortium, or association is awarded the Contract, during contract execution. Unless specified in the Tender Data Sheet, there is no limit on the number of members in a joint venture, consortium, or association.

- 3.2 The Lead Member shall at the time of contract award confirm the appointment by submission of a Power of Attorney to the Employer.
- 3.3 Any Tender from a joint venture, consortium or association shall indicate the part of proposed contract to be performed by each party and each party shall be evaluated or post qualified with respect to its contribution only and the responsibilities of each party and shall not be substantially altered without prior written approval of the Procurement Entity/Employer.
- 3.4 The invitation for Tenders is open to all service providers as defined in the **Public Procurement Act 2003, Act 663**, as amended except as provided hereinafter.
- 3.5 All Tenderers shall satisfy all relevant licensing, registration and tax requirements with the appropriate statutory bodies in The Republic of Ghana. Foreign Tenderers are exempted from this requirement but where selected as having submitted the lowest evaluated Tender the successful Tenderer shall register with the appropriate statutory body and shall be required to submit evidence of tax obligations and registration as an approved Service Provider in The Republic of Ghana before signing the Contract.
- 3.6 A Tenderer shall not have a conflict of interest. All Tenderers found to be in conflict of interest shall be disqualified. A Tenderer may be considered to have a conflict of interest with one or more parties in this tendering process, if they:
 - a) Are associated or have been associated in the past, directly or indirectly with a firm or any of its affiliates which have been engaged by the Procurement Entity/Employer to provide consulting services for the preparation of the design, specifications and other documents to be used for the procurement of the technical services to be procured under this Invitation for Tenders.

- b) have controlling shareholders in common; or
- c) receive or have received any direct or indirect subsidy from any of them; or
- d) have the same legal representative for purposes of this Tender; or
- e) have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the Tender of another Tenderer, or influence the decisions of the Procurement Entity/Employer regarding this tendering process; or
- f) submit more than one Tender in this tendering process. However, this does not limit the participation of sub-Contractors in more than one Tender, or as Tenderers and sub-Contractors simultaneously; or
- g) participated as a consultant in the preparation of the design or technical specifications of the services that are the subject of the Tender.

3.7 A Tenderer may be ineligible if:

- a) the Tenderer is declared bankrupt or, in the case of company or firm, insolvent
- b) payments in favour of the Tenderer is suspended in accordance with the judgment of a court of law other than a judgment declaring bankruptcy and resulting, in accordance with the national laws, in the total or partial loss of the right to administer and dispose of its property;
- c) legal proceedings are instituted against such Tenderer involving an order suspending payments and which may result, in accordance with the national laws, in a declaration of bankruptcy or in any other situation entailing the total or partial loss of the right to administer and dispose of the property;
- d) the Tenderer is convicted, by a final judgment, of any offence involving professional conduct;
- e) The tenderer is debarred and blacklisted in accordance with Section 22(1)(e) and Section 93 (2) of Act 663 as amended, from participating in public

procurement for corrupt, coercive, collusive, fraudulent or obstructive practices, Tender breach of a procurement contract, making false representation about his qualifications during tender proceeding or other grounds as may be deemed necessary by the Authority; the company or firm is found guilty of serious misrepresentation with regard to information required for participation in an invitation to tender or to submit proposals.

3.8 Tenderers shall provide to the Procurement Entity/Employer evidence of their eligibility, proof of compliance with the necessary legal, professional, technical, environmental and financial requirements and their capability and, adequacy of resources to carry out the contract effectively.

3.9 Tenderers shall provide such evidence of their continued eligibility satisfactory to the Procurement Entity/Employer, as the Procurement Entity/Employer shall reasonably request.

3.10 Tenderers shall submit proposals relating to the nature, conditions and modalities of sub-contracting wherever the sub-contracting of any elements of the contract amounting to more than ten percent of the tender price is envisaged.

4. One Tender per Tenderer

4.1 A firm shall submit only one Tender, in the same tendering process, either individually as a Tenderer or as a partner in a joint venture. No firm can be a sub-Contractor while submitting a Tender individually or as a partner of a joint venture in the same tendering process. A firm, if acting in the capacity of sub-Contractor in any Tender, may participate in more than one Tender but only in that capacity. A Tenderer who submits or participates in more than one Tender (other than as a sub-Contractor or in cases of alternatives that have been permitted or requested) will cause all the proposals in which the Tenderer has participated to be disqualified.

5. Cost of Tendering

5.1 The Tenderer shall bear all costs associated with the preparation and submission of its Tender, and the Procurement Entity/Employer will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.

6. Site Visit and Pre-Tender meeting

6.1 The Tenderer, at the Tenderer's own responsibility and risk, is advised to visit and examine the site on which service(s) are to be provided and obtain for itself all information that may be necessary for preparing the Tender and entering into a Contract for provision of the service(s). The costs of visiting the Site shall be at the Tenderer's own expense.

- 6.2 The Procurement Entity/Employer may conduct a site visit and a pre- tender meeting whose purpose shall be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 6.3 The Tenderer's designated representative is invited to attend site visit and a pre-Tender meeting which, if convened, will take place at the venue and time stipulated in the **Tender Data Sheet**.
- 6.4 The Tenderer is requested as far as possible, to submit any questions in writing or in electronic forms that provide record of the content of communication, to reach the Procurement Entity/Employer before the pre-Tender meeting. It may not be practicable at the meeting to answer all questions received late, but questions and responses will be transmitted in accordance with **ITT Clause 6.5**.
- 6.5 Minutes of the pre-Tender meeting, including the text of the questions raised and the responses given together with any responses prepared after the pre-Tender meeting will be transmitted within five (5) days to all purchasers of the Tender Documents. Any modification of the Tender Documents listed in **ITT Clause 23.1** that may become necessary as a result of the pre-tender meeting shall be made by the Procurement Entity/Employer exclusively through the issue of an Addendum pursuant to **ITT Clause 9** and not through the minutes of the pre-Tender meeting.
- 6.6 Non- attendance during the site visit or pre-tender meeting will not be a cause for disqualification of a Tenderer.

B. Tender Documents

7. Content of Tender Documents

7.1 The services to be provided, tendering procedures and contract terms are prescribed in the Tender Documents. In addition to the **Section I: Invitation for Tenders** the Tender Documents which shall be read in conjunction with any addenda issued in accordance with **ITT Clause 9** include:

Section II.	Instructions to Tenderers
Section III.	Tender Data Sheet
Section IV.	General Conditions of Contract (GCC)
Section V.	Special Conditions of Contract (SCC)
Section VI.	Performance Specifications and Drawings (if applicable)
Section VII.	Activity Schedule
Section VIII.	Tender Forms Service Provider's Form of Tender Forms of Qualification Information Letter of Acceptance Contract Form
Section IX.	Form of Security Tender Security Performance Bank Guarantee Bank Guarantee for Advance payment

7.2 The number of copies of Tenders to be completed and submitted is specified in the Tender Data Sheet

7.3 The Invitation for Tenders (Section I) issued by the Procurement Entity/Employer does not form part of the Tender Documents and is included as reference only. In case of discrepancies between the Invitation for Tender and the Tender Documents listed in **ITT Clause 7.1** above, said Tender Documents will take precedence.

7.4 The Procurement Entity/Employer is not responsible for the completeness of the Tender Documents and their addenda, if they were not obtained directly from the Procurement Entity/Employer.

7.5 The Tenderer is expected to examine all instructions, forms, terms, and specifications in the Tender Documents. Failure to furnish all information required by the Tender Documents or to submit a Tender not substantially responsive to the Tender Documents in every respect will be at the Tenderer's risk and may result in the rejection of its Tender.

8. Clarification of Tender Documents

8.1 A prospective Tenderer requiring any clarification of the Tender Documents may notify the Procurement

Entity/Employer in writing or in electronic forms that provide record of the content of communication at the Procurement Entity/Employer's address indicated in the **Tender Data Sheet** prior to the deadline for the submission of Tenders prescribed in **ITT Clause 21.1**

- 8.2 The Procurement Entity/Employer will, within five (5) working days after receiving the request for clarification respond to any request for clarification received no later than fourteen (14) days prior to the deadline for submission of Tenders and in the case of non-competitive methods, five (5) days prior to the deadline.
- 8.3 Copies of the Procurement Entity/Employer's response will be forwarded to all Purchasers of the Tender Documents, including a description of the inquiry, but without identifying its source.
- 8.4 Shall the Procurement Entity/Employer deem it necessary to amend the Tender Documents as a result of a clarification, it shall do so following the procedure under **ITT Clause 9**.

9. Amendment of Tender Documents

- 9.1 Before the deadline for submission of Tenders, the Procurement Entity/Employer for any reason, whether at its own initiative or in response to a clarification requested by a prospective Tenderer, may modify the Tender Documents by issuing addenda.
- 9.2 Any addendum including the notice of any extension of the deadline shall be part of the Tender Documents pursuant to **ITT Clause 7.1** and shall be communicated in writing or in electronic forms that provide record of the content of communication to all who have obtained the Tender Documents directly from the Procurement Entity/Employer. Prospective Tenderers shall acknowledge receipt of each addendum in writing or in electronic forms that provide record of the content of communication.
- 9.3 In order to allow prospective Tenderers reasonable time in which to take an addendum into account in preparing their Tenders, the Procurement Entity/Employer at its discretion may extend the deadline for submission of Tenders, in accordance with **Clause 21.2**.

C. Preparation of Tenders

- 10. Language of Tender** 10.1 The Tender, prepared by the Tenderer as well as all correspondence and documents related to the Tender exchanged by the Tenderer and the Procurement Entity/Employer, supporting documents and printed literature furnished by the Tender shall be in English, the official language of the Republic of Ghana.
- 11. Documents Constituting the Tender**
- The Tender prepared by the Tenderer shall constitute the following components:
- a) The Form of Tender (in the format provided in Section VIII);
 - b) Information requested by **ITT Clauses 12.3; 12.4 and 12.5;**
 - c) Tender Security in accordance with **ITT Clause 17;**
 - d) Priced Activity Schedule;
 - e) Forms of Qualification Information (in the format provided in Section VIII) and Documents;
 - f) Alternative offers where invited in accordance with **ITT Clause 18;**
 - g) Written Power of Attorney authorizing the signatory of the Tender to commit the Tenderer in accordance with **ITT Clause 19.**
 - h) any other document required in the **Tender Data Sheet.**
- 12. Documents Establishing Eligibility and Qualifications of the Tenderer**
- 12.1 Pursuant to **ITT Clause 11**, the Tenderer shall furnish, as part of its Tender, documents establishing the Tenderer's eligibility to Tender and its qualifications to perform the contract if its Tender is accepted.
- 12.2 If the Procurement Entity/Employer has not undertaken pre-qualification of potential Tenderers, all Tenderers shall submit information and documents with their Tenders in **Section V–Tender Forms–Form of Qualification Information.**
- 12.3 To qualify for award of the Contract, Tenderers shall meet the qualifying criteria stated in **Section V–Forms of Tender-Form of Qualification Information.**
- 12.4 The figures for each of the partners of a joint venture shall be added together to determine the Tenderer's compliance with

the minimum qualifying criteria however, for a joint venture to qualify, its partners must meet at least 25 percentages of minimum criteria on Average Annual Turnover, Experience and Financial Capability (liquid assets, unencumbered real assets, line of credits and other financial means) for an individual Tenderer and the partner in charge at least 40 percent to those minimum criteria. Failure to comply with this requirement will result in rejection of the joint venture's Tender. Sub-Contractors' experience and resources will not be taken into account in determining the Tenderer's compliance with the qualifying criteria unless otherwise stated in the **Tender Data Sheet**.

12.5 Domestic Tenderers and joint-ventures of domestic and foreign Tenderers applying for eligibility for a margin of preference in Tender evaluation shall supply all information to satisfy the criteria for eligibility as described in **ITT Clause 32**

12.6 When tendering for more than one Contract broken into lots or packages, the Tenderer must provide evidence that it meets or exceeds the sum of all the individual requirements for the lots being applied for in regard to:-

- a) average annual turnover;
- b) experience;
- c) financial capabilities, etc.;
- d) personnel capabilities; and
- e) Equipment capabilities.

In case the Tenderer fails to fully meet any of these criteria, it may be qualified only for those lots for which the Tenderer meets the above requirement.

13. Service Provider's Form of Tender

13.1 The Tenderer shall fill the Service Provider's Form of Tender furnished in the Tender Documents. The Form of Tender must be completed without any alterations to its format and no substitution shall be accepted

14. Tender Prices

14.1 The Contract shall be for the service(s), as described in sub-Clause 1.1, based on the priced Activity Schedule submitted by the Tenderer.

14.2 The Tenderer shall fill in rates and prices for all items of the Service(s) described in **Section VIII- Performance Specifications** and listed in **Section VII - Activity Schedule**. Items for which no rate or price is entered by the Tenderer will not be paid for by the Procurement

Entity/Employer when executed and shall be deemed covered by the other rates and prices in the Activity Schedule. On the other hand, if the Tenderer introduces new Activity Schedule items not specified in the Tender Documents, the new items, corresponding quantities and prices shall not be accepted, and the Tender may be disqualified as being substantially non-responsive.

14.3 All duties, taxes, and other levies payable by the service provider under the Contract, or for any other cause, as of the date 28 days prior to the deadline for submission of Tenders, shall be included in the rates, prices, and total Tender price submitted by the Tenderer.

14.4 The rates and price quoted by the Tenderer shall be subject to adjustment during the performance of the Contract if provided for in the **Tender Data Sheet** and the provisions of **Clause 6.3** of the **General Conditions of Contract**. The Tenderer shall submit with the Tender all the information required under the **Tender Data Sheet** and **Clause 6.3** of the **General Conditions of Contract**.

15. Tender Currencies

15.1 The price shall be quoted by the Tenderer separately in the following currencies

- a) for those inputs to the Services which the Tenderer expects to provide from within The Republic of Ghana, the prices shall be quoted in Ghana Cedi (GHS), unless otherwise specified in the **Tender Data Sheet**; and
- b) for those inputs to the Services which the Tenderer expects to provide from outside The Republic of Ghana, the prices shall be quoted in any freely convertible currency.

15.2 Tenderers shall indicate details of their expected foreign currency requirements in the Tender.

15.3 Tenderers may be required by the Procurement Entity/Employer to clarify their foreign currency requirements and to substantiate that the amounts included in Lump Sum and in the Special Conditions of Contract are reasonable and responsive to **ITT sub-Clause 15.1**.

16. Tender Validity Period

16.1 Tenders shall remain valid for the period specified in the **Tender Data Sheet** after the deadline for Tender submission specified in **ITT Clause 21**. A tender valid for a shorter period shall be rejected by the Procurement Entity/Employer as non-responsive.

16.2 In exceptional circumstances, prior to expiry of the original Tender validity period, the Procurement Entity/Employer may request that the Tenderers extend the period of validity for a specified additional period. The request and the

Tenderers' responses shall be made in writing or in electronic forms that provide record of the content of communication. A Tenderer may refuse the request without forfeiting its Tender Security or causing to be executed its Tender Securing Declaration. A Tenderer agreeing to the request will not be required or permitted to otherwise modify the Tender but will be required to extend the validity of its Tender Security or Tender Securing Declaration for the period of the extension, and in compliance with **ITT Clause 21** in all respects.

16.3 In the case of fixed price contracts, if the award is delayed by a period exceeding sixty (60) days beyond the expiry of the initial Tender validity period, the contract price will be increased by a factor (mutually agreed by the Procurement Entity/Employer and Service Provider) specified in the request for extension. The Tender evaluation shall be based on the Tender price without taking into consideration on the above correction.

- 17. Tender Security**
- 17.1 Pursuant to **ITT Clause 11**, unless otherwise specified in the **Tender Data Sheet**, the Tenderer shall furnish as part of its Tender, a Tender Security in original form and in the amount and currency specified in the **Tender Data Sheet** as specified in the **Tender Data Sheet** and in the format provided in **Section V**.
- 17.2 The Tender Security is required to protect the Procurement Entity/Employer against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to **ITT Clause 17.9**, denominated in the currency of the Tender or in another freely convertible currency, and shall be in one of the following forms:
- 17.3 The Tender Security shall be;
- a) a bank guarantee, an irrevocable letter of credit issued by a reputable bank, or an insurance bond issued by a reputable insurance firm in the form provided in the Tender Documents or another form acceptable to the Procurement Entity/Employer and valid for twenty-eight (28) days beyond the end of the validity of the Tender. This shall also apply if the period for Tender validity is extended. In either case, the form must include the complete name of the Tenderer; or,
 - b) another security if indicated in the **Tender Data Sheet**.
- 17.4 The Tender security shall be in accordance with the Form of the Tender security included in **Section IX** or another form approved by the Procurement Entity/Employer prior to the Tender submission.
- 17.5 The Tender Security shall be payable promptly upon written

demand by the Procurement Entity/Employer in case any of the conditions listed in **ITT Clause 17.9** are invoked.

- 17.6 Any Tender not accompanied by a Tender Security in accordance with **ITT Clauses 17.1** and **17.3** shall be rejected by the Procurement Entity/Employer as non-responsive, pursuant to **ITT Clause 27**.
- 17.7 Unsuccessful Tenderers' Tender Security will be discharged or returned as promptly as possible as but not later than fourteen (14) days after the expiration of the period of Tender validity prescribed by the Procurement Entity/Employer pursuant to **ITT Clause 16**.
- 17.8 The successful Tenderer's Tender Security will be discharged upon the Tenderer signing the contract or pursuant to **ITT Clause 40**, and furnishing the Performance Security, pursuant to **ITT Clause 41**.
- 17.9 The Tender Security may be forfeited executed:
- a) if the Tenderer:
 - i) withdraws its Tender during the period of Tender validity specified by the Tenderer on the Service Provider's Form of Tender except as provided for in **ITT Clause 16.2**; or
 - ii) does not accept the correction of its Tender price, pursuant to **ITT Clause 29**; or
 - b) in the case of a successful Tenderer, if the Tenderer fails within the specified time limit to:
 - i) sign the Contract in accordance with **ITT Clause 40**; or
 - ii) to furnish Performance Security in accordance with **ITT Clause 41**.
- 17.10 The Tender Security of a joint venture must be in the name of the joint venture submitting the Tender.

Procurement Entity/Employer

18. Alternative Tenders by Tenderers

- 18.1 Tenderers shall submit offers that comply with the requirements of the Tender Documents, as indicated in **Section VIII – Performance Specifications** and **Section VII - Activity Schedule**. Alternatives will not be

considered, unless specifically allowed for in the **Tender Data Sheet**. If so allowed, **ITT Clauses 18.2 and 18.3** shall govern.

18.2 When alternative times for completion are explicitly invited, a statement to that effect will be included in the **Tender Data Sheet** and the method of evaluating different time schedule will be described in Section IV, Evaluation and Qualification Criteria.

18.3 When specified in the **Tender Data Sheet**, Tenderers are permitted to submit alternative technical solutions for specified parts of the Services, and such parts will be identified in the **Tender Data Sheet**, as will the method for their evaluating, and described in **Section IV, Procurement Entity/Employer's Requirements**.

19. Format and Signing of Tender

19.1 The Tenderer shall prepare one original of the documents constituting the Tender as described in **ITT Clause 11**, bound with the volume containing the Service Provider's Form of Tender, and clearly marked "**ORIGINAL**". In addition, the Tenderer shall submit copies of the Tender, in the number specified in the **Tender Data Sheet**, and clearly marked as "**COPIES**." In the event of discrepancy between them, the original shall prevail.

19.2 The original and the copy or copies of the Tender shall be typed or written in indelible ink and shall be signed by the Tenderer or a person or persons duly authorized to sign on behalf of the Tenderer. This authorization shall consist of a written confirmation as specified in the **Tender Data Sheet** and shall be attached to the Tender. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Tender, except for un-amended printed literature, shall be initialled by the person or persons signing the Tender.

19.3 Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialled by the person signing the Tender.

19.4 The Tenderer shall furnish information as described in the Service Provider's Form of Tender on commissions or gratuities, if any, paid or to be paid to agents relating to this Tender and to Contract execution if the Tenderer is awarded the Contract.

D. Submission of Tenders

- 20. Sealing and Marking of Tenders**
- 20.1 The Tenderer shall seal the original and each copy of the Tender, in separate sealed envelopes, duly marking the envelopes as “**ORIGINAL**” and “**COPY**.” These envelopes containing the original and the copies shall then be enclosed in one single plain envelope securely sealed in such a manner that opening and resealing cannot be achieved undetected.
- 20.2 The inner and outer envelopes shall
- a) bear the name and address of the Tenderer;
 - b) Procurement Entity/Employer
be addressed to the Procurement Entity/Employer in accordance with ITT Sub-Clause 21.1;
 - c) bear the specific identification of this tendering process indicated in ITT 1.1 and any additional identification marks as specified in the **Tender Data Sheet**
 - d) Bear a statement, “DO NOT OPEN BEFORE” the time and date for tender opening, in accordance with ITT Sub-Clause 21.1
- 20.3 In addition to the identification required in **Clause 20.2**, the inner envelopes shall indicate the name and address of the Tenderer to enable the Tender to be returned unopened in case it is declared late, pursuant to **ITT Clause 22**, and for matching purposes under **ITT Clause 23**.
- 20.4 If all envelopes are not sealed and marked as required by **ITT Clauses 20.1 to 20.3**, the Procurement Entity/Employer shall assume no responsibility for the misplacement or premature opening of the Tender.
- 20.5 If the outer envelope discloses the Tenderer’s identity, the Procurement Entity/Employer will not guarantee the anonymity of the Tender submission, but this shall not constitute grounds for rejection of the Tender.
- 21. Deadline for Sub-mission of Tenders**
- 21.1 Tenders shall be received by the Procurement Entity/Employer at the address specified in **sub-Clause 20.2 (a)** no later than the date and time specified in the **Tender Data Sheet**.
- 21.2 The Procurement Entity/Employer may, in exceptional circumstances and at its discretion, extend the deadline for submission of Tenders by issuing and amending the Tender

Documents in accordance with **ITT Clause 9**, in which case all rights and obligations of the Procurement Entity/Employer and the Tenderers previously subject to the original deadline will thereafter be subject to the new deadline.

- 22. Late Tenders**
- 22.1 The Procurement Entity/Employer shall not consider for evaluation any Tender that arrives after the deadline for submission of Tenders, in accordance with **ITT Clause 21**
- 22.2 Any Tender received by the Procurement Entity/Employer after the deadline for submission of Tenders shall be declared late, rejected, and returned unopened to the Tenderer.
- 23. Modification, Substitution and Withdrawal of Tender**
- 23.1 A Tenderer may modify, substitute or withdraw its Tender after submission provided that written notice of the modification, substitution or withdrawal is received by the Procurement Entity/Employer prior to the deadline for submission.
- 23.2 The Tenderer's modification, substitution, and withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with **ITT Clauses 20 and 21**, with the outer and inner envelopes additionally marked "MODIFICATION", "SUBSTITUTION, or "WITHDRAWAL," as appropriate. The notice may also be sent in writing or in electronic forms that provide record of the content of communication but followed by a signed confirmation copy dated not later than the deadline for submission of Tenders.
- 23.3 Tenders may only be modified by withdrawal of the original Tender and submission of a replacement Tender in accordance with **Clause 23.1**. Modifications submitted in any other way shall not be taken into account in the evaluation of Tenders.
- 23.4 Tenderers may only offer discounts or modify the prices of their Tenders by submitting Tender modifications in accordance with this Clause or included in the original Tender submission.
- 23.5 No Tender may be withdrawn, replaced or modified in the interval between the deadline for submission of Tenders and the expiration of the period of Tender validity specified by the Tender on the Service Provider's Form of Tender. Withdrawal of a Tender during this interval shall result in the Tenderer's forfeiture of its Tender Security or execution of the Tender Securing Declaration, pursuant to the **ITT Clause 17.9**.

E. Opening and Evaluation of Tenders

24. Opening of Tenders

- 24.1 The Procurement Entity/Employer will open all Tenders, including modifications, substitutions or withdrawal notices made pursuant to **ITT Clause 23**, in public, in the presence of Tenderers or their representatives who choose to attend, and other parties with a legitimate interest in the Tender proceedings, at the place, on the date and at the time specified in the **Tender Data Sheet**. Tenderers' representatives present shall sign a register as proof of their attendance.
- 24.2 Envelopes marked "WITHDRAWAL" shall be opened and read out first. Tenders for which an acceptable notice of withdrawal has been submitted pursuant to **ITT Clause 23** shall not be opened but returned to Tenderer. If the withdrawal envelope does not contain a copy of the "Power of Attorney" confirming the signature of a person duly authorized to sign on behalf of the Tenderer, the corresponding Tender will be opened. Subsequently, all envelopes marked "MODIFICATION" shall be opened and the submissions therein read out in appropriate detail. Thereafter, all envelopes marked "SUBSTITUTION" shall be opened and the submissions therein read out in appropriate detail.
- 24.3 All other envelopes shall be opened one at a time. The Tenderers' names, the Tender prices, the total amount of each Tender and of any alternative Tender (if alternatives have been requested or permitted), any discounts, the presence or absence of Tender Security, and such other details as specified in the **Tender Data Sheet**, will be announced by the Tender Opening Committee at the opening. One of the Tenderer's representative shall be nominated to verify the information read out.
- 24.4 Nonresponsive Tenders or modifications that are not opened and not read out at the Tender opening shall not be considered further for evaluation, irrespective of the circumstances. In particular, any discount offered by a Tenderer which is not read out at tender opening shall not be considered further.
- 24.5 Tenderers are advised to send in a representative with the knowledge of the content of the Tender who shall verify the

information read out from the submitted documents. Failure to send a representative or to point out any unread information by the sent Tenderer's representative shall indemnify the Procurement Entity/Employer against any claim or failure to read out the correct information contained in the Tenderers Tender.

24.6 No Tender will be rejected at Tender opening except for late Tenders which will be returned unopened to the Tenderer, pursuant to **ITT Clause 22**.

24.7 The Procurement Entity/Employer shall prepare minutes of the Tender opening. The record of the Tender opening shall include, as a minimum: the name of the Tenderers and whether or not there is a withdrawal, substitution or modification, the Tender price per Lot if applicable, including any discounts and alternative offers and the presence or absence of a Tender Security.

24.8 The Tenderers' representatives who are present shall be requested to sign the record. The omission of a Tenderer's signature on the record shall not invalidate the contents and affect the record. A copy of the record shall be distributed to all the Tenderers.

24.9 A copy of the minutes of the Tender opening shall be furnished to the individual Tenderers.

25. Confidentiality

25.1 Information relating to the examination, clarification, evaluation, and comparison of Tenders and recommendations for the award of a Contract shall not be disclosed to Tenderers or any other persons not officially concerned with such process until the award to the successful Tenderer has been announced.

25.2 Any effort by a Tenderer to influence the Procurement Entity/Employer's processing of Tenders or award decisions may result in the rejection of its Tender.

25.3 Notwithstanding **ITT Clause 25.2**, from the time of Tender opening to the time of Contract award, if any Tenderer wishes to contact the Procurement Entity/Employer on any matter related to the tendering process, it shall do so in writing or in electronic forms that provides record of the content of communication.

26. Clarification of

26.1 To assist in the examination, evaluation, and comparison

Tenders

of Tenders, and post-qualification of Tenderers, the Procurement Entity/Employer may, at its discretion, ask any Tenderer for clarification of its Tender, including breakdowns of prices in the Activity Schedule. Any clarification submitted by a Tenderer that is not in response to a request by the Procurement Entity/Employer shall not be considered.

26.2 The request for clarification and the response shall be in writing or in electronic forms that provide record of the content of communication, but no change in the price or substance of the Tender shall be sought, offered, or permitted except as required to confirm the correction of arithmetic errors discovered by the Tender Evaluation Panel in the evaluation of the Tenders in accordance with **ITT Clause 29**.

27. Preliminary Examination of Tenders

27.1 Prior to the detailed evaluation of Tenders, the Procurement Entity/Employer will determine whether each Tender

- a) meets the eligibility criteria defined in **ITT Clause 3**;
- b) has been properly signed;
- c) is accompanied by the required securities; and
- d) is substantially responsive to the requirements of the Tender Documents.

The Procurement Entity/Employer's determination of a Tender's responsiveness will be based on the contents of the Tender itself.

27.2 A substantially responsive Tender is one which conforms to all the terms, conditions, and specifications of the Tender Documents, without material deviation or reservation. A material deviation or reservation is one that:

- a) affects in any substantial way the scope, quality, or performance of the Service(s); the following shall constitute such material deviations
 - i. failure to sign the Service Providers Tender Form and Priced Activity Schedules by authorised person or persons.

- ii. inability to meet the critical Completion schedule or- work schedule clearly specified in the tender document, where such schedule is a critical condition with which tenderer must comply;
 - iii. subcontracting in a substantially different amount or manner than that permitted;
 - iv. failure to submit the required Manufacturer Authorization (if applicable) for equipment not manufactured by the Tenderer/Agent.
- b) a. limits in any substantial way, inconsistent with the Tender Documents, the Procurement Entity/Employer's rights or the Tenderer's obligations under the Contract; material deviations include the following:
- i. failure to submit documents establishing the Tenderer's eligibility to Tender.
 - ii. failure to submit its qualifications to perform the contract if its Tender is accepted.
 - iii. failure to submit a tender security as specified in the tender document.
 - iv. failure to satisfy the tender validity period
 - v. failure to comply with minimum experience criteria as specified in the tender document;
 - vi. conditional tenders such as conditions in a tender which limit the tenderer's responsibility to accept an award; For example
 - inability to accept the price adjustment formulae of the tendering documents;

- stipulating price adjustment when fixed price tenders were invited;

c) if rectified, would affect unfairly the competitive position of other Tenderers presenting substantially responsive Tenders.

27.3 The Procurement Entity/Employer will confirm that the documents and information specified under **ITT Clause 11** and **ITT Clause 12** have been provided in the Tender. If any of these documents or information is missing or is not provided in accordance with the Instructions to Tenderers, the Tender shall be rejected.

27.4 The Procurement Entity/Employer may waive any minor informality, nonconformity or irregularity in a Tender that does not constitute a material deviation, and that does not prejudice or affect the relative ranking of any Tenderer as a result of the technical or price evaluation pursuant to **ITT Clause 28 and 31**.

27.5 If a Tender is not substantially responsive, it will be rejected by the Procurement Entity/Employer and may not subsequently be made responsive by correction or withdrawal of the nonconforming deviation or reservation.

28. Examination of Terms and Conditions; Technical Evaluation

28.1 The Procurement Entity/Employer shall examine the Tender to confirm that all terms and conditions specified in the General Conditions of Contract and the Special Conditions of Contract have been accepted by the Tenderer without any material deviation or reservation.

28.2 The Procurement Entity/Employer shall evaluate the technical aspects of the Tender submitted to confirm that all requirements specified in **Section VIII–Performance Specifications and Drawings** of the Tender Documents have been met without material deviation or reservation.

28.3 If after the examination of the terms and conditions and the technical evaluation, the Procurement Entity/Employer determines that the Tender is not substantially responsive in accordance with **ITT Clause 27**, it shall reject the Tender.

29. Correction of Errors

29.1 Tenders determined to be substantially responsive will be checked for any arithmetic errors. Errors will be corrected by the evaluation committee as follows:

- a) if there is a discrepancy between unit prices 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 Procurement Entity/Employer there is an obvious misplacement of the decimal point in the unit price, in which 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) Where there is a discrepancy between the amounts in figures and in words, the amount in words will govern.

29.2 The amount stated in the Tender will be adjusted in accordance with the above procedure for the correction of errors and, with the concurrence of the Tenderer, shall be considered as binding upon the Tenderer. If the Tenderer does not accept the corrected amount, its Tender will then be rejected, and the Tender security may be forfeited, or the Tender securing declaration may be executed in accordance with **ITT Clause 17.9**.

30. Conversion to Single Currency

30.1 To facilitate evaluation and comparison, the Procurement Entity/Employer will convert all Tender prices expressed in the various currencies in which they are payable to the Ghana Cedi (GHS) at the selling exchange rate established for similar transactions by the Bank of Ghana applicable on the date of opening of the tenders.

30.2 The currency selected for converting Tender prices to a common base for the purpose of evaluation, along with the source and date of the exchange rate, shall be specified in the **Tender Data Sheet**.

31. Price Evaluation and Comparison of Tenders

31.1 The Procurement Entity/Employer shall evaluate and compare only the Tenders determined to be substantially responsive pursuant to **ITT Clause 27** and the proposals of which have been determined to be adequate in accordance with **ITT Clause 28.2** or **28.3**.

31.2 In evaluating the Tenders, the Tender Evaluation Panel will

determine for each Tender the evaluated Tender Price by adjusting the Tender Price as follows:

- a) making any correction for errors pursuant to **ITT Clause 29**;
- b) excluding provisional sums and the provision, if any, for contingencies in the Activity Schedule, but including Daywork, when requested in the Performance Specifications;
- c) making an appropriate adjustment for any other acceptable variations, deviations, or alternative offers submitted in accordance with **ITT Clause 18**;
- d) making appropriate adjustments to reflect discounts or other price modifications offered in accordance with **ITT Clause 23.4**; and
- e) applying any discounts offered by the Tenderer for the award of more than one Contract, if tendering for this Contract is being done concurrently with other Contracts.
- f) the additional Evaluation factors are specified in Section IV, Evaluation and Qualification Criteria

31.3

The Procurement Entity/Employer reserves the right to accept or reject any variation, deviation, or alternative offer. Variations, deviations, and alternative offers and other factors which are in excess of the requirements of the Tender Documents or otherwise result in unsolicited benefits for the Employer will not be taken into account in Tender evaluation.

31.4

The estimated effect of any price adjustment conditions under **ITT Clause 38** of the Conditions of Contract, during the period of implementation of the Contract, will not be taken into account in Tender evaluation.

31.5

In the case of several Lots, pursuant to **ITT Clause 12.6** the Procurement Entity/Employer will determine the application of discounts so as to minimize the combined cost of all the Lots.

32. Margin of

32.1

If so indicated in the **Tender Data Sheet**, Domestic Tenderer

Preference

may receive a margin of preference in Tender evaluation, for which this Clause shall apply.

- 32.2 Domestic Tenderers shall provide all evidence necessary to prove that they meet the following criteria to be eligible for the margin of preference in the comparison of their Tenders with those of Tenderers who do not qualify for the preference. They shall;
- a) Be registered and incorporated under the laws of Ghana, having majority shareholding by Ghanaians;
 - b) Be consistent with Section 60 of the Act 663 as amended;
 - c) Not subcontract more than fifty (50%) percent of the Contract price, excluding provisional sums to foreign service providers.
- 32.3 The Procurement Entity/Employer shall, in granting margin of preference, use the Public Procurement Authority's register of Tenderers to determine whether or not Tenderers are qualified for exclusive preference.
- 32.4 A joint venture between a domestic contractor and its foreign partner is eligible for preference only if:
- a) The domestic partner(s) will not qualify for the work on technical or financial grounds without the foreign partner participation; and
 - b) The domestic partner(s) demonstrate a beneficiary interest of not less than 30% in the joint venture as demonstrated by the profit and loss sharing provisions of the joint venture agreement
 - c) Foreign firms may be eligible for domestic preference if they undertake to do sub-contracting 30% or more of the value of the works to a domestic contractor
- 32.5 The following procedure will be used to apply the margin of preference:
- a) Responsive Tenders will be classified into the following groups:
 - i) Group A: Tenders offered by domestic Service Providers eligible for the preference;

- ii) Group B: Tenders offered by associations between domestic Service Providers and foreign Service Providers eligible for the preference; or
- iii) Group C: Tenders offered by Foreign Service Providers.

- b) For the purpose of further evaluation and comparison of Tenders only, an amount equal to the percentage shown in the **Tender Data Sheet**, of the evaluated Tender Prices determined in accordance with **sub-Clause 31.2(a), (b), and (d)**, will be added to all Tenders classified in Groups B and C.

32.6 Alternative offers, where solicited or permitted, will be evaluated separately, in accordance with the provisions of **ITT Clause 18**, and shall be subject to the margin of preference in accordance with **ITT Clause 32.5**.

33. Determination of the Lowest Evaluated Tender

33.1 The Tender with the lowest evaluated price from among those which are eligible, compliant and substantially responsive shall be the lowest evaluated Tender.

34. Post-qualification of Tenderer

34.1 If pre-qualification was not undertaken, post-qualification shall be performed.

34.2 Where the tender price of the lowest evaluate Tenderer is considered to be abnormally low, the Procurement Entity/Employer shall perform price analysis as part of the post- qualification. The following process shall apply:

- a) The Procurement Entity/Employer may reject a tender if the Procurement Entity/Employer has determined that the price in combination with other constituent elements of the tender is abnormally low in relation to the subject matter of the procurement (scope of works or services) and raise concerns with the Procurement Entity/Employer as to the ability of the Tenderer that presented that tender to perform the contract.
- b) Before rejecting an abnormally low tender, the Procurement Entity/Employer shall request from the Tenderer an explanation of the tender or of those

- parts which it considers contribute to the tender being abnormally low; take account of the evidence provided in response to a request in writing or in electronic forms that provide record of the content of communication; and subsequently verify the tender or parts of the tender being abnormal;
- c) The decision of the Procurement Entity/Employer to reject a tender and reasons for the decision shall be recorded in the procurement proceedings and promptly communicated to the tenderer concerned;
 - d) The Procurement Entity/Employer shall seek the approval of the appropriate Authority prior to rejecting a tender;
 - e) The Procurement Entity/Employer shall not incur liability solely by rejecting abnormally low tender.

An abnormally low tender means, in the light of the Procurement Entity/Employer's estimate and of all the tenders submitted, the tender appears to be abnormally low by not providing a margin for normal levels of profit.

- 34.3 The Procurement Entity/Employer will determine to its satisfaction whether the Tenderer that is selected as having submitted the lowest evaluated responsive Tender is qualified to perform the contract satisfactorily, in accordance with the criteria listed in **ITT Clause 12.3**.
- 34.4 The determination will take into account the Tenderer's financial, technical, and managerial capabilities. It will be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to **ITT Clause 12.3**, as well as such other information as the Procurement Entity/Employer deems necessary and appropriate. Factors not included in these Tender Documents shall not be used in the evaluation of the Tenderers' qualifications.
- 34.5 The Procurement Entity/Employer may seek independent references of a tenderer and the results of reference checks may be used in determining award of contract which shall take account of the evidence provided in response to a request in writing or in electronic forms that provide record of the content of communication.

34.6 In case of a foreign company, a Procurement Entity/Employer shall seek independent reference of legal existence of a tenderer from The Republic of Ghana diplomatic missions abroad or from any other reliable source which shall take account of the evidence provided in response to a request in writing or in electronic forms that provide record of the content of communication.

34.7 An affirmative determination will be a prerequisite for award of the Contract to the Tenderer. A negative determination will result in rejection of the Tenderer's Tender, in which event the Procurement Entity/Employer will proceed to the next lowest evaluated Tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

F. Award of Contract

- 35 Criteria for Award** 35.1 Subject to **ITT Clause 34** and **36**, the Procurement Entity/Employer will award the Contract to the Tenderer whose Tender has been determined to be substantially responsive to the Tender Documents and who has offered the lowest Evaluated Tender Price, provided that such Tenderer has been determined to be:
- a) eligible in accordance with the provisions of **ITT Clause 3**;
 - b) qualified to perform the Contract satisfactorily; and
 - c) successful negotiations have been concluded, if any.
- 35.2 If, pursuant to **ITT Clause 12.6**, this Contract is being divided into Lots, the lowest evaluated Tender price will be determined when evaluating this Contract in conjunction with other Contracts to be awarded concurrently, taking into account any discounts offered by the Tenderers for award of more than one Contract.
- 36. Negotiations** 36.1 Negotiations may be undertaken with the lowest evaluated Tender relating to the following areas:
- a) a minor alteration to the technical details of the statement of requirements;
 - b) reduction of quantities for budgetary reasons, where the reduction is in excess of any provided for in the solicitation documents;
 - c) a minor amendment to the special conditions of Contract;
 - d) finalizing payment arrangements;
 - e) mobilization arrangements;
 - f) agreeing final delivery or work schedule to accommodate any changes required by the Procurement entity;
 - g) the methodology or staffing; or

h) clarifying details that were not apparent or could not be finalized at the time of tendering.

36.2 Where single source method was used, or a competitive procurement method was used but only a single tender was received, negotiations may relate to other areas of the tender including the price tendered provided that the negotiation shall not increase price or affect the quality of the works.

36.3 Where negotiation fails to result into an agreement, the Employer may invite the next ranked Tenderer for negotiations. Where negotiations are commenced with the next ranked Tenderer, the Procurement Entity/Employer shall not reopen earlier negotiations.

37. Procurement Entity/Employer's Right to accept any Tender and to Reject any or all Tenders

37.1 Notwithstanding **ITT Clause 35**, the Procurement Entity/Employer reserves the right to accept or reject any Tender, and to cancel the tendering process and reject all Tenders, at any time prior to the award of Contract, without thereby incurring any liability to the affected Tenderer or Tenderers.

37.2 Notice of the rejection of all Tenders shall be given promptly to all service providers that have submitted Tenders.

37.3 The Procurement Entity/Employer shall upon request communicate to any Tenderer the grounds for its rejection of its Tenders but is not required to justify those grounds.

38. Procurement Entity/Employer's Right to Vary Quantities at the Time of Award

38.1 The Procurement Entity/Employer reserves the right at the time of Contract award to increase or decrease the scope of services originally specified in these Tender Documents provided this does not exceed by the percentage indicated in the **Tender Data Sheet**, without any change in unit price or other terms and conditions of the Tender and Tender Documents.

39. Notification of Award

39.1 Prior to awarding of the contract, the Procurement Entity/Employer shall issue a notice of intention to award the contract to all Tenderers who participated in the tender in question giving them fourteen (14) days within which to submit complaints to the Procurement Entity/Employer thereof, if any.

39.2 Where no complaints have been lodged, the Tenderer whose

Tender has been accepted will be notified of the award by the Procurement Entity/Employer prior to expiration of the Tender validity period in writing or in electronic forms that provide record of the content of communication. The Letter of Acceptance will state the sum that the Procurement Entity/Employer will pay the successful Tenderer in consideration for the execution of the scope of works as prescribed by the Contract (hereinafter and in the Contract called the "Contract Price").

39.3 The notification of award will constitute the formation of the Contract, subject to the Tenderer furnishing the Performance Security in accordance with **ITT Clause 40** and signing the Contract in accordance with **ITT Clause 40.2.**

39.4 Upon the successful Tenderer's furnishing of the Performance Security pursuant to **ITT Clause 41**, the Procurement Entity/Employer will promptly notify each unsuccessful Tenderer, the name of the successful Tenderer and the Contract amount and will discharge the Tender Security of the unsuccessful Tenderers pursuant to **ITT Clause 17.**

39.5 If, after notification of award, a Tenderer wishes to ascertain the grounds on which its Tender was not selected, it shall address its request to the Procurement Entity/Employer. The Procurement Entity/Employer will promptly respond in writing or in electronic forms that provide record of the content of communication to the unsuccessful Tenderer.

40. Signing of Contract

40.1 Promptly after notification, the Procurement Entity/Employer shall send the successful Tenderer the Agreement and Special Conditions of Contract, incorporating all agreements between the parties obtained as a result of Contract negotiations.

40.2 Within thirty (30) days of receipt of the Contract Agreement, the successful Tenderer shall sign and date the Contract and return it to the Procurement Entity/Employer.

41. Performance Security

41.1 Within thirty (30) days of the receipt of Notice of Acceptance from the Purchaser, the successful Tenderer, if required, shall furnish the Performance Security in accordance with the GCC 3.9, using for that purpose the Performance Security Form included in Section V, Contract

Forms, or another Form acceptable to the Purchaser. If the Performance Security furnished by the successful Tenderer is in the form of a bond, it shall be issued by a bonding or insurance company that has been determined by the successful Tenderer to be acceptable to the Purchaser. A foreign institution providing a bond shall have a correspondent financial institution located in the Purchaser's Country, unless the Purchaser has agreed in writing that a correspondent financial institution is not required.

41.2 Failure of the successful Tenderer to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security. In that event the Purchaser may award the Contract to the Tenderer offering the next Lowest Evaluated Responsive Tender

42.2 Employer

**43. Fraud
Corruption,
Coercion, Collusion,
Fraudulent and
Obstruction Practices**

43.1 The Government of The Republic of Ghana requires that Procurement entities (including beneficiaries of public funds) as well as Tenderers under public-financed Contracts observe the highest standard of ethics during the procurement and execution of such Contracts. In pursuance of this policy, the Government of the Republic of Ghana:

- a) defines, for the purposes of this provision, the terms set forth below as follows:
 - i) "corrupt practice means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the selection process or in Contract execution, or the making of any payment to any third party, in connection with or in furtherance of this Contract, in violation of the Applicable Law;
 - ii) "coercive practice" means impairing or harming, or threatening to impair or harm directly or indirectly, any party or the property of the party for the purpose of influencing improperly the action or that party in connection with public procurement or in furtherance of corrupt practice

- or fraudulent practice;
- iii) collusive practices” mean a scheme or arrangement between two or more Service Providers, with or without the knowledge of the Employer, designed to establish prices at artificial, non-competitive levels;
 - iv) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Government or a public body and includes collusive practices among tenderers, prior to or after submission designed to establish tender prices at artificial non-competitive levels and to deprive the Government of the benefits of free and open competition;
 - v) “obstructive practice” means deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede the Employer’s 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 acts intended to materially impede the exercise of the Employer’s inspection and audit rights.;
- b) will reject a proposal for award if it determines that the Tenderer recommended for award has engaged in corrupt fraudulent, coercive, collusive or obstructive practices in competing for the contract.
 - c) In pursuant of the policy defined in **ITT sub-Clause 44.1(a)** the Government will cancel the portion of the funds allocated to the contract for goods, work or services if it at any time determines that corrupt fraudulent, coercive, collusive or obstructive practices were engaged in by representatives of the Procurement entity or approving authority or of a beneficiary of the funds during the procurement or the executions of that contract.

d) will declare a firm to be ineligible, for a period of up to ten years, to be awarded a public-financed Contract in the Republic of Ghana if it, at any time, determines that the Tenderer has engaged in corrupt, fraudulent, coercive, collusive or obstructive practices in competing for or in executing a public-financed Contract.

43.2 The Government of The Republic of Ghana reserves the right, where a firm has been found by a foreign country, international organization or other foreign organization to have engaged in corrupt, fraudulent, coercive, collusive or obstructive practices, to declare that such a firm is ineligible, for a period of up to ten years to be awarded a public financed Contract in the Republic of Ghana.

43.3 Any communication between the Tenderer and the Employer related to matters of alleged fraud or corruption must be made in writing or in electronic forms that provide record of the content of communication.

SECTION III: TENDER DATA SHEET

Tender Data Sheet (TDS)

ITT Clause Number	Amendments of, and Supplements to, Clauses in the Instructions to Tenderers
A. Introduction	
1.1	<p>Name of Procurement Entity/Employer: <i>[insert: name of Procurement Entity/Employer]</i>.</p> <p>The service to be procured is: <i>[describe the service to be provided using this Contract and the location where the service is to be provided]</i> for a period of: <i>[insert: expected duration of which this Contract is intended to be]</i></p> <p>Name and identification number of the Contract: <i>[insert: name and identification number of the Contract]</i></p> <p>Name, description and identification number of lots comprising this Contract <i>[if appropriate, insert the name, description and identification number of lots comprising this Contract, otherwise state: "none"]</i></p> <p>The proportion of each Lot that a Tenderer may Tender for is: <i>[insert, the proportion of each lot allowed to Tender for]</i></p>
1.2	<p>Expected period to provide the service(s): <i>[insert the period]</i></p> <p>Commencement date: <i>[insert commencement date]</i></p>
2.1	Financial Year <i>[insert]</i>
3.1	Maximum number of members in the joint venture, consortium or association shall be: <i>[insert the number]</i>
6.3	The site visit and pre-Tender meeting shall be held on <i>[insert date and time]</i> at the <i>[insert venue for the meeting]</i>
B. Tender Documents	
7.2	The number of copies of Tenders to be submitted <i>[specify]</i>
8.1	The address for clarification of Tender Documents is <i>[insert full address]</i>

C. Preparation of Tenders

11.1(h)	In addition to the documents stated in ITT Clause 11, the following documents must be included with the Tender [<i>insert: list of documents</i>]
14.4	Rates and price quoted by the Tenderer subject to adjustment during the performance of the contract [<i>specify</i>] Information required to be submitted by the Tenderer [<i>specify</i>]
15.1	For inputs to the services which the Tenderer expects to provide within The Republic of Ghana, prices shall be quoted in [<i>insert currency</i>].
16.1	The Tender Validity Period shall be [<i>insert number</i>] days after the deadline for Tender submission specified in the Tender Data Sheet.
17.1	The amount of Tender security is [<i>Insert amount and currency</i>] (<i>delete whichever is applicable</i>)
17.3(b)	Another Form of Tender Security [<i>specify another form of tender security if any</i>]
18.1,	Alternative tenders to the requirements of the Tender Documents [<i>insert “will” or “will not,” as appropriate</i>] be permitted with respect to [<i>describe the alternatives to be permitted, or delete, as appropriate</i>]
18.2	Alternative times for completion _____ [<i>insert “shall be” or “shall not be”</i>] permitted. If permitted, the range of acceptable completion time is: _____. If alternative times for completion are permitted, the evaluation method will be as specified in Section III, Evaluation and Qualification Criteria
18.3	Alternative technical solutions shall be permitted for the following parts of the Services: _____ [<i>insert parts of the Services</i>]: <i>[If alternative technical solutions are permitted, the evaluation method will be as specified in Section III, Evaluation and Qualification Criteria.]</i>
19.1	In addition to the ORIGINAL of the Tender, the number of copies is [<i>insert number</i>]
19.2	Written form of authorization of the signatory of tender shall be [<i>specify either power of attorney or any other form</i>]

D. Submission of Tenders	
20.2	Tenders shall be submitted at <i>[specify below]</i> Street address: <i>[insert the street address]</i> Building/Plot No. <i>[insert the building/plot no.]</i> Floor/Room No. <i>[insert floor/room no.]</i> City/Town <i>[insert city/town]</i> Country <i>[insert country]</i>
21.1	The deadline for submission of tenders shall be <i>[insert time and date]</i> .
E. Opening and Evaluation of Tenders	
24.1	The Tender opening shall take place at <i>[specify below]</i> Street address: <i>[insert the street address]</i> Building/Plot No. <i>[insert the building/plot no.]</i> Floor/Room No. <i>[insert floor/room no.]</i> City/Town <i>[insert city/town]</i> Country <i>[insert country]</i> Date <i>[insert date]</i> Time: <i>[insert time]</i>
24.3	Other details to be announced during Tender opening are <i>[specify]</i>
32.1	Domestic service providers <i>[insert “may” or “will not,” as appropriate]</i> receive a margin of preference in Tender evaluation.
32.5 (b)	The margin of preference applicable shall be <i>[insert the percentage]</i> .
F. Award of Contract	
38.1	Percentage for quantity increase or decrease is: [shall not exceed 15%]

41.1	Amount of Performance Security shall be: <i>[insert amount 10 for a Bank Guarantee or 30 percent for Insurance Bond]</i> of the Contract Price.
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Section IV - EVALUATION AND QUALIFICATION CRITERIA

*This section contains the criteria that the Employer shall use to evaluate Tenders and qualify Tenderers through post-qualification. No other factor methods or criteria shall be used other than specified in this Tender Document. The Tenderer shall provide all the information requested in the forms included in **Section V, Tender Forms**.*

[The Employer shall select the criteria deemed appropriate for the procurement process, insert the appropriate wording using the samples below or other acceptable wording, and delete the text in italics]

The Employer shall use the criteria and methodologies listed in this Section to evaluate Tenders. By applying these criteria and methodologies, the Employer shall determine the Most Advantageous Tender. This is the Tender that has been determined to be:

- (a) substantially responsive to the tender document, and
- (b) the lowest evaluated cost.

1. Evaluation (ITT 31.2(f))

In addition to the criteria listed in ITT 31.2 (a) to (e) the following criteria shall apply:

- a. Whether or not the proposal/tender will promote the development of Small and Medium Enterprises (SMEs).

[insert applicable or not applicable]

The extent to which the tender will not promote child and/or forced labour

[insert applicable or not applicable]

- b. Originality of product or service e.g. legality and patent rights

[insert applicable or not applicable]

- c. The extent to which services meet or satisfy health and safety requirements

[insert applicable or not applicable]

- d. The extent to which the provision of services and execution of tasks either contribute to the pollution of the environment/waste generation or results in waste management/environmental protection

[insert applicable or not applicable]

- e. The extent to which provision of services and execution of tasks will not result in the depletion of natural resources

[insert applicable or not applicable]

- f. Any other criteria: _____

Note: Service providers must show evidence of functional policies, procedures, systems or plans established on sustainable procurement and must also be in possession of Certificates of compliance with statutory requirements on health and safety, environmental protection. Membership of SME Associations, the use of Eco Labels for products, national and international standards such as ISO 9001, ISO 140001 compliant etc. as applicable.

Adequacy of Technical Proposal

Evaluation of the Tenderer's Technical Proposal will include an assessment of the Tenderer's technical capacity to mobilize key equipment and personnel for the contract consistent with its proposal regarding work methods, scheduling, and material sourcing in sufficient detail and fully in accordance with the requirements stipulated in Section VII, Employer's Requirements.

Combined Tender Evaluation Criteria for Technical Services

ITEM NO.	EVALUATION CRITERIA FOR TECHNICAL SERVICES	Points
1	Relevant Experience <ul style="list-style-type: none"> • General experience • Specific experience in similar project and environment. 	0-10 0-5 0-5
2	Methodology and Work plan for Performance of Services including Quality Control (Methods Statement) <ul style="list-style-type: none"> • Methodology • Work Plan 	10-40 10-30 0-10
3	Qualification & Experience of Key Staff	10-30
4	Facilities, Equipment, Materials & Consumables	20-40
5	Compliance with Safety, Health & Environment Standards	0-10
	Total points for the five criteria (Item no. 1-5)	100

The minimum technical score (St) required to pass is ----- *[insert number]*

[The indicative range is 60-80 on a scale of 1 to 100]

[Depending on complexity of the assignment-complex services at the lower end and simple services towards the upper end of the range.]

Financial Evaluation Criteria

The lowest evaluated Financial Proposal (Fm) is given the maximum financial score (Sf) of 100.

The formula for determining the financial scores (Sf) of all other Tenders is calculated as following:

$Sf = 100 \times Fm / F$, in which “Sf” is the financial score, “Fm” is the lowest price, and “F” the price of the proposal under consideration.

Combined Technical and Financial Evaluation

The weights given to the Technical (T) and Financial (P) Tenders are:

T = [Insert weight], and

P = _____ [Insert weight]

Tenders are ranked according to their combined technical (St) and financial (Sf) scores using the weights (T = the weight given to the Technical Proposal; P = the weight given to the Financial Proposal; T + P = 1) as following: $S = St \times T\% + Sf \times P\%$.

Note: The weight for Technical (T) shall be 60 weighted score and that for Financial (P) shall be 40

Multiple Contracts

Pursuant to ITT 35.2 of the Instructions to Tenderers, if Services are grouped in multiple contracts, evaluation will be as follows:

(a) Award Criteria for Multiple Contracts [ITT 35.2]:

Lots

Tenderers have the option to Tender for any one or more lots. Tenders will be evaluated lot-wise, taking into account discounts offered, if any, after considering all possible combination of lots. The contract(s) will be awarded to the Tenderer or Tenderers offering the lowest evaluated cost to the Employer for combined lots, subject to the selected Tenderer(s) meeting the required qualification criteria for lot or combination of lots as the case may be.

Packages

Tenderers have the option to Tender for any one or more packages and for any one or more lots within a package. Tenders will be evaluated package-wise, taking into account discounts offered, if any, for combined packages and/or lots within a package. The contract(s) will be awarded to the Tenderer or Tenderers offering the lowest evaluated cost to the Employer for combined packages, subject to the selected Tenderer(s) meeting the required qualification criteria for combination of packages and or lots as the case may be.

(b) Qualification Criteria for Multiple Contracts:

The criteria for qualification is aggregate minimum requirement for respective lots as defined by the Employer as follows: *[indicate the maximum number of Lots and/or packages to be awarded to each Tenderer].....\|*

Alternative Times for Completion

An alternative Completion Time, if permitted under ITT 14.2, will be evaluated as follows:

.....
.....

Alternative Technical Solutions for specified parts of the Services

If permitted under ITT 14.3, will be evaluated as follows:

.....
.....

Sustainable procurement

[If specific sustainable procurement technical requirements have been specified in Section VII- Specification, either state that (i) those requirements will be evaluated on a pass/fail (compliance basis) or otherwise (ii) in addition to evaluating those requirements on a pass/fail (compliance basis), if applicable, specify the monetary adjustments to be applied to Tender prices for comparison purposes on account of Tenders that exceed the specified minimum sustainable procurement technical requirements.]

.....
.....

2. Qualification

If the Employer has not undertaken prequalification of potential Tenders, all Tenders shall include the following information and documents with their Tenders:

- (a) copies of original documents defining the constitution or legal status, place of registration, and principal place of business; written power of attorney of the signatory of the Tender to commit the Tenderer;
- (b) total monetary value of Services performed for each of the last three to five years [*Insert year*].;
- (c) experience in Services of a similar nature and size for each of the last three to five years [*Insert year*]., and details of Services under way or contractually committed; and names and address of clients who may be contacted for further information on those contracts;
- (d) list of major items of equipment proposed to carry out the Contract;
- (e) qualifications and experience of key site management and technical personnel proposed for the Contract;
- (f) reports on the financial standing of the Tenderer, such as profit and loss statements and auditor's reports for the past three to five years [*Insert year*];
- (g) evidence of adequacy of working capital for this Contract (access to line(s) of credit and availability of other financial resources);
- (h) authority to the Employer to seek references from the Tenderer's bankers;
- (i) information regarding any litigation, current or during the last three to five years [*Insert year*]., in which the Tenderer is involved, the parties concerned, and disputed amount; and
- (j) Tenders for subcontracting components of the Services amounting to more than 10 percent of the Contract Price.

Tenders submitted by a joint venture of two or more firms as members shall comply with the following requirements, unless otherwise stated **below**:

- (a) the Tender shall include all the information listed above for each joint venture member;
- (b) the Tender shall be signed so as to be legally binding on all members;
- (c) the Tender shall include a copy of the agreement entered into by the joint venture members defining the division of assignments to each member and establishing that all members shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms; alternatively, a Letter of Intent to execute a joint venture agreement in the event of a successful Tender shall be signed by all members and submitted with the Tender, together with a copy of the proposed agreement;
- (d) one of the members shall be nominated as being in charge, authorized to incur liabilities, and receive instructions for and on behalf of any and all members of the joint venture; and
- (e) the execution of the entire Contract, including payment, shall be done exclusively with the member in charge.

To qualify for award of the Contract, Tenderers shall meet the following minimum qualifying criteria:

- (a) annual volume of Services of at least the amount specified **below**;
- (b) experience as service provider in the provision of at least two service contracts of a nature and complexity equivalent to the Services over the last 5 years (to comply with this requirement, Services contracts cited should be at least 70 percent complete) as specified **below**;
- (c) Tenders for the timely acquisition (own, lease, hire, etc.) of the essential equipment listed **in below**;
- (d) a Contract Manager with three to five years [*Insert year*].’ experience in Services of an equivalent nature and volume, including no less than three years as Manager; and
- (e) liquid assets and/or credit facilities, net of other contractual commitments and exclusive of any advance payments which may be made under the Contract, of no less than the amount specified **below**.

A consistent history of litigation or arbitration awards against the Applicant or any member of a Joint Venture may result in disqualification.

Qualification Requirements

Joint Ventures	The information needed for Tenders submitted by joint ventures is as follows: _____
Annual Volume	The minimum required annual volume of Services for the successful Tenderer in any of the last three to five years [<i>Insert year</i>]. shall be: _____
Experience	The experience required to be demonstrated by the Tender should include as a minimum that he has executed during the last 5 years the following: _____
Essential Equipment	The essential equipment to be made available for the Contract by the successful Tenderer shall be: _____.
Liquid Assets	The minimum amount of liquid assets and/or credit facilities net of other contractual commitments of the successful Tenderer shall be: _____
Subcontractors	Subcontractors’ experience _____ [<i>insert “shall” or “shall not”</i>] be taken into account.

The figures for each of the members of a joint venture shall be added together to determine the Tenderer’s compliance with the minimum qualifying criteria of (a), (b) and (e); however, for a joint venture to qualify the member in charge must meet at least 40 percent of those minimum criteria for an individual Tenderer and other members at least 25% of the criteria. Failure to comply with this requirement will result in rejection of the joint venture’s Tender.

Subcontractors' experience and resources *will not be taken* into account in determining the Tenderer's compliance with the qualifying criteria, unless otherwise stated in the Qualification Requirements above.

SECTION V- TENDER FORMS

Table of Forms

Service Provider's Tender Form

[date]

To: [name and address of Procurement Entity/Employer]

We offer to execute the [name and identification number of Contract] in accordance with the Conditions of Contract accompanying this Tender for the Contract Price of [amount in numbers], [amount in words] [name of currency].

The Contract shall be paid in the following currencies:

Currency	Percentage payable in currency	Rate of exchange: one foreign equals [insert local]	Inputs for which foreign currency is

The advance payment required is: -

	Amount	Currency
(a)		
(b)		

We are not participating, as Tenderers, in more than one Tender in this tendering process other than alternative tenders in accordance with the Tender Documents.

With reference to **ITT Sub-Clause 3.10**, it is our intention to subcontract approximately [insert the percent] percentage of the Tender /Contract Price, details of which are provided herein.

Our firm, its affiliates or subsidiaries, including any sub-Contractors for any part of the Contract has not been declared ineligible by the Government of the Republic of Ghana under The Republic of Ghana's laws or official regulations or by an act of compliance with a decision of the United Nations Security Council.

The following commissions or gratuities of fees have been paid or are to be paid by us to agents relating to this tender, and to Contract execution if we are awarded the Contract: -

Name and address of agent or recipient	Amount and currency	Purpose of commission or gratuity

(if none has been paid or is to be paid, state “none”)

This Tender and your written acceptance of it shall constitute a binding Contract between us.

We understand that you are not bound to accept the lowest or any Tender you receive.

We hereby confirm that this Tender complies with the Tender validity and Tender Security required by the Tender Documents and specified in the Tender Data Sheet.

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Tenderer: ____

Address: _____

Tenderer Information Form

[The Tenderer shall fill in this Form in accordance with the instructions indicated below. No alterations to its format shall be permitted and no substitutions shall be accepted.]

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

IFT No.: *[insert number of Tendering process]*

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

Page _____ of _____ pages

1. Tenderer's Name <i>[insert Tenderer's legal name]</i>
2. In case of JV, legal name of each member: <i>[insert legal name of each member in JV]</i>
3. Tenderer's actual or intended country of registration: <i>[insert actual or intended country of registration]</i>
4. Tenderer's year of registration: <i>[insert Tenderer's year of registration]</i>
5. Tenderer's Address in country of registration: <i>[insert Tenderer's legal address in country of registration]</i>
6. Tenderer's Authorized Representative Information Name: <i>[insert Authorized Representative's name]</i> Address: <i>[insert Authorized Representative's Address]</i> Telephone/Fax numbers: <i>[insert Authorized Representative's telephone/fax numbers]</i> Email Address: <i>[insert Authorized Representative's email address]</i>
7. Attached are copies of original documents of <i>[check the box(es) of the attached original documents]</i> <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 ITT 3.5 <input type="checkbox"/> In case of JV, letter of intent to form JV or JV agreement, in accordance with ITT 3.1. <input type="checkbox"/> In case of state-owned enterprise or institution, in accordance with ITT 3.8 documents establishing: Legal and financial autonomy Operation under commercial law Establishing that the Tenderer is not under the supervision of the agency of the Employer
8. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership. <i>[If required under Tender Data Sheet ITT 45.1, the successful Tenderer shall provide additional information on beneficial ownership, using the Beneficial Ownership Disclosure Form.]</i>

Tenderer's JV Members Information Form

[The Tenderer shall fill in this Form in accordance with the instructions indicated below. The following table shall be filled in for the Tenderer and for each member of a Joint Venture]].

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

IFT No.: *[insert number of Tendering process]*

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

Page _____ of _____ pages

1.	Tenderer's Name: <i>[insert Tenderer's legal name]</i>
2.	Tenderer's JV Member's name: <i>[insert JV's Member legal name]</i>
3.	Tenderer's JV Member's country of registration: <i>[insert JV's Member country of registration]</i>
4.	Tenderer's JV Member's year of registration: <i>[insert JV's Member year of registration]</i>
5.	Tenderer's JV Member's legal address in country of registration: <i>[insert JV's Member legal address in country of registration]</i>
6.	<p>Tenderer's JV Member's authorized representative information</p> <p>Name: <i>[insert name of JV's Member authorized representative]</i></p> <p>Address: <i>[insert address of JV's Member authorized representative]</i></p> <p>Telephone/Fax numbers: <i>[insert telephone/fax numbers of JV's Member authorized representative]</i></p> <p>Email Address: <i>[insert email address of JV's Member authorized representative]</i></p>
7.	<p>Attached are copies of original documents of <i>[check the box(es) of the attached original documents]</i></p> <p><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 ITT 3.5.</p> <p><input type="checkbox"/> In case of a state-owned enterprise or institution, documents establishing legal and financial autonomy, operation in accordance with commercial law, and that they are not under the supervision of the Employer, in accordance with ITT 3.8.</p>

8. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership. *[If required under **Tender Data Sheet ITT 45.1**, the successful Tenderer shall provide additional information on beneficial ownership for each JV member using the Beneficial Ownership Disclosure Form.]*

Qualification Information

- 1. Individual Tenderers or Individual Members of Joint Ventures**
- 1.1 Constitution or legal status of Tenderer: *[attach copy]*
 Place of registration: *[insert]*
 Principal place of business: *[insert]*
 Power of attorney of signatory of Tender: *[attach]*
- 1.2 Total annual volume of Services performed in three to five years [Insert year]., in the internationally traded currency specified **in the Tender Data Sheet**: *[insert]*
- 1.3 Services performed as prime Service Provider on the provision of Services of a similar nature and volume over the last three to five years [Insert year].. The values should be indicated in the same currency used for Item 1.2 above. Also list details of Services under way or committed, including expected completion date.

Project name and country	Name of employer and contact person	Type of Services provided and year of completion	Value of contract
(a)			
(b)			

- 1.4 Major items of Service Provider's Equipment proposed for carrying out the Services. List all information requested below.

Item of equipment	Description, make, and age (years)	Condition (new, good, poor) and number available	Owned, leased (from whom?), or to be purchased (from whom?)
(a)			
(b)			

1.5 Qualifications and experience of key personnel proposed for administration and execution of the Contract. Attach biographical data. Refer to GCC Clause 4.1.

Position	Name	Years of experience (general)	Years of experience in proposed position
(a)			
(b)			

1.6 Proposed subcontracts and firms involved. Refer to GCC Clause 3.5.

Sections of the Services	Value of subcontract	Subcontractor (name and address)	Experience in providing similar Services
(a)			
(b)			

1.7 Financial reports for the last three to three to five years [Insert year].: balance sheets, profit and loss statements, auditors' reports, etc. List below and attach copies.

1.8 Evidence of access to financial resources to meet the qualification requirements: cash in hand, lines of credit, etc. List below and attach copies of support documents. We certify/confirm that we comply with eligibility requirements as per ITT 3.

1.9 Name, address, and telephone, telex, and facsimile numbers of banks that may provide references if contacted by the Employer.

1.10 Information regarding any litigation, current or within the last three to three to five years [Insert year]., in which the Tenderer is or has been involved.

Other party(ies)	Cause of dispute	Details of litigation award	Amount involved
(a)			

(b)

1.11 Statement of compliance with the requirements of ITT 3.6.

1.12 Proposed Program (service work method and schedule).
Descriptions, drawings, and charts, as necessary, to comply with the requirements of the Tendering document.

2. Joint Ventures

2.1 The information listed in 1.1 - 1.11 above shall be provided for each member of the joint venture.

2.2 The information in 1.12 above shall be provided for the joint venture.

2.3 Attach the power of attorney of the signatory(ies) of the Tender authorizing signature of the Tender on behalf of the joint venture.

2.4 Attach the Agreement among all members of the joint venture (and which is legally binding on all members), which shows that

(a) all members shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;

(b) one of the members will be nominated as being in charge, authorized to incur liabilities, and receive instructions for and on behalf of any and all members of the joint venture; and

(c) the execution of the entire Contract, including payment, shall be done exclusively with the member in charge.

3. Additional Requirements

3.1 Tenderers should provide any additional information required in the **Tender Data Sheet**.

Schedule Forms

*[The Tenderer shall fill in these Forms in accordance with the instructions indicated. The list of line items in column 1 of the **Activity Schedules** shall coincide with the List of Technical Services specified in the Employer’s Requirements.]*

Activity Schedule

Currencies in accordance with ITT 16					
1	2	3	4	5	6
Service N°	Description of Services	Unit	Delivery Date	Quantity and physical unit	Unit Price
<i>[insert number of the Service]</i>	<i>[insert name of Services]</i>		<i>[insert delivery date at place of final destination per Service]</i>	<i>[insert number of units]</i>	<i>[insert unit price]</i>
Total Tender Price					

Name of Tenderer *[insert complete name of Tenderer]* Signature of Tenderer *[signature of person signing the Tender]* Date *[insert date]*

Method Statement

Work Plan

Others - Time Schedule

(to be used by Tenderer when alternative Time for Completion is invited in ITT 18.2)

Tender Security (Bank Guarantee) Form

[If required, the Bank/Tenderer shall fill in this Bank Guarantee form in accordance with the instructions indicated in brackets.]

[insert bank's name, and address of issuing branch or office] Beneficiary: [insert name and address of Employer] Date: [insert date]

TENDER GUARANTEE No.: [insert number]

We have been informed that [insert name of the Tenderer; if a joint venture, list complete legal names of partners] (hereinafter called "the Tenderer") has submitted to you its Tender dated [insert date] (hereinafter called "the Tender") for the execution of [insert name of Contract] under Invitation for Tenders No. [insert IFT number] ("the IFT").

Furthermore, we understand that, according to your conditions, Tenders must be supported by a Tender Guarantee.

At the request of the Tenderer, we [insert name of bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [insert amount in figures expressed in Ghana Cedis or the equivalent amount in an international freely convertible currency] ([insert amount in words]) upon receipt by us of your first demand in writing accompanied by a written statement stating that the Tenderer is in breach of its obligation(s) under the Tender conditions, because the Tenderer:

(a) has withdrawn its Tender during the period of Tender validity specified by the Tenderer in the Service Provider's Form of Tender; or

(b) does not accept the correction of errors in accordance with the Instructions to Tenderers (hereinafter "the ITT") of the IFT; or

(c) having been notified of the acceptance of its Tender by the Employer during the period of Tender validity, (i) fails or refuses to execute the Contract, , or (ii) fails or refuses to furnish the Performance Security, in accordance with the ITT Clause 39.

This Guarantee shall expire: (a) if the Tenderer is the successful Tenderer, upon our receipt of copies of the Contract signed by the Tenderer and of the Performance Security issued to you by the Tenderer; or (b) if the Tenderer is not the successful Tenderer, upon the earlier of (i) our receipt of a copy of your notification to the Tenderer that the Tenderer was unsuccessful, or (ii) twenty-eight (28) days after the expiration of the Tenderer's Tender.

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

[Signature of authorized representative(s)]

Tender Security (Insurance Bond) Form

*[If required, the **Surety/Tenderer** shall fill in this Tender Bond Form in accordance with the instructions indicated in brackets.]*

BOND NO. *[insert Bond number]*

BY THIS BOND *[insert name of Tenderer; if joint venture, insert complete legal names of partners]* as Principal (hereinafter called “the Principal”), and *[insert name, legal title, and address of Surety]*, **authorized to transact business in the Republic of Ghana**, as Surety (hereinafter called “the Surety”), are held and firmly bound unto *[insert name of Employer]* as Obligee (hereinafter called “the Employer”) in the sum of *[insert amount in figures expressed in the Ghana Cedi or the equivalent amount in an international freely convertible currency]* *[insert amount in words]*, for the payment of which sum, well and truly to be made, we, the said Principal and Surety, bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Principal has submitted a written Tender to the Employer dated the *[number]* day of *[month]*, *[year]*, for the *[insert name of Contract]* (hereinafter called the “Tender”).

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal:

(1) withdraws its Tender during the period of Tender validity specified in the Service Provider’s Form of Tender; or

(2) (b) does not accept the correction of errors in accordance with the Instructions to Tenderers (hereinafter “the ITT”) of the IFT or

having been notified of the acceptance of our Tender by the Employer during the period of Tender validity, (i) fails or refuses to execute the Contract, if required, or (ii) fails or refuses to furnish the Performance Security, in accordance with the ITT Clause 39. then the Surety undertakes to immediately pay to the Employer up to the above amount upon receipt of the Employer’s first written demand, without the Employer having to substantiate its demand, provided that in its demand the Employer shall state that the demand arises from the occurrence of any of the above events, specifying which event(s) has occurred.

The Surety hereby agrees that its obligation shall remain in full force and effect up to and including the date 28 days after the date of expiration of the Tender validity as stated in the Invitation to Tender or extended by the Employer at any time prior to this date, notice of which extension(s) to the Surety being hereby waived.

IN TESTIMONY WHEREOF, the Principal and the Surety have caused these presents to be executed in their respective names this *[insert number]* day of *[month]*, *[year]*

Principal: _____

Surety: _____

Corporate Seal (where appropriate)

[insert signature(s) of authorized representative(s)]

[insert signature(s) of authorized representative(s)]

[insert printed name and title]

[insert printed name and title]

Form of Tender Security (Tender Bond)

[The Surety shall fill in this Tender Bond Form in accordance with the instructions indicated.]

BOND NO. _____

BY THIS BOND *[name of Tenderer]* as Principal (hereinafter called “the Principal”), and *[name, legal title, and address of surety]*, **authorized to transact business in** *[name of country of Employer]*, as Surety (hereinafter called “the Surety”), are held and firmly bound unto *[name of Employer]* as Obligee (hereinafter called “the Employer”) in the sum of *[amount of Bond]*² *[amount in words]*, for the payment of which sum, well and truly to be made, we, the said Principal and Surety, bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Principal has submitted or will submit a written Tender to the Employer dated the ___ day of _____, 20___, for the supply of *[name of Contract]* (hereinafter called the “Tender”).

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal:

has withdrawn its Tender during the period of Tender validity set forth in the Principal’s Letter of Tender (“the Tender Validity Period”), or any extension thereto provided by the Principal; or

having been notified of the acceptance of its Tender by the Employer during the Tender Validity Period or any extension thereto provided by the Principal; (i) failed to execute the Contract agreement; or (ii) has failed to furnish the Performance Security, in accordance with the Instructions to Tenderers (“ITT”) of the Employer’s Tendering document.

then the Surety undertakes to immediately pay to the Employer up to the above amount upon receipt of the Employer’s first written demand, without the Employer having to substantiate its demand, provided that in its demand the Employer shall state that the demand arises from the occurrence of any of the above events, specifying which event(s) has occurred.

The Surety hereby agrees that its obligation will remain in full force and effect up to and including the date 28 days after the date of expiration of the Tender Validity Period set forth in the Principal’s Letter of Tender or any extension thereto provided by the Principal.

IN TESTIMONY WHEREOF, the Principal and the Surety have caused these presents to be executed in their respective names this ___ day of _____ 20___.

² The amount of the Bond shall be denominated in the currency of the Employer’s Country or the equivalent amount in a freely convertible currency.

Principal: _____ Surety: _____
Corporate Seal (where appropriate)

(Signature) *(Signature)*
(Printed name and title) *(Printed name and title)*

SECTION VI - ELIGIBLE FIRMS/INDIVIDUALS

Eligibility for the Provision of Goods, Works and Services Financed from the Public Funds of the Republic of Ghana

As of _____ 20__

In reference to ITT Clause 3, for the information of tenderers, at the present time firms, goods, works and services from the following firms/individuals are excluded from this tendering process financed from Public Funds from the Republic of Ghana:

SECTION VII: ACTIVITY SCHEDULE

Objectives

The objectives of the Activity Schedule are

- (a) to provide sufficient information on the quantities of Services to be performed to enable tenders to be prepared efficiently and accurately; and
- (b) when a Contract has been entered into, to provide a priced Activity Schedule for use in the periodic valuation of Services executed.

In order to attain these objectives, Services shall be itemized in the Activity Schedule in sufficient detail to distinguish between the different classes of Services, or between Services of the same nature carried out in different locations or in other circumstances which may give rise to different considerations of cost. Consistent with these requirements, the layout and content of the Activity Schedule shall be as simple and brief as possible.

Daywork Schedule

A Daywork Schedule shall be included only if the probability of unforeseen work, outside the items included in the Activity Schedule, is high. To facilitate checking by the Employer of the realism of rates quoted by the Tenderers, the Daywork Schedule shall normally comprise the following:

- (a) A list of the various classes of Services, labor, materials, and plant for which basic Daywork rates or prices are to be inserted by the Tenderer, together with a statement of the conditions under which the Tenderer will be paid for work executed on a Daywork basis.
- (b) Nominal quantities for each item of Daywork, to be priced by each Tenderer at Daywork rates as in the tender. The rate to be entered by the Tenderer against each basic Daywork item shall include the Tenderer's profit, overheads, supervision, and other charges.

Provisional Sums

The estimated cost of specialized work to be carried out, or of special goods to be supplied, by other Tenderers (refer to Clause 8 of the Conditions of Contract) shall be indicated in the relevant part of the Activity Schedule as a particular provisional sum with an appropriate brief description. A separate procurement procedure is normally carried out by the Employer to select such specialized Tenderers. To provide an element of competition among the Tenderers in respect of any facilities, amenities, attendance, etc., to be provided by the successful Tenderer as Lead Contractor for the use and convenience of the specialist Sub-Contractors, each related provisional sum shall be followed by an item in the Activity Schedule inviting the Tenderer to quote a sum for such amenities, facilities, attendance, etc.

[These Notes for Preparing an Activity Schedule are intended only as information for the Employer or the person drafting the Tender Documents. They shall not be included in the final documents.]

**SECTION VIII: PERFORMANCE SPECIFICATIONS AND
DRAWINGS**

[text of Performance Specification Drawings (if any) to be inserted in the Tender Documents by the Employer, as applicable]

[Notes on Specifications: A set of precise and clear specifications is a prerequisite for Tenderers to respond realistically and competitively to the requirements of the Employer without qualifying or conditioning their tenders. In the context of international competitive tendering, the specifications must be drafted to permit the widest possible competition and, at the same time, present a clear statement of the required standards of workmanship, materials, and performance of the goods and services to be procured. Only if this is done will the objectives of economy, efficiency, and fairness in procurement be realized, responsiveness of tenders be ensured, and the subsequent task of Tender evaluation facilitated. The specifications shall require that all goods and materials to be incorporated in the Services be new, unused, of the most recent or current models subject to ease of maintenance over a specified period of time and incorporate all recent improvements in design and materials unless provided otherwise in the Contract. Samples of specifications from previous similar projects are useful in this respect. Provision may also be made for the training of staff the Employer by the Tenderer to provide operation and maintenance support

There are considerable advantages in standardizing General Specifications for repetitive Services in recognized public sectors, such as education, health, sanitation, social and urban housing, roads, ports, railways, irrigation, and water supply. The General Specifications shall cover all classes of workmanship, materials, and equipment commonly involved in the provision of Services, although not necessarily to be used in a particular Services Contract. Deletions or addenda shall then adapt the General Specifications to the particular Services.

Care must be taken in drafting specifications to ensure that they are not restrictive. In the specification of standards for goods, materials, Services, and workmanship, recognized international standards shall be used as much as possible.

These Notes for Preparing Specifications are intended only as information for the Employer or the person drafting the Tender Documents. They shall not be included in the final documents.]

[Notes on Drawings: *Insert here a list of Drawings. The actual Drawings, including performance diagrams or curves, etc. and site plans, geographical areas covered, shall be attached to this section or annexed in a separate folder.*]

SECTION IX - GENERAL CONDITIONS OF CONTRACT

A. General Provisions

- 1.1 Definitions** Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:
- (a) The Arbitrator is the person appointed jointly by the Employer to resolve disputes, as provided for in clause 8.2 and 8.3 hereunder,
 - (b) “Activity Schedule” is the priced and completed list of items of Services to be performed by the Service Provider forming part of his Bid;
 - (c) “Completion Date” means the date of completion of the Services by the Service Provider as certified by the Employer
 - (d) “Contract” means the Contract signed by the Parties, to which these General Conditions of Contract (GCC) are attached, together with all the documents listed in Clause 1 of such signed Contract;
 - (e) “Contract Price” means the price to be paid for the performance of the Services, in accordance with Clause 6;
 - (f) “Day” means calendar day;
 - (g) “Dayworks” means varied work inputs subject to payment on a time basis for the Service Provider’s employees and equipment, in addition to payments for associated materials and administration.
 - (h) “Employer” means the party who employs the Service Provider
 - (i) “Foreign Currency” means any currency other than the currency of the country of the Employer;
 - (j) “GCC” means these General Conditions of Contract;
 - (k) “Government” means the Government of the Employer’s Country;
 - (l) “Local Currency” means the currency of the country of the Employer;
 - (m) “Member,” in case the Service Provider consist of a joint venture of more than one entity, means any of these entities; “Members” means all these entities, and “Member in Charge” means the entity specified in the SC to act on their behalf in

exercising all the Service Provider' rights and obligations towards the Employer under this Contract;

- (n) "Party" means the Employer or the Service Provider, as the case may be, and "Parties" means both of them;
- (o) "Personnel" means persons hired by the Service Provider or by any Subcontractor as employees and assigned to the performance of the Services or any part thereof;
- (p) "Service Provider" is a person or corporate body whose Tender to provide the Services has been accepted by the Employer;
- (q) "Service Provider's Tender" means the completed Tendering Document submitted by the Service Provider to the Employer
- (r) "SCC" means the Special Conditions of Contract by which the GCC may be amended or supplemented;
- (s) "Specifications" means the specifications of the service included in the Tendering Document submitted by the Service Provider to the Employer
- (t) "Services" means the work to be performed by the Service Provider pursuant to this Contract, as described in Appendix A; and in the Specifications and Schedule of Activities included in the Service Provider's Bid.
- (u) "Subcontractor" means any entity to which the Service Provider subcontracts any part of the Services in accordance with the provisions of Sub-Clauses 3.5 and 4.

- 1.2 Applicable Law** The Contract shall be interpreted in accordance with the laws of the Employer's Country, unless otherwise **specified in the Special Conditions of Contract (SCC)**.
- 1.3 Language** This Contract has been executed in the language **specified in the SCC**, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.
- 1.4 Notices** Any notice, request, or consent made pursuant to this Contract shall be in writing and shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, telex, telegram, or facsimile to such Party at the address **specified in the SCC**.
- 1.5 Location** The Services shall be performed at such locations as are specified in Appendix A, in the specifications and, where the location of a

particular task is not so specified, at such locations, whether in the Government's country or elsewhere, as the Employer may approve.

1.6 Authorized Representatives

Any action required or permitted to be taken, and any document required or permitted to be executed, under this Contract by the Employer or the Service Provider may be taken or executed by the officials **specified in the SCC.**

1.7 Inspection and Audit by the Bank

Pursuant to paragraph 2.2 e. of Attachment 1 to the General Conditions, the Service Provider shall permit and shall cause its subcontractors and subconsultants to permit, the Bank and/or persons appointed by the Bank to inspect the Site and/or the accounts and records relating to the procurement process, selection and/or contract execution, and to have such accounts and records audited by auditors appointed by the Bank if requested by the Bank. The Service Provider's and its Subcontractors' and subconsultants' attention is drawn to Sub-Clause 3.10 which provides, inter alia, that acts intended to materially impede the exercise of the Bank's inspection and audit rights constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to the Bank's prevailing sanctions procedures).

1.8 Taxes and Duties

The Service Provider, Subcontractors, and their Personnel shall pay such taxes, duties, fees, and other impositions as may be levied under the Applicable Law, the amount of which is deemed to have been included in the Contract Price.

2. Commencement, Completion, Modification, and Termination of Contract

2.1 Effectiveness of Contract

This Contract shall come into effect on the date the Contract is signed by both parties or such other later date as may be **stated in the SCC.**

2.2 Commencement of Services

2.2.1 Program

Before commencement of the Services, the Service Provider shall submit to the Employer for approval a Program showing the general methods, arrangements, order and timing for all activities. The Services shall be carried out in accordance with the approved Program as updated.

- 2.2.2 Starting Date** The Service Provider shall start carrying out the Services thirty (30) days after the date the Contract becomes effective, or at such other date as may be **specified in the SCC**.
- 2.3 Intended Completion Date** Unless terminated earlier pursuant to Sub-Clause 2.6, the Service Provider shall complete the activities by the Intended Completion Date, as is **specified in the SCC**. If the Service Provider does not complete the activities by the Intended Completion Date, it shall be liable to pay liquidated damage as per Sub-Clause 3.8. In this case, the Completion Date will be the date of completion of all activities.
- 2.4 Modification** Modification of the terms and conditions of this Contract, including any modification of the scope of the Services or of the Contract Price, may only be made by written agreement between the Parties and shall not be effective until the consent of the Bank or of the Association, as the case may be, has been obtained.
- 2.5 Force Majeure**
- 2.5.1 Definition** For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party and which makes a Party’s performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.
- 2.5.2 No Breach of Contract** The failure of a Party to fulfill any of its obligations under the contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as possible about the occurrence of such an event.
- 2.5.3 Extension of Time** Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.
- 2.5.4 Payments** During the period of their inability to perform the Services as a result of an event of Force Majeure, the Service Provider shall be entitled to continue to be paid under the terms of this Contract, as well as to be reimbursed for additional costs reasonably and necessarily incurred by them during such period for the purposes of the Services and in reactivating the Service after the end of such period.

2.6 Termination

2.6.1 By the Employer

The Employer may terminate this Contract, by not less than thirty (30) days' written notice of termination to the Service Provider, to be given after the occurrence of any of the events specified in paragraphs (a) through (d) of this Sub-Clause 2.6.1:

- (a) if the Service Provider does not remedy a failure in the performance of its obligations under the Contract, within thirty (30) days after being notified or within any further period as the Employer may have subsequently approved in writing;
- (b) if the Service Provider become insolvent or bankrupt;
- (c) if, as the result of Force Majeure, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
- (d) if the Service Provider, in the judgment of the Employer has engaged in Fraud and Corruption, as defined in paragraph 2.2 a. of Attachment 1 to the GCC, in competing for or in executing the Contract

2.6.2 By the Service Provider

The Service Provider may terminate this Contract, by not less than thirty (30) days' written notice to the Employer, such notice to be given after the occurrence of any of the events specified in paragraphs (a) and (b) of this Sub-Clause 2.6.2:

- (a) if the Employer fails to pay any monies due to the Service Provider pursuant to this Contract and not subject to dispute pursuant to Clause 7 within forty-five (45) days after receiving written notice from the Service Provider that such payment is overdue; or
- (b) if, as the result of Force Majeure, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) days.

2.6.3 Suspension of Loan or Credit

In the event that the World Bank suspends the loan or Credit to the Employer, from which part of the payments to the Service Provider are being made:

- (a) The Employer is obligated to notify the Service Provider of such suspension within 7 days of having received the World Bank's suspension notice.
- (b) If the Service Provider has not received sums due to by the due date stated in the SCC in accordance with Sub-Clause 6.5 the Service Provider may immediately issue a 14-day termination notice.

- 2.6.4 Payment upon Termination** Upon termination of this Contract pursuant to Sub-Clauses 2.6.1 or 2.6.2, the Employer shall make the following payments to the Service Provider:
- (a) remuneration pursuant to Clause 6 for Services satisfactorily performed prior to the effective date of termination;
 - (b) except in the case of termination pursuant to paragraphs (a), (b), (d) of Sub-Clause 2.6.1, reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract, including the cost of the return travel of the Personnel.

3. Obligations of the Service Provider

3.1 General

The Service Provider shall perform the Services in accordance with the Specifications and the Activity Schedule, and carry out its obligations with all due diligence, efficiency, and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe methods. The Service Provider shall always act, in respect of any matter relating to this Contract or to the Services, as faithful adviser to the Employer, and shall at all times support and safeguard the Employer's legitimate interests in any dealings with Subcontractors or third parties.

3.2 Conflict of Interests

3.2.1 Service Provider Not to Benefit from Commissions and Discounts.

The remuneration of the Service Provider pursuant to Clause 6 shall constitute the Service Provider's sole remuneration in connection with this Contract or the Services, and the Service Provider shall not accept for their own benefit any trade commission, discount, or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of their obligations under the Contract, and the Service Provider shall use their best efforts to ensure that the Personnel, any Subcontractors, and agents of either of them similarly shall not receive any such additional remuneration.

3.2.2 Service Provider and Affiliates Not to be Otherwise Interested in Project

The Service Provider agree that, during the term of this Contract and after its termination, the Service Provider and its affiliates, as well as any Subcontractor and any of its affiliates, shall be disqualified from providing goods, works, or Services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services.

- 3.2.3 Prohibition of Conflicting Activities** Neither the Service Provider nor its Subcontractors nor the Personnel shall engage, either directly or indirectly, in any of the following activities:
- (a) during the term of this Contract, any business or professional activities in the Government’s country which would conflict with the activities assigned to them under this Contract;
 - (b) during the term of this Contract, neither the Service Provider nor their Subcontractors shall hire public employees in active duty or on any type of leave, to perform any activity under this Contract;
 - (c) after the termination of this Contract, such other activities as may be **specified in the SCC**.
- 3.3 Confidentiality** The Service Provider, its Subcontractors, and the Personnel of either of them shall not, either during the term or within two (2) years after the expiration of this Contract, disclose any proprietary or confidential information relating to the Project, the Services, this Contract, or the Employer’s business or operations without the prior written consent of the Employer.
- 3.4 Insurance to be Taken Out by the Service Provider** The Service Provider (a) shall take out and maintain, and shall cause any Subcontractors to take out and maintain, at its (or the Subcontractors’, as the case may be) own cost but on terms and conditions approved by the Employer, insurance against the risks, and for the coverage, as shall be **specified in the SCC**; and (b) at the Employer’s request, shall provide evidence to the Employer showing that such insurance has been taken out and maintained and that the current premiums have been paid.
- 3.5 Service Provider’s Actions Requiring Employer’s Prior Approval** The Service Provider shall obtain the Employer’s prior approval in writing before taking any of the following actions:
- (a) entering into a subcontract for the performance of any part of the Services,
 - (b) appointing such members of the Personnel not listed by name in Appendix C (“Key Personnel and Subcontractors”),
 - (c) changing the Program of activities; and
 - (d) any other action that may be **specified in the SCC**.
- 3.6 Reporting Obligations** The Service Provider shall submit to the Employer the reports and documents specified in Appendix B in the form, in the numbers, and within the periods set forth in the said Appendix.
- 3.7 Documents Prepared by the** All plans, drawings, specifications, designs, reports, and other documents and software submitted by the Service Provider in

Service Provider to Be the Property of the Employer accordance with Sub-Clause 3.6 shall become and remain the property of the Employer, and the Service Provider shall, not later than upon termination or expiration of this Contract, deliver all such documents and software to the Employer, together with a detailed inventory thereof. The Service Provider may retain a copy of such documents and software. Restrictions about the future use of these documents, if any, shall be **specified in the SCC**.

3.8 Liquidated Damages

3.8.1 Payments of Liquidated Damages The Service Provider shall pay liquidated damages to the Employer at the rate per day **stated in the SCC** for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount **defined in the SCC**. The Employer may deduct liquidated damages from payments due to the Service Provider. Payment of liquidated damages shall not affect the Service Provider's liabilities.

3.8.2 Correction for Overpayment If the Intended Completion Date is extended after liquidated damages have been paid, the Employer shall correct any overpayment of liquidated damages by the Service Provider by adjusting the next payment certificate. The Service Provider shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rates specified in Sub-Clause 6.5.

3.8.3 Lack of performance penalty If the Service Provider has not corrected a Defect within the time specified in the Employer's notice, a penalty for Lack of performance will be paid by the Service Provider. The amount to be paid will be calculated as a percentage of the cost of having the Defect corrected, assessed as described in Sub-Clause 7.2 and **specified in the SCC**.

3.9 Performance Security The Service Provider shall provide the Performance Security to the Employer no later than the date specified in the Letter of acceptance. The Performance Security shall be issued in an amount and form and by a bank or surety acceptable to the Employer and denominated in the types and proportions of the currencies in which the Contract Price is payable. The performance Security shall be valid until a date 28 day from the Completion Date of the Contract in case of a bank guarantee, and until one year from the Completion Date of the Contract in the case of a Performance Bond.

3.10 Fraud and Corruption The Bank requires compliance with the Bank's Anti-Corruption Guidelines and its prevailing sanctions policies and procedures as set forth in the WBG's Sanctions Framework, as set forth in the Attachment 1 to the GCC.

The Employer requires the Service Provider to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the Tendering process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee.

3.11 Sustainable Procurement

The Service Provider shall conform to the sustainable procurement contractual provisions, if and as specified in the SCC.

4. Service Provider's Personnel

4.1 Description of Personnel

The titles, agreed job descriptions, minimum qualifications, and estimated periods of engagement in the carrying out of the Services of the Service Provider's Key Personnel are described in Appendix C. The Key Personnel and Subcontractors listed by title as well as by name in Appendix C are hereby approved by the Employer.

4.2 Removal and/or Replacement of Personnel

- (a) Except as the Employer may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Service Provider, it becomes necessary to replace any of the Key Personnel, the Service Provider shall provide as a replacement a person of equivalent or better qualifications.
- (b) If the Employer finds that any of the Personnel have (i) committed serious misconduct or have been charged with having committed a criminal action, or (ii) have reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Service Provider shall, at the Employer's written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Employer.
- (c) The Service Provider shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

5. Obligations of the Employer

5.1 Assistance and Exemptions

The Employer shall use its best efforts to ensure that the Government shall provide the Service Provider such assistance and exemptions as specified in the SCC.

5.2 Change in the Applicable Law

If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost of the Services rendered by the Service Provider, then the remuneration and reimbursable expenses otherwise payable to the Service Provider under this Contract shall be increased or decreased

accordingly by agreement between the Parties, and corresponding adjustments shall be made to the amounts referred to in Sub-Clauses 6.2 (a) or (b), as the case may be.

5.3 Services and Facilities

The Employer shall make available to the Service Provider the Services and Facilities listed under Appendix F.

6. Payments to the Service Provider

6.1 Lump-Sum Remuneration

The Service Provider's remuneration shall not exceed the Contract Price and shall be a fixed lump-sum including all Subcontractors' costs, and all other costs incurred by the Service Provider in carrying out the Services described in Appendix A. Except as provided in Sub-Clause 5.2, the Contract Price may only be increased above the amounts stated in Sub-Clause 6.2 if the Parties have agreed to additional payments in accordance with Sub-Clauses 2.4 and 6.3.

6.2 Contract Price

(a) The price payable in local currency is **set forth in the SCC**.

(b) The price payable in foreign currency is **set forth in the SCC**.

6.3 Payment for Additional Services, and Performance Incentive Compensation

6.3.1 For the purpose of determining the remuneration due for additional Services as may be agreed under Sub-Clause 2.4, a breakdown of the lump-sum price is provided in Appendices D and E.

6.3.2 **If the SCC so specify**, the service provider shall be paid performance incentive compensation as set out in the Performance Incentive Compensation appendix.

6.4 Terms and Conditions of Payment

Payments will be made to the Service Provider according to the payment schedule **stated in the SCC**. **Unless otherwise stated in the SCC**, the advance payment (Advance for Mobilization, Materials and Supplies) shall be made against the provision by the Service Provider of a bank guarantee for the same amount, and shall be valid for the period **stated in the SCC**. Any other payment shall be made after the conditions **listed in the SCC** for such payment have been met, and the Service Provider have submitted an invoice to the Employer specifying the amount due.

6.5 Interest on Delayed Payments

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

6.6 Price Adjustment

6.6.1 Prices shall be adjusted for fluctuations in the cost of inputs only if **provided for in the SCC**. If so provided, the amounts certified in each payment certificate, after deducting for Advance Payment, shall be adjusted by applying the respective price adjustment factor to the payment amounts due in each currency.

A separate formula of the type indicated below applies to each Contract currency:

$$P_c = A_c + B_c \frac{L_{mc}}{L_{oc}} + C_c \frac{I_{mc}}{I_{oc}}$$

Where:

P_c is the adjustment factor for the portion of the Contract Price payable in a specific currency “c”.

A_c , B_c and C_c are coefficients specified in the SCC, representing: A_c the nonadjustable portion; B_c the adjustable portion relative to labor costs and C_c the adjustable portion for other inputs, of the Contract Price payable in that specific currency “c”; and

L_{mc} is the index prevailing at the first day of the month of the corresponding invoice date and L_{oc} is the index prevailing 28 days before Bid opening for labor; both in the specific currency “c”.

I_{mc} is the index prevailing at the first day of the month of the corresponding invoice date and I_{oc} is the index prevailing 28 days before Bid opening for other inputs payable; both in the specific currency “c”.

If a price adjustment factor is applied to payments made in a currency other than the currency of the source of the index for a particular indexed input, a correction factor Z_o/Z_n will be applied to the respective component factor of p_n for the formula of the relevant currency. Z_o is the number of units of currency of the country of the index, equivalent to one unit of the currency payment on the date of the base index, and Z_n is the corresponding number of such currency units on the date of the current index.

6.6.2 If the value of the index is changed after it has been used in a calculation, the calculation shall be corrected, and an adjustment made in the next payment certificate. The index value shall be deemed to take account of all changes in cost due to fluctuations in costs.

6.7 Dayworks

6.7.1 If applicable, the Daywork rates in the Service Provider’s Bid shall be used for small additional amounts of Services only when the Employer has given written instructions in advance for additional services to be paid in that way.

6.7.2 All work to be paid for as Dayworks shall be recorded by the Service Provider on forms approved by the Employer. Each completed form shall be verified and signed by the Employer

representative as indicated in Sub-Clause 1.6 within two days of the Services being performed.

6.7.3 The Service Provider shall be paid for Dayworks subject to obtaining signed Dayworks forms as indicated in Sub-Clause 6.7.2

7. Quality Control

7.1 Identifying Defects

The principle and modalities of Inspection of the Services by the Employer shall be as **indicated in the SCC**. The Employer shall check the Service Provider's performance and notify him of any Defects that are found. Such checking shall not affect the Service Provider's responsibilities. The Employer may instruct the Service Provider to search for a Defect and to uncover and test any service that the Employer considers may have a Defect. Defect Liability Period is as **defined in the SCC**.

7.2 Correction of Defects, and Lack of Performance Penalty

- (a) The Employer shall give notice to the Service Provider of any Defects before the end of the Contract. The Defects liability period shall be extended for as long as Defects remain to be corrected.
- (b) Every time notice a Defect is given, the Service Provider shall correct the notified Defect within the length of time specified by the Employer's notice.
- (c) If the Service Provider has not corrected a Defect within the time specified in the Employer's notice, the Employer will assess the cost of having the Defect corrected, the Service Provider will pay this amount, and a Penalty for Lack of Performance calculated as described in Sub-Clause 3.8.

8. Settlement of Disputes

8.1 Amicable Settlement

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

**8.2 Dispute
Settlement**

If either Party objects to any action or inaction of the other Party, the objecting Party may file a written Notice of Dispute to the other Party providing in detail the basis of the dispute. The Party receiving the Notice of Dispute will consider it and respond in writing within fourteen (14) days after receipt. If that Party fails to respond within fourteen (14) days, or the dispute cannot be amicably settled within fourteen (14) days following the response of that Party, **GCC Clause 47** shall apply.

8.3

Any dispute between the Parties arising under or related to this Contract that cannot be settled amicably may be referred to by either Party to the adjudication/arbitration in accordance with the provisions specified in the **SCC**

ATTACHMENT 1

Fraud and Corruption

(Text in this Attachment shall not be modified)

1. Purpose

- 1.1 The Bank's Anti-Corruption Guidelines and this annex apply with respect to procurement under Bank Investment Project Financing operations.

2. Requirements

- 2.1 The Bank requires that Borrowers (including beneficiaries of Bank financing); bidders (applicants/proposers), consultants, contractors and suppliers; any sub-contractors, sub-consultants, service providers or suppliers; any agents (whether declared or not); and any of their personnel, observe the highest standard of ethics during the procurement process, selection and contract execution of Bank-financed contracts, and refrain from Fraud and Corruption.

- 2.2 To this end, the Bank:

- a. Defines, for the purposes of this provision, the terms set forth below as follows:
 - i. "corrupt practice" is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
 - ii. "fraudulent practice" is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
 - iii. "collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - iv. "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - v. "obstructive practice" is:
 - (a) deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or

- (b) acts intended to materially impede the exercise of the Bank's inspection and audit rights provided for under paragraph 2.2 e. below.
- b. Rejects a proposal for award if the Bank determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- c. In addition to the legal remedies set out in the relevant Legal Agreement, may take other appropriate actions, if the Bank determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the procurement process, selection and/or execution of the contract in question, without the Borrower having taken timely and appropriate action satisfactory to the Bank to address such practices when they occur, including by failing to inform the Bank in a timely manner at the time they knew of the practices;
- d. Pursuant to the Bank's Anti- Corruption Guidelines and in accordance with the Bank's prevailing sanctions policies and procedures, may sanction a firm or individual, either indefinitely or for a stated period of time, including by publicly declaring such firm or individual ineligible (i) to be awarded or otherwise benefit from a Bank-financed contract, financially or in any other manner;³ (ii) to be a nominated⁴ sub-contractor, consultant, manufacturer or supplier, or service provider of an otherwise eligible firm being awarded a Bank-financed contract; and (iii) to receive the proceeds of any loan made by the Bank or otherwise to participate further in the preparation or implementation of any Bank-financed project;
- e. Requires that a clause be included in Tendering/request for Tenders documents and in contracts financed by a Bank loan, requiring (i) bidders (applicants/proposers), consultants, contractors, and suppliers, and their sub-contractors, sub-consultants, service providers, suppliers, agents personnel, permit the Bank to inspect⁵ all accounts, records and other documents relating

³ For the avoidance of doubt, a sanctioned party's ineligibility to be awarded a contract shall include, without limitation, (i) applying for pre-qualification, expressing interest in a consultancy, and Tendering, either directly or as a nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider, in respect of such contract, and (ii) entering into an addendum or amendment introducing a material modification to any existing contract.

⁴ A nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider (different names are used depending on the particular tendering document) is one which has been: (i) included by the tenderer in its pre-qualification application or bid because it brings specific and critical experience and know-how that allow the tenderer to meet the qualification requirements for the particular bid; or (ii) appointed by the Borrower.

⁵ Inspections in this context usually are investigative (i.e., forensic) in nature. They involve fact-finding activities undertaken by the Bank or persons appointed by the Bank to address specific matters related to investigations/audits, such as evaluating the veracity of an allegation of possible Fraud and Corruption, through the appropriate mechanisms. Such activity includes but is not limited to: accessing and examining a firm's or individual's financial records and information, and making copies thereof as relevant; accessing and examining any other documents, data and information (whether in hard copy or electronic format) deemed relevant for the investigation/audit, and making copies thereof as relevant;

to procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the Bank.

**SECTION IX - SPECIAL CONDITIONS OF
CONTRACT**

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
1.1(a)	The Arbitrator is _____
1.1(e)	The contract name is _____.
1.1(h)	The Employer is _____
1.1(m)	The Member in Charge is _____
1.1(p)	The Service Provider is _____
1.2	The Applicable Law is: _____
1.3	The language is _____
1.4	<p>The addresses are:</p> <p>Employer: _____</p> <p>Attention: _____</p> <p>Telex: _____</p> <p>Facsimile: _____</p> <p>Service Provider: _____</p> <p>Attention: _____</p> <p>Telex: _____</p> <p>Facsimile: _____</p>
1.6	<p>The Authorized Representatives are:</p> <p>For the Employer: _____</p> <p>For the Service Provider: _____</p>
2.1	The date on which this Contract shall come into effect is _____.
2.2.2	The Starting Date for the commencement of Services is _____.
2.3	The Intended Completion Date is _____.
3.2.3	<p>Activities prohibited after termination of this Contract are: _____</p> <p>_____</p>
3.4	<p>The risks and coverage by insurance shall be:</p> <p>(i) Third Party motor vehicle _____</p> <p>(ii) Third Party liability [<i>insert</i>]_____</p>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	(iii) Employer's liability and workers' compensation _____ (iv) Professional liability [insert] _____ (v) Loss or damage to equipment and property _____
3.5(d)	The other actions are _____.]
3.7	Restrictions on the use of documents prepared by the Service Provider are: _____
3.8.1	The liquidated damages rate is _____ per day The maximum amount of liquidated damages for the whole contract is _____ percent of the final Contract Price.
3.8.3	The percentage _____ to be used for the calculation of Lack of performance Penalty(ies) is _____.
3.11	<i>[Delete if not applicable] Insert any sustainable procurement contractual provisions if applicable.</i> The following sustainable procurement contractual provisions apply:
5.1	The assistance and exemptions provided to the Service Provider are: _____
6.2(a)	The amount in local currency is _____.
6.2(b)	The amount in foreign currency or currencies is _____.
6.3.2	The performance incentive paid to the Service Provider shall be: _____ _____
6.4	Payments shall be made according to the following schedule: <ul style="list-style-type: none"> • Advance for Mobilization, Materials and Supplies: _____ percent of the Contract Price shall be paid on the commencement date against the submission of a bank guarantee for the same. • Progress payments in accordance with the milestones established as follows, subject to certification by the Employer, that the Services have been rendered satisfactorily, pursuant to the performance indicators: <ul style="list-style-type: none"> ➤ _____ (indicate milestone and/or percentage) _____ ➤ _____ (indicate milestone and/or percentage) _____ and ➤ _____ (indicate milestone and/or percentage) _____ <p>Should the certification not be provided, or refused in writing by the employer within one month of the date of the milestone, or of the date of</p>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	<p>receipt of the corresponding invoice, the certification will be deemed to have been provided, and the progress payment will be released at such date.</p> <ul style="list-style-type: none"> • The amortization of the Advance mentioned above shall commence when the progress payments have reached 25% of the contract price and be completed when the progress payments have reached 75%. • The bank guarantee for the advance payment shall be released when the advance payment has been fully amortized.
6.5	<p>Payment shall be made within _____ days of receipt of the invoice and the relevant documents specified in Sub-Clause 6.4, and within _____ days in the case of the final payment.</p> <p>The interest rate is _____.</p>
6.6.1	<p>Price adjustment is _____ in accordance with Sub-Clause 6.6.</p> <p>The coefficients for adjustment of prices are _____:</p> <p>(a) For local currency:</p> <p style="padding-left: 40px;">A_L is _____</p> <p style="padding-left: 40px;">B_L is _____</p> <p style="padding-left: 40px;">C_L is _____</p> <p style="padding-left: 40px;">L_{mc} and L_{oc} are the index for Labor from _____</p> <p style="padding-left: 40px;">I_{mc} and I_{oc} are the index for _____ from _____</p> <p>(b) For foreign currency</p> <p style="padding-left: 40px;">A_F is _____</p> <p style="padding-left: 40px;">B_F is _____</p> <p style="padding-left: 40px;">C_F is _____</p> <p style="padding-left: 40px;">L_{mc} and L_{oc} are the index for Labor from _____</p> <p style="padding-left: 40px;">I_{mc} and I_{oc} are the index for _____ from _____</p>
7.1	<p>The principle and modalities of inspection of the Services by the Employer are as follows: _____</p> <p>The Defects Liability Period is _____.</p>
8.2.	<p>[Note: In contracts with foreign consultants, the Employer requires that the international commercial arbitration in a neutral venue is used.]</p> <p>Disputes shall be settled by arbitration in accordance with the following provisions:</p>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	<p>1. <u>Selection of Arbitrators</u>. Each dispute submitted by a Party to arbitration shall be heard by a sole arbitrator or an arbitration panel composed of three (3) arbitrators, in accordance with the following provisions:</p> <p>(a) Where the Parties agree that the dispute concerns a technical matter, they may agree to appoint a sole arbitrator or, failing agreement on the identity of such sole arbitrator within thirty (30) days after receipt by the other Party of the proposal of a name for such an appointment by the Party who initiated the proceedings, either Party may apply to <i>[name an appropriate international professional body, e.g., the Federation Internationale des Ingenieurs-Conseil (FIDIC) of Lausanne, Switzerland]</i> for a list of not fewer than five (5) nominees and, on receipt of such list, the Parties shall alternately strike names therefrom, and the last remaining nominee on the list shall be the sole arbitrator for the matter in dispute. If the last remaining nominee has not been determined in this manner within sixty (60) days of the date of the list, <i>[insert the name of the same professional body as above]</i> shall appoint, upon the request of either Party and from such list or otherwise, a sole arbitrator for the matter in dispute.</p> <p>(b) Where the Parties do not agree that the dispute concerns a technical matter, the Employer and the Service Provider shall each appoint one (1) arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the arbitrators named by the Parties do not succeed in appointing a third arbitrator within thirty (30) days after the latter of the two (2) arbitrators named by the Parties has been appointed, the third arbitrator shall, at the request of either Party, be appointed by <i>[name an appropriate appointing authority.]</i>.</p> <p>(c) If, in a dispute subject to paragraph (b) above, one Party fails to appoint its arbitrator within thirty (30) days after the other Party has appointed its arbitrator, the Party which has named an arbitrator may apply to the <i>[name the same appointing authority as in said paragraph (b)]</i> to appoint a sole arbitrator for the matter in dispute, and the arbitrator appointed pursuant to such application shall be the sole arbitrator for that dispute.</p> <p>2. <u>Rules of Procedure</u>. Except as otherwise stated herein, arbitration proceedings shall be conducted in accordance with the rules of procedure for arbitration of the United Nations Commission on International Trade Law (UNCITRAL) as in force on the date of this Contract.</p>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	<p>3. <u>Substitute Arbitrators</u>. If for any reason an arbitrator is unable to perform his/her function, a substitute shall be appointed in the same manner as the original arbitrator.</p> <p>4. <u>Nationality and Qualifications of Arbitrators Regarding Contracts with Foreign Service Providers</u>. The sole arbitrator or the third arbitrator appointed pursuant to paragraphs 1(a) through 1(c) above shall be an internationally recognized legal or technical expert with extensive experience in relation to the matter in dispute and shall not be a national of the Service Provider's home country [<i>Note: If the Service Provider consists of more than one entity, add: or of the home country of any of their members or Parties</i>] or of the Government's country. For the purposes of this Clause, "home country" means any of:</p> <ul style="list-style-type: none"> (a) the country of incorporation of the Service Provider [<i>Note: If the Service Provider consists of more than one entity, add: or of any of their members or Parties</i>]; or (b) the country in which the Service Provider's [or any of their members' or Parties'] principal place of business is located; or (c) the country of nationality of a majority of the Service Provider's [or of any members' or Parties'] shareholders; or (d) the country of nationality of the Sub-Contractors concerned, where the dispute involves a subcontract. <p><i>[Note: SCC Clause 45.1.4 stated above does not apply to local or localized Service Providers from the Republic of Ghana]</i></p> <p>5. <u>Miscellaneous</u>. In any arbitration proceeding involving foreign Service Providers hereunder:</p> <ul style="list-style-type: none"> (a) proceedings shall, unless otherwise agreed by the Parties, be held in [<i>select a country which is neither The Republic of Ghana nor the Service Provider's country</i>]; (b) the English language shall be the official language for all purposes; and (c) the decision of the sole arbitrator or of a majority of the arbitrators (or of the third arbitrator if there is no such majority) shall be final and binding and shall be enforceable in any court of competent jurisdiction, and the

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	Parties hereby waive any objections to or claims of immunity in respect of such enforcement.
8.3	<p>The rules of procedure for arbitration proceedings pursuant to GCC Clause 8.2.4 shall be as follows:</p> <p><i>[The Tendering document should contain one clause to be retained in the event of a Contract with a foreign Service Provider and one clause to be retained in the event of a Contract with a Service Provider who is a national of the Employer’s Country. At the time of finalizing the Contract, the respective applicable clause should be retained in the Contract. The following explanatory note should therefore be inserted as a header to GCC 8.2 in the Tendering document.</i></p> <p><i>“Clause 8.2.4 (a) shall be retained in the case of a Contract with a foreign Service Provider and Clause 8.2.4 (b) shall be retained in the case of a Contract with a national of the Employer’s Country.”]</i></p> <p>(a) Contract with foreign Service Provider:</p> <p><i>[For contracts entered into with foreign Service Providers, International commercial arbitration may have practical advantages over other dispute settlement methods. The World Bank should not be named as arbitrator, nor should it be asked to name an arbitrator. Among the rules to govern the arbitration proceedings, the Employer may wish to consider the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules of 1976, the Rules of Conciliation and Arbitration of the International Chamber of Commerce (ICC), the Rules of the London Court of International Arbitration or the Rules of Arbitration Institute of the Stockholm Chamber of Commerce.]</i></p> <p><i>If the Employer chooses the UNCITRAL Arbitration Rules, the following sample clause should be inserted:</i></p> <p>GCC 8.2.4 (a)—Any dispute, controversy or claim arising out of or relating to this Contract, or breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force.</p> <p><i>If the Employer chooses the Rules of ICC, the following sample clause should be inserted:</i></p> <p>GCC 8.2.4 (a)—All disputes arising in connection with the present Contract shall be finally settled under the Rules of</p>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with said Rules.
8.2.5	The designated Appointing Authority for a new Adjudicator is _____

Appendices to the Invitation for Tenders

Appendix A—Description of the Services

Give detailed descriptions of the Services to be provided, dates for completion of various tasks, place of performance for different tasks, specific tasks to be approved by Employer, etc.

Appendix B—Schedule of Payments and Reporting Requirements

List all milestones for payments and list the format, frequency, and contents of reports or products to be delivered; persons to receive them; dates of submission; etc. If no reports are to be submitted, state here “Not applicable.”

Appendix C—Key Personnel and sub-Contractors

- List under:*
- C-1 Titles [and names, if already available], detailed job descriptions and minimum qualifications of foreign Personnel to be assigned to work in the Government’s country, and staff-months for each.*
 - C-2 Same as C-1 for Key foreign Personnel to be assigned to work outside the Government’s country.*
 - C-3 List of approved sub-Contractors (if already available); same information with respect to their Personnel as in C-1 or C-2.*
 - C-4 Same information as C-1 for Key local Personnel.*

Appendix D—Breakdown of Contract Price in Foreign Currency

List here the elements of cost used to arrive at the breakdown of the lump-sum price—foreign currency portion:

- 1. Rates for Equipment Usage or Rental or for Personnel (Key Personnel and other Personnel).*
- 2. Reimbursable expenditures.*

This appendix will exclusively be used for determining remuneration for additional Services.

Appendix E—Breakdown of Contract Price in Local Currency

List here the elements of cost used to arrive at the breakdown of the lump-sum price—local currency portion:

1. *Rates for Equipment Usage or Rental or for Personnel (Key Personnel and other Personnel).*
2. *Reimbursable expenditures.*

This appendix will exclusively be used for determining remuneration for additional Services.

Appendix F—Services and Facilities Provided by the Employer

List here services and facilities mutually agreed by both parties, to be provided by the employer.

[on letterhead of the Employer]

[Date]

Letter of Acceptance

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

This is to notify you that your Tender dated *[date]* for execution of the *[name of the Contract and identification number, as given in the Special Conditions of Contract]* for the Contract Price of the equivalent of *[amount in numbers and words] [name of currency]*, as corrected and modified in accordance with the Instructions to Tenderers is hereby accepted by us.

You are hereby instructed to proceed with the execution of the said Contract for the provision of Services in accordance with the Contract documents.

Please return the attached Contract duly signed

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Agency: _____

Attachment: Contract

Contract Form

Contract Form

[on letterhead of the Employer]

Lump-Sum Remuneration

This CONTRACT (hereinafter called the “Contract”) is made the *[day]* day of the month of *[month]*, *[year]*, between, on the one hand, *[name of Employer]* (hereinafter called the “Employer”) and, on the other hand, *[name of Service Provider]* (hereinafter called the “Service Provider”).

[Note: In the text below text in brackets is optional; all notes shall be deleted in final text. If the Service Provider consist of more than one Entity, the above shall be partially amended to read as follows: “[...] (hereinafter called the “Employer”) and, on the other hand, a joint venture consisting of the following entities, each of which will be jointly and severally liable to the Employer for all the Service Providers’ obligations under this Contract, namely, [name of Service Provider] and [name of Service Provider] (hereinafter called the “Service Provider”).]

WHEREAS

- (a) the Employer has requested the Service Provider to provide certain Services as defined in the General Conditions of Contract attached to this Contract (hereinafter called the “Services”);
- (b) the Service Provider, having represented to the Employer that they have the required professional skills, and personnel and technical resources, have agreed to provide the Services on the terms and conditions set forth in this Contract at a contract price of *[insert the figures and words and the currency]*;
- (c) the Employer has set aside funds towards the cost of the Services and intends to apply a portion of the proceeds of these funds to eligible payments under this Contract, it being understood that such payments will be subject, in all respects, to the terms and conditions of the Contract providing for the funds and that no party other than the Employer shall derive any rights from the Contract providing for the funds or have any claim to the funds proceeds;

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:
 - a) The General Conditions of Contract;
 - b) The Special Conditions of Contract;
 - c) The Service Provider’s Tender;
 - d) The Priced Activity Schedule;

- e) The Specifications (Statement of Requirements)
- f) Letter of Acceptance
- g) Notice to Proceed
- h) The following Appendices: [*Note: If any of these Appendices are not used, the words "Not Used" shall be inserted below next to the title of the Appendix and on the sheet attached hereto carrying the title of that Appendix.*]
 - Appendix A: Description of the Services
 - Appendix B: Schedule of Payments
 - Appendix C: Key Personnel and sub-Contractors
 - Appendix D: Breakdown of Contract Price in Foreign Currency
 - Appendix E: Breakdown of Contract Price in Local Currency
 - Appendix F: Services and Facilities Provided by the Employer
- i) Minutes of Negotiation Meeting

2. The mutual rights and obligations of the Employer and the Service Provider shall be as set forth in the Contract, in particular:

- a) The Service Provider shall carry out the Services in accordance with the provisions of the Contract; and
- b) The Employer shall make payments to the Service Provider in accordance with the provisions of the Contract.

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

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

[Authorized Representative]

For and on behalf of *[name of Service Provider]*

[Authorized Representative]

[Note: If the Service Provider consists of more than one Entity, all these entities shall appear as signatories, e.g., in the following manner:]

For and on behalf of each of the Members of the Service Provider

[Name of member]

[Authorized Representative]

[Name of member]

[Authorized Representative]

SECTION IX: SECURITY FORMS

Tender Security (Bank Guarantee) Form

*[If required, the **Bank/Tenderer** shall fill in this Bank Guarantee form in accordance with the instructions indicated in brackets.]*

[insert bank's name, and address of issuing branch or office]

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

[insert date]

TENDER GUARANTEE No.: *[insert number]*

We have been informed that *[insert name of the Tenderer; if a joint venture, list complete legal names of partners]* (hereinafter called "the Tenderer") has submitted to you its Tender dated *[insert date]* (hereinafter called "the Tender") for the execution of *[insert name of Contract]* under Invitation for Tenders No. *[insert IFT number]* ("the IFT").

Furthermore, we understand that, according to your conditions, Tenders must be supported by a Tender Guarantee.

At the request of the Tenderer, we *[insert name of bank]* hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[insert amount in figures expressed in Ghana Cedis or the equivalent amount in an international freely convertible currency]* (*[insert amount in words]*) upon receipt by us of your first demand in writing accompanied by a written statement stating that the Tenderer is in breach of its obligation(s) under the Tender conditions, because the Tenderer:

- (a) has withdrawn its Tender during the period of Tender validity specified by the Tenderer in the Service Provider's Form of Tender; or
- (b) does not accept the correction of errors in accordance with the Instructions to Tenderers (hereinafter "the ITT") of the IFT; or
- (c) having been notified of the acceptance of its Tender by the Employer during the period of Tender validity, (i) fails or refuses to execute the Contract, , or (ii) fails or refuses to furnish the Performance Security, in accordance with the **ITT Clause 41**.

This Guarantee shall expire: (a) if the Tenderer is the successful Tenderer, upon our receipt of copies of the Contract signed by the Tenderer and of the Performance Security issued to you by the Tenderer; or (b) if the Tenderer is not the successful Tenderer, upon the earlier of (i) our receipt of a copy of your notification to the Tenderer that the Tenderer was unsuccessful, or (ii) twenty-eight (28) days after the expiration of the Tenderer's Tender. Consequently, any demand for payment under this Guarantee must be received by us at the office on or before that date.

[Signature of authorized representative(s)]

Tender Securing Declaration Form

[The Tenderer shall fill in this Form in accordance with the instructions indicated]

Date: *[insert **date** (as day, month and year)]*

Tender No.: *[insert **number of tendering process**]*

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

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

We, the undersigned, declare that:

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

We accept that we will automatically be suspended from being eligible for tendering in any contract with the Employer for the period of time as determined by the Authority if we are in breach of our obligation(s) under the tender conditions, because we:

- (a) have withdrawn our Tender during the period of Tender validity specified in the Service Provider's Form of Tender;
- (b) does not accept the correction of errors in accordance with the Instructions to Tenderers (hereinafter "the ITT") of the IFT
- (c) having been notified of the acceptance of our Tender by the Employer during the period of Tender validity, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the **ITT Clause 41**.

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

Signed: *[insert signature of person whose name and capacity are shown]* In the capacity of *[insert legal capacity of person signing the Tender Securing Declaration]*

Name: *[insert **complete name of person signing the Tender Securing Declaration**]*

Duly authorized to sign the Tender for and on behalf of: *[insert **complete name of Tenderer**]*

Dated on ___ day of _____, _____ *[insert **date of signing**]*
Corporate Seal (where appropriate)

[Note: In case of a Joint Venture, the Tender Securing Declaration must be in the name of all partners to the Joint Venture that submits the tender]

Tender Security (Insurance Bond) Form

*[If required, the **Surety/Tenderer** shall fill in this Tender Bond Form in accordance with the instructions indicated in brackets.]*

BOND NO. *[insert Bond number]*

BY THIS BOND *[insert name of Tenderer; if joint venture, insert complete legal names of partners]* as Principal (hereinafter called “the Principal”), and *[insert name, legal title, and address of Surety]*, **authorized to transact business in the Republic of Ghana**, as Surety (hereinafter called “the Surety”), are held and firmly bound unto *[insert name of Employer]* as Obligee (hereinafter called “the Employer”) in the sum of *[insert amount in figures expressed in the Ghana Cedi or the equivalent amount in an international freely convertible currency]* *[insert amount in words]*, for the payment of which sum, well and truly to be made, we, the said Principal and Surety, bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Principal has submitted a written Tender to the Employer dated the *[number]* day of *[month]*, *[year]*, for the *[insert name of Contract]* (hereinafter called the “Tender”).

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal:

- (1) withdraws its Tender during the period of Tender validity specified in the Service Provider’s Form of Tender; or
- (2) (b) does not accept the correction of errors in accordance with the Instructions to Tenderers (hereinafter “the ITT”) of the IFT or

having been notified of the acceptance of our Tender by the Employer during the period of Tender validity, (i) fails or refuses to execute the Contract, if required, or (ii) fails or refuses to furnish the Performance Security, in accordance with the ITT Clause 41. then the Surety undertakes to immediately pay to the Employer up to the above amount upon receipt of the Employer’s first written demand, without the Employer having to substantiate its demand, provided that in its demand the Employer shall state that the demand arises from the occurrence of any of the above events, specifying which event(s) has occurred.

The Surety hereby agrees that its obligation shall remain in full force and effect up to and including the date 28 days after the date of expiration of the Tender validity as stated in the Invitation to Tender or extended by the Employer at any time prior to this date, notice of which extension(s) to the Surety being hereby waived.

IN TESTIMONY WHEREOF, the Principal and the Surety have caused these presents to

be executed in their respective names this *[insert number]* day of *[month]*, *[year]*

Principal: _____

Surety: _____

[insert signature(s) of authorized representative(s)]

Corporate Seal (where appropriate)

[insert signature(s) of authorized representative(s)]

[insert printed name and title]

[insert printed name and title]

Performance Security (Bank Guarantee) Form [Unconditional]

The Unconditional (or “On-Demand”) Bank Guarantee has the merit of simplicity and of being universally known and accepted by commercial banks.

To: [name and address of Employer]

Whereas [name and address of Service Provider] (hereinafter called “the Service Provider”) has undertaken, in pursuance of Contract No. [insert number] dated [insert date] to execute [insert name of Contract and brief description of Services] (hereinafter called “the Contract”);

And whereas it has been stipulated by the Employer in the said Contract that the Service Provider shall furnish the Employer with a Bank Guarantee by a reputable bank for the sum specified therein as security for compliance with the Service Provider’s obligations in accordance with the Contract;

And whereas we have agreed to give the Service Provider such a Bank Guarantee;

Now therefore we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Service Provider, up to a total of [amount of Guarantee in figures] [amount in words], such sum being payable in the types and proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your presentation of the first written demand and without cavil or argument, any sum or sums within the limits of [insert amount of Guarantee] as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the Service Provider before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the Contract or of the Services to be performed there under or of any of the Contract documents which may be made between you and the Service Provider shall in any way release us from any liability under this Guarantee, and we hereby waive notice of any such change, addition, or modification.

This Guarantee shall be valid until a date 28 day from the date of issue of the Certificate of Completion.

Signature and seal of the Guarantor _____

Name of Bank _____

Address _____

Date _____

Performance Security (Insurance Bond)

By this Bond [*insert name of Principal*] as Principal (hereinafter called “the Service Provider”) and [*insert name of Surety*] as Surety (hereinafter called “the Surety”), are held and firmly bound unto [*insert name of Employer*] as Obligee (hereinafter called “the Service Provider”) in the amount of [*insert amount in words and figures*], 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 Service Provider and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Service Provider has entered into a written Agreement with the Employer dated the ___ day of _____, 20 __, for [*name of contract and brief description of Technical Services*] 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 Service Provider 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 Service Provider 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 Tender or Tenders from qualified Tenderers 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 Tenderer, arrange for a Contract between such Tenderer 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 the Service Provider under the Contract, less the amount properly paid by Employer to the Service Provider; 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 Service Provider 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 _____

Bank Guarantee Form for Advance Payment

To: *[name and address of Employer]*

[name of Contract]

In accordance with the provisions of the General Conditions of Contract, Clause 38 (“Terms and Conditions of Payment”) of the above-mentioned Contract, *[insert name and address of Service Provider]* (hereinafter called "the Service Provider) shall deposit with *[name of Employer]* (hereinafter called the Employer) a Bank Guarantee to guarantee Service Provider’s proper and faithful performance under the said Clause of the Contract in an amount of *[insert amount of Guarantee in figures] [insert amount in words]*.

We, the *[Bank or Financial, institution]*, as instructed by the Service Provider, agree unconditionally and irrevocably to guarantee as primary obligator and not as Surety merely, the payment to *[insert name of Employer]* on his first demand without whatsoever right of objection on our part and without *[insert name of Employer]* first claim to the Service Provider, in the amount not exceeding *[insert amount of Guarantee] [amount in words]*.

We further agree that no change or addition to or other modification of the terms of the Contract or of Works to be performed there under or of any of the Contract documents which may be made between *[name of Employer]* and the Service Provider, shall in any way release the said bank from any liability under this Guarantee, and we hereby waive notice of any such change, addition, or modification.

This Guarantee shall remain valid and in full effect from the date of the advance payment under the Contract until *[insert name of Employer]* receives full repayment of the same amount from the Service Provider.

Yours truly,

Signature and seal: _____

Name of Bank/Financial Institution: _____

Address: _____

Date: _____