



**MINISTRY OF ECONOMY AND FINANCE  
KINGDOM OF CAMBODIA**

**Selection of Consultants under  
Indefinite Delivery Contracts for the Panel of  
Transaction Advisory Services Consultants  
for PPP Projects (IDC-Panel)**

**Request for Expressions of Interest**

**REFERENCE NUMBER: GDPPP-IDCPANEL-REOI-001**

**09 January 2023**

## ABBREVIATIONS

BOT	Build-Operate-Transfer
DSCR	Debt Service Coverage Ratio
EOI	Expression of Interest
FA	Framework Agreement
FIRR	Financial Internal Rate of Return
FS	Feasibility Study
GDPPP	General Department of Public-Private Partnerships
IA	Implementing Agency
IDC	Indefinite Delivery Contract
IFI	International Financial Institutions
JV	Joint Venture
PDF	Project Development Facility
PPP	Public-Private Partnership
PMU	Project Management Unit
QBS	Quality-Based Selection
REOI	Request for Expressions of Interest
RFP	Request for Proposal
SOP, Vol. III	Standard Operating Procedures for PPP Projects, Vol. III: Procurement Manual
TOR	Terms of Reference
VfM	Value for Money

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**Request for Expressions of Interest**  
**for the**  
**Selection of Consulting Firms under Indefinite Delivery Contracts for the Panel of**  
**Transaction Advisory Services Consultants for PPP Projects**

1. The Government of the Kingdom of Cambodia has enacted the Law on Public-Private Partnerships (Law on PPPs) on 18 November 2021 and adopted the Sub-Decree on Standard Operating Procedures for PPP Projects on 31 August 2022 under which a Project Development Facility for PPP Projects (PDF for PPP Projects) has been established to finance the project preparation and other transaction services of Priority PPP Projects. The project preparation and other transaction services are carried out by consulting firms which are termed as consultants.
2. The General Department of Public-Private Partnerships (GDPPP) of the Ministry of Economy and Finance (MEF), as the management agency for the PDF, intends to establish a Panel of Transaction Advisory Services Consultants (the “IDC-Panel”) to have access to a large pool of experts from highly reputable consulting firms. Attached is the detailed consultant selection process (**Appendix 1**).
3. The scope of services of the Consultants in the IDC-Panel involves the provision of project preparation and transaction support services for PPP projects. The detailed scope of work is outlined in the Terms of Reference (TOR) as attached hereto (**Appendix 2**).
4. The GDPPP invites eligible national and international consulting firms to submit expressions of interest (EOI) to be part of the IDC-Panel. The IDC Panel will be retained for a period of three (3) years from the date of approval of the selection of the Consultants by the MEF.
5. The Consultants selected to be part of the IDC-Panel will be retained under an Indefinite Delivery Contract without any commitment on the part of the MEF. Only those Consultants selected for the IDC-Panel will be eligible to participate in the selection of the TA for PPP Projects.
6. Interested firms are requested to submit EOIs, in the prescribed template available at **Appendix 3** and provide the following information demonstrating their capabilities and availability of technical expertise:
  - a. Summary statement indicating the core competence of the firm/consortium/joint venture;
  - b. Nature and size of firm/consortium/joint venture including number of permanent staff and associates;
  - c. List of similar assignments successfully completed in the last ten (10) years including provision of commercial/financial and legal advice on PPP projects (provide details of the Employer, country, sector, estimated cost of the project, achievement of financial close, duration of services, fees for the assignment, and description of services rendered, among others);<sup>1</sup>

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<sup>1</sup> Similar assignments shall refer to assignments completed in the last ten (10) years, where the Consultant has acted as an advisor to government procuring agencies, bidders or lenders, in relation to the preparation and/or transaction of PPP projects. For the purpose of evaluation rating, only similar assignments shall be considered. However, for the purpose of assessing if the firm or technical member-firm (in case the association/consortium/JV includes one) also possesses technical/engineering experience, as reference for validating the condition in Footnote 11 of the REOI during the call-down assignment, the concerned firms are also required to list down relevant assignments or projects providing technical/engineering advice on PPP in the Project References of the EOI.

- d. Preferred experiences in developing PPP projects in Southeast Asian and/or South Asian Countries;
  - e. Names and addresses of at least three (3) Employers in respect of similar projects in the last ten (10) years for reference checking purposes;
  - f. Average annual Turnover during the previous three (3) years; and
  - g. Any other details which will enable the Employer to assess the relevant experience of the firm/consortium/joint venture.
7. The deadline for the submission of EOIs and other pertinent documents is **09 February 2023**. EOIs shall be submitted using the prescribed template. Additional information/documents (e.g., details of the projects successfully completed beyond the provision in the template, details of at least three (3) Employers on similar projects successfully completed in the last ten (10) years for reference checking purposes, etc.) can be attached to the EOI.
8. Interested firms/consortia/joint ventures should submit their EOIs and additional information/documents directly to the GDPPP by email or through courier at the address given below before the deadline indicated.

**GENERAL DEPARTMENT OF PUBLIC-PRIVATE PARTNERSHIPS**

Ministry of Economy and Finance

Government of the Kingdom of Cambodia

Address: Street No.92, Sangkat Wat Phnom,

Khan Daun Penh, Phnom Penh, Cambodia

Subject: EOI for IDC Panel (Firm's/JV's name)

Email: [idcpanel\\_gdppp@mef.gov.kh](mailto:idcpanel_gdppp@mef.gov.kh)

9. The GDPPP reserves the rights to shortlist or not to shortlist any or all of the applicant(s) without assigning any reason whatsoever.

## **Appendix 1**

### **Consultant Selection Process**

The selection process for the engagement of the transaction advisory services consultants shall be made in accordance with applicable procedures and shall follow a two (2)-stage process:

#### ***Stage 1: Selection of the Panel under Indefinite Delivery Contracts***

The firms/consortium/JVs are selected for the IDC-Panel following the principles of modified Quality-Based Selection (QBS)<sup>2</sup> method. Subsequently, an Indefinite Delivery Contract (IDC)<sup>3</sup> based on the template at **Attachment to Appendix 1** shall be signed by and between the selected firms/consortium/JVs and the MEF, and no retainer fees or any other amount shall be payable to the firms/consortium/JVs. The GDPPP, at its discretion, may regularly update the IDC-Panel.

#### ***Stage 2: Selection of TA***

From the IDC-Panel, a firm/consortium/JV is selected for PPP project preparation and transaction support under a call-down assignment. Selection is made on a competitive basis, using appropriate method based on evaluation of simplified technical proposals on the basis of a project specific TOR. The concerned Implementing Agency (IA) then signs a call-down assignment contract (lump-sum) with the selected firm/consortium/JV for a specific assignment. The payment of the fees is released by the GDPPP to firm/consortium/JV based on the recommendation of the concerned IA, as applicable, of the outputs delivered by the firm/consortium/JV. The fees are paid based on various milestones achieved.

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<sup>2</sup> In this case, the Quality-Based Selection (QBS) under which the firms/consortia/JVs will be selected using only the technical parameters such as experience in similar assignments, CVs of key-personnel, approach and methodology and experience in country/region based on the EOI submission. Submission of financial proposals will not be required.

<sup>3</sup> Indefinite Delivery Contracts are used when the employer needs to have quick and continuing access to “on call” specialized advisory services for a particular activity, the extent and timing of which cannot be defined in advance. The consulting firms/consortia/JVs shall be selected and retained under indefinite delivery contracts for three (3) years without any commitment. As and when the services of the are required for PPP project preparation and transaction support, a firm/consortium/JV will be selected from the IDC Panel and a call-down assignment contract shall be signed.

## **Attachment to Appendix 1**

### **Form of Contract**

#### **INDEFINITE DELIVERY CONTRACT (IDC)**

This CONTRACT (hereinafter called the “Contract”) is made this \_\_\_\_\_ day of the month of \_\_\_\_\_ by and between:

The General Department of Public-Private Partnerships, on behalf of the Ministry of Economy and Finance, Government of the Kingdom of Cambodia with principal office at Street No.92, Sangkat Wat Phnom, Khan Daun Penh, Phnom Penh, Cambodia, represented herein by its Authorized Person (hereinafter called the “Employer”)

and

\_\_\_\_\_, with principal office at \_\_\_\_\_, representing the \_\_\_\_\_, (hereinafter collectively called the “Consultant”)

The foregoing entities are hereinafter collectively referred to as the “Parties”.

#### **WHEREAS**

- (a) The Government of the Kingdom of Cambodia (hereinafter called the “Government”) has initiated a program to strengthen the enabling environment for public-private partnerships (hereinafter called “PPP”), establish a long-term financing and state support mechanism, and help develop a robust pipeline of bankable PPP projects in Cambodia.
- (b) The Government has enacted the Law on Public-Private Partnerships (Law on PPPs) on 18 November 2021 and adopted the Sub-Decree on Standard Operating Procedures for PPP Projects on 31 August 2022 under which a Project Development Facility for PPP Projects (PDF for PPP Projects) has been established to finance the project preparation and other transaction services of Priority PPP Projects. The project preparation and other transaction services are carried out by consulting firms which are termed as consultants.
- (c) the Project Development Facility for PPP Projects (hereinafter called “PDF for PPP Projects”) has been established to be used mainly for the engagement of consulting firms/consortia/JVs as TA for the development of well-structured bankable PPP projects in Cambodia.
- (d) the Employer shall select consulting firms/consortia/JVs by following the procedures specified in the Standard Operating Procedures for PPP Projects, Vol. III, Section II: Selection of Consultants using a two-stage procedure. Stage 1 involves prequalification and retention of a panel of firms/consortia/JVs (referred as the IDC-Panel) under indefinite delivery contracts (hereinafter called the “Contract” or “IDC”), without any commitment whatsoever on the part of the Employer. On the other hand, Stage 2 involves selection of a firm/consortium/JV from of the IDC-Panel to work on a particular assignment, and signing of an Assignment Contract with such firm/consortium/JV.

- (e) in response to the request for Expressions of Interest by the Employer for prequalification of the firms/consortia/JVs to be retained under IDC, to provide certain consulting services as defined in Appendix 1-D of this Contract (hereinafter called the "Services"), the Consultant having represented to the Employer that it has the required professional skills, and personnel and technical resources, has agreed to provide the Services on the terms and conditions set forth in this Contract.
- (f) the Employer has selected the Consultant for inclusion in the IDC-Panel to be retained under this Contract for a period as set forth in this Contract, without any commitment whatsoever on the part of the Employer.
- (g) no legal or financial claim can be made by the Consultant for this IDC.

NOW THEREFORE, for and in consideration of these premises, the Parties have agreed as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:

The Offer Letter

Appendix 1-A: Definitions

Appendix 1-B: The General Conditions of Contract

Appendix 1-C: The Special Conditions of Contract

Appendix 1-D: The Terms of Reference

Appendix 1-E: Template for the Assignment Contract

2. Nothing contained in the Offer Letter and the IDC shall constitute an obligation on the part of the GDPPP to guarantee work or payment to the Consultant.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed on the date first stated above.

Signed for and on behalf of:

The Ministry of Economy and Finance

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***Om Macthearith***

***Director General of GDPPP***

Signed for and on behalf of:

(Name of the Consultant Firm)

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***Name:*** .....

***Position:*** .....



## Appendix 1- A

### Definitions

- D-1 **Assignment Contract** means a contract signed with a firm/consortium/JV retained under the IDC during the IDC Period for carrying out a specific assignment.
- D-2 **Employer** means the Ministry of Economy and Finance, the Government of the Kingdom of Cambodia, represented by the General Department of Public-Private Partnerships with which the firm/consortium/JV signs the IDC.
- D-3 **Consultancy inputs** mean the amount of the time consultant's services can be required during the IDC period. One **person-month** is equivalent to thirty (30) **days Field Work** or twenty-two (22) **working days Home Office Work**. **Home Office Work** means consultant's work at own office or residence; **Field Work** means consultant's work at an **Assignment Location** other than the consultant's Place of Residence and the work-days shall begin on the date of departure for the **Assignment Location**.
- D-4 **D** for Definitions; **S** for Special Conditions and **G** for General Conditions.
- D-5 **Firm** means the company or organization or consortium or the joint venture that is signatory to the IDC.
- D-6 **IDC** means indefinite delivery contract.
- D-7 **IDC Consultant (or Consultant)** means the Firm/Consortium/JV, which has been selected to be in the IDC Panel, from which consultants will be selected for a specific assignment to provide services for the development of PPP projects.
- D-8 **IDC Consultant's Place of Residence** is the city or province where the IDC Consultant holds permanent residence or office.
- D-9 **IDC Period** means a period starting on the date of signing of the IDC.
- D-10 **Services** means the scope of the services defined in the TOR contained in Appendix 1-D.
- D-11 **Terms of Reference or TOR** means the Sample Terms of Reference in Appendix 1-D.

## Appendix 1-B

### The General Conditions of Contract

- G-1 **Term of Engagement** – The Employer has selected the Consultant for inclusion in the panel of consulting firms/consortia/JVs to be retained under IDC-Panel for a period as set forth in this Contract. The IDC Consultant shall make itself available for Services during the IDC Period, from time to time and if called upon to do so by the Employer. Where the Employer selects the IDC Consultant to provide any services for any specific assignment during the IDC Period, the Employer shall sign an Assignment Contract with the IDC Consultant.
- G-2 **Payment under the IDC** - The IDC Consultant will not be paid any remuneration nor guaranteed any assigned works under the IDC during the IDC Period. If an IDC Consultant is invited to undertake a specific assignment during the IDC Period, then a separate Assignment Contract for carrying out such specific assignment shall be signed by the Employer with the IDC Consultant and payment of any remuneration shall be guided in accordance with such Assignment Contract. No legal or financial claim can be made by the Consultant under this IDC.
- G-3 **Authority of Lead Partner** - In case the Consultant consists of Consortium or Joint Venture (JV) Partner/s or Sub-Consultant/s, the Consortium Partners of the JV Partner/s or the Sub-Consultant/s hereby authorize the Lead Partner or Lead Firm specified in the Special Conditions Clause 3 to act on their behalf in exercising all the IDC Consultant's rights and obligations towards the Employer under the IDC, including without limitation the receiving of instructions from the Employer. All members of the Consortium or the JV shall be jointly and severally liable for the entire IDC Period.
- G-4 **Authorized Party** - Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Employer or the Consultant may be taken or executed by the authorized parties. The authorized party under this IDC for the Employer shall be the Director General of the General Department of Public- Private Partnerships (name and address are in Special Conditions Clause 2) or any other officer as duly authorized in this regard and the authorized party for the IDC Consultant is the person who signs the IDC contract (name and address are in Special Conditions Clause 3), unless otherwise notified by the IDC Consultant.
- G-5 **Contractual Ethic** – The Government requires that IDC Consultants observe high ethic. Consultants shall also act in accordance with the Government's policy on sexual harassment. No fees, gratuities, rebates, gifts, commissions or other payments, other than those shown in his IDC have been given or received in connection with the selection process or in the IDC's execution. All Consultants shall have to sign the Statement of Ethical Conduct and Fraud and Corruption (Attachment to Appendix 2).
- G-6 **Language** - All reports, unless otherwise specified in the TOR, and all communication related to the execution of this IDC shall be in English language.
- G-7 **Public Statement and Commitment** - The IDC Consultant shall act discreetly and refrain from making public statements about the Services or any projects of the Employer without the Employer's prior written approval. The IDC Consultant has no authority to commit the Employer in any capacity and shall make this clear as circumstances warrant. The IDC Consultant shall refrain from any political activity involving the assignment or in the country where the project takes place during the Term of Engagement. The IDC Consultant shall not take any action, such as using business cards or stationery carrying the name of the Employer, which may imply that the IDC Consultant is a staff member of the Employer.

- G-8 **Disclosure of Information** - The IDC Consultant shall not disclose any information about the assignment to any party without the explicit permission of the Employer.
- G-9 **Relationship of the Parties** - Nothing contained in this IDC shall be construed as establishing any relationship other than that of independent contractor between the Employer and the IDC Consultant.
- G-10 **Disability or Incompetence of the IDC Consultant** - The Employer's engagement of the IDC Consultant is conditional upon the IDC Consultant's confirmation to the Employer that the Experts required to perform the Services are healthy and without physical or mental disability that may interfere with performing the Services. The IDC Consultant shall, if called upon to do so, give the Employer any medical or other evidence as the Employer may reasonably require. If at any time in the Employer's opinion, whether for reasons of health or otherwise, the IDC Consultant may not be able to perform the required Services adequately, the Employer may terminate this IDC.
- G-11 **Unusual Incidence** - The IDC Consultant shall report immediately to the Employer any circumstances which might hinder or prejudice performance of the Services in respect of this IDC.
- G-12 **Entire Agreement and IDC Amendment** - The IDC as amended from time to time under the foregoing provisions supersedes all prior arrangements whether written or oral, expressed or implied. The amendment, whether partly or wholly, of any of the IDC's terms or conditions shall be valid only if in writing and signed by both the parties to the contract.
- G-13 **Notices and Requests** - Any notice or request required or permitted under this IDC shall be in writing. Such notice or request shall be deemed to be fully given or made when it is delivered by hand, mail, or fax to the intended party.
- G-14 **Delays** - No failure or delay on the part of the Employer in exercising any power or right under this IDC shall operate as a waiver of that power or right, nor shall any single or partial exercise of such power or right preclude any other or further exercise or any other power or right under this IDC.

**Appendix 1-C**  
**The Special Conditions of Contract**

S-1    **Consultancy Inputs:** As required by the Sample Terms of Reference in Appendix 1-D and in subsequent Assignment Contract in Appendix 1-E.

S-2    **Details of the Employer:**

General Department of Public-Private Partnerships,  
Ministry of Economy and Finance,  
Government of the Kingdom of Cambodia,  
Street No.92, Sangkat Wat Phnom, Khan Daun Penh,  
Phnom Penh, Cambodia  
Email: gdppp@mef.gov.kh

S-3    **IDC Consultant's Information:**

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## **Appendix 1-D**

### **The Terms of Reference**

(Please refer to Appendix 2: Terms of Reference)

## Appendix 1-E

### Template for the Assignment Contract

*The Assignment Contract shall be signed between the Employer and the IDC Consultant selected to carry out a specific assignment during the IDC Period as per the Government's standard template for lump sum contracts (as amended from time to time). In exceptional case, time-based contracts may be used. **The Form of Contract for lump sum can be found in Appendix 6.***

## Appendix 2

### Terms of Reference

#### I. Background

1. The Government of the Kingdom of Cambodia has enacted the Law on Public-Private Partnerships (Law on PPPs) on 18 November 2021 and adopted the Sub-Decree on Standard Operating Procedures for PPP Projects on 31 August 2022 under which a Project Development Facility for PPP Projects (PDF for PPP Projects) has been established to finance the project preparation and other transaction services of Priority PPP Projects. The project preparation and other transaction services are carried out by consulting firms which are termed as consultants.
2. The PDF for PPP Projects is a specific window, which is established as a revolving fund and used to fund pre-investment activities of potential PPP projects of the Implementing Agencies (IA) and ensure effective monitoring of PPP project implementation. The PDF for PPP Projects will be used mainly to engage project preparation and transaction support consultants for PPP project preparation and transaction in infrastructure sectors including transportation systems such as roads, bridges, railroads, seaports, airports, electricity (production, transmission and distribution), clean water (production, supply and distribution), market development and modernization, public car parks or public commercial centers, waste collection and management services, waste water treatment and sewage systems, vocational skills development, social housing infrastructure, and tourism infrastructure.
3. The PDF for PPP Projects is managed by the Public Investment Committee (PIC) on behalf of the MEF and the General Department of Public-Private Partnerships (GDPPP) of the MEF is responsible for its operations. The management and operations of the PDF for PPP Projects is set out in the **Guidelines on Project Development Facility (PDF) of the SOP for PPP Projects, Vol. II: Guidelines**.
4. The IA will be seeking funding from the PDF for PPP Projects for project preparation and transaction advisory services for Priority PPP Projects which have been approved by the MEF after a structured prioritization exercise undertaken by the GDPPP. Once the funding is approved by the PIC of the MEF, the IA will submit a request to the MEF seeking funding from the PDF for PPP Projects. The IA will proceed with the recruitment of project preparation and transaction advisory consultants (TA) among the firms/consortia/JVs in the IDC-Panel.

#### II. Objective

5. On the basis of the Expressions of Interest (EOI) to be submitted by the firms/consortia/JVs in response to this Request for Expression of Interest (REOI), the GDPPP will establish a Panel of Firms/ Consortia/JVs for inclusion in the IDC Panel. This pre-qualification exercise is intended to enable the IA to have access to a large pool of experts from highly reputable consulting firms/consortia/JVs for undertaking transaction advisory services for PPP projects.

#### III. Minimum Requirements for Stage 1

6. The Consortium/JV during the pre-qualification stage must be composed of at least two (2) firms: one having the required experience providing PPP legal advice, and another firm having the required experience providing project finance (financial modeling, analysis, structuring, risk assessment, and other relevant tasks)

advice<sup>4</sup>. However, if a single firm possesses both the necessary legal and project finance expertise, then such firm may submit an EOI. Only legal and project finance firms of the association will be evaluated for pre-qualification purposes and inclusion in the IDC-Panel.

7. Each association shall: (i) have the flexibility to nominate a lead firm from firms with legal or project finance expertise, (ii) nominate legal and project finance personnel/experts with the required expertise to deliver the desired services, and (iii) submit only one EOI<sup>5</sup>. Individual experts may, however, be nominated by more than one firm or association.
8. Once prequalified, the IDC-Panel is constituted, and an IDC shall be signed by and between the each of the firms/consortia/JV through its lead firm and the MEF and no retainer fees or any other amount shall be payable to the firms/associations under the IDCs.

#### **IV. General Requirements for Stage 2**

9. Each prequalified firm/consortium/JV must associate with an appropriate engineering/technical firm during the 2<sup>nd</sup> stage<sup>6</sup>. For instance, if the call-down assignment is for preparation of a project in an urban light rail sector, a transport engineering firm with proven expertise in urban light rail field must be proposed as part of the association during the 2<sup>nd</sup> stage. Said engineering/technical firm will sign off on all technical-related deliverables of the association.
10. Generally, the international and national sector experts should have ten (10) and five (5) years of demonstrated experiences, respectively, in the preparation, development (design and construction), and/or operations and maintenance of three (3) projects in the relevant (sub) sector. Specific qualification requirements for each call-down assignment will be provided in the relevant Request for Proposal (RFP).
11. The legal specialists and project finance specialists nominated during the call-down stage must be among the firms/consortia/JVs list of experts/personnel submitted/named during the pre-qualification stage. However, for reasons beyond the control of the association, nomination of other experts outside the association may be allowed provided that said experts have equal or better qualifications than the original experts included in the list during the 1<sup>st</sup> stage. The replacement will be subject to the prior approval of the GDPPP and sought before the submission of the RFP.
12. During the 2<sup>nd</sup> stage (call-down assignment), a pre-qualified firm/consortium/JV may only modify/re-organize its composition for a specific assignment (if permitted in the RFP) through association with additional firms by way of forming an association or sub-consultancy, after obtaining the GDPPP's written approval for such association or sub consultancy prior to proposal submission<sup>7</sup>. A firm or consortium member, from which no expert is nominated for an assignment, shall not be automatically removed from consortium/JV unless the lead firm informs the GDPPP about such non-participation. The reason for a member's non-participation in a specific assignment must be justifiable (e.g. conflict of interest,

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<sup>4</sup>Association with a Cambodian partner or registered office in the Cambodia is not required at Stage 1 but is highly encouraged considering the requirements during the call-down assignment stage.

<sup>5</sup> Please refer to Section 2 of the Standard Request for Proposals which will be used in call-down assignments at the 2<sup>nd</sup> stage.

<sup>6</sup> This requirement does not apply if the consulting firm or association prequalified for the panel already possesses the required technical/engineering expertise for the pertinent call-down assignment.

<sup>7</sup>A Panel member may associate or form a joint venture with other firms (not with another Panel member) for a specific assignment at Stage 2 in accordance with the Instructions to Consultants available in the Standard RFP.



the firm's experts are not available or do not meet the TOR's requirements and the replacement experts have better qualifications, etc.).

13. IDC-Panel firms/consortia/JVs are advised to conduct a comprehensive conflict of interest review to ensure that no actual or potential conflict of interest shall exist.
14. For the guidance of interested firms on the typical scope of services and terms of a specific assignment during the call-down stage, the Sample Terms of Reference for Stage 2 is attached hereto as **Appendix 4**.
15. Statement on Ethical Conduct and Fraud and Corruption is attached below (**Attachment to Appendix 2**). All applicants shall submit the following along with the EOI duly signed by the authorized signatory of the firm and all members of the **Joint Venture or Consortium and/or Sub Consultants** separately.

**Attachment to Appendix 2**  
**Statement of Ethical Conduct and Fraud and Corruption**

We, the employees, associates, agents, shareholders, consultants, the undersigned confirm that in the preparation of our EOI:

1. We do not have any relationship that could be regarded as a conflict of interest as set out in the REOI.
2. Should we become aware of the potential of such a conflict, we will report it immediately to the IA and GDPPP.
3. We have not entered into any corrupt, fraudulent, coercive or collusive practice in respect of our EOI.
4. We understand our obligation to allow the Government to inspect all records relating to the preparation of our EOI and any contract that may result from such irrespective of if we are awarded the contract or not.
5. That no payments in connection with this procurement exercise have been made by us to anyone who are involved with the procurement process on behalf of the IA and the GDPPP.

Name of Firm:

Name of Authorized Representative:

Signature:

Date:

Seal:

## Appendix 3

### Expression of Interest (EOI) Template Consulting Firms for IDC Panel

<b>Title</b>	Selection of Consulting Firms under Indefinite Delivery Contracts for the Panel of Transaction Advisory Services Consultants
<b>REOI Reference No.</b>	
<b>Date of REOI</b>	
<b>Closing Date of Submission</b>	

#### I. Consulting Firm Information

Consultant Name:	Country of Incorporation: <sup>8</sup>
EOI Submission Authorized by:	Position:

#### Association or Joint Venture

Serial No.	Consultant	Acronym	Country of Incorporation	Nature	EOI Submission Authorized By	Position
1				Lead Partner		
2						
3						

Present the rationale for and benefits of working in association/JV or sub consultant with others rather than undertaking the assignment independently (as appropriate). Describe the proposed management and coordination approach of the association and the role of each firm.

<sup>8</sup> The lead consultant must submit a copy of the Certificate of Incorporation of itself and of each Consortium Member of JV member or sub-consultant through part IV. EOI Attachments below.

I confirm that:

- ☐ Documentation regarding our corporate structure including beneficial ownership has been attached.
- ☐ Documentation regarding our Board of Directors has been attached.
- ☐ A written agreement to associate for the purpose of this Expression of Interest has been signed between the consortium partners and has been attached.

Once your team is shortlisted and invited for submission of the Proposal, it is not permissible to transfer the invitation to any other firm, such as Consultant's parent companies, subsidiaries, and affiliates. The Employer will reject a Proposal if the Consultant drops a JV member or consortium partner without the Employer's prior consent, which is given only in exceptional circumstances, such as debarment of such partners or occurrence of Force Majeure.

## **II. Assignment Specific Qualifications and Experience**

Your EOI shall demonstrate technical competence and geographical experience.

### **A. Technical Competence**

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Cross-referencing from your profile projects in Section E. Project References, highlight the technical qualifications of your entity/consortium in undertaking similar assignments. Provide details of past experiences working with similar project authorities.

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### **B. Geographical Experience**

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Cross-referencing from your profile projects in Section E. Project References, present experiences in similar geographic areas.

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**C. Management Competence (Please answer each question in one paragraph of 3-5 sentences)**

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1. Describe standard policies, procedures, and practices that your entity has to assure quality interaction with Employers and outputs. Please state if your company is ISO certified.

2. How will your firm/consortium handle complaints concerning the performance of experts or quality of the reports submitted for this assignment? What internal controls are in place to address and resolve complaints?

3. How will you ensure the quality of your firm's/consortium's performance over the life of this assignment?

4. Describe standard policies, procedures and practices that your firm has put in place to avoid changes/replacements of personnel and to ensure the continuity of professional services once contracted.

5. Describe what social protection practices you have in place to safeguard the well-being of your proposed experts? Specifically describe arrangements you have in place for medical, accident, and life insurance coverage during the assignment.

**D. Other Information (maximum of 500 words)**

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**E. Project References**

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Please select most relevant projects to demonstrate the firm's technical qualifications and geographical experience (minimum 3 and maximum 10 projects).

SN	Project	Period	Employer	Country	Firm
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

**F. Project Summary**

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SN 1	
Project Title	
Country / Region	
Start Date	
Completion Date	
Continuous / Intermittent	
Employer	
Funding Source	
Description	(Indicate your role and input in person-months)
SN 2	
Project Title	
Country / Region	
Start Date	
Completion Date	
Continuous / Intermittent	
Employer	
Funding Source	
Description	(Indicate your role and input in person-months)

(Please insert more tables as necessary)

### III. Key Experts

**List of experts is only required for Consultants' Qualifications Selection (CQS). Attach CV of each expert.**

SN	Name	Email	Position/Title	Nationality
1				
2				
3				
4				
5				

(Please insert more rows as necessary)

### IV. EOI Attachments<sup>9</sup>

SN	Description
1	Certificate of Incorporation of the lead member
2	Certificate of Incorporation of the JV /Consortium/Association member (for each member)
3	Certificate of Incorporation of the Sub-Consultant (for each sub-consultant)
4	Letter of Association/JV
5	Description of Completed Projects beyond the provision in Part II. E
6	Details of at least 3 Employers listed in Part II. F
7	Summary statement indicating the core competence of the firm/association (see Appendix 5) <sup>10</sup>
8	Lead firm's audited financial statements for the last three (3) years showing positive net worth and no qualified opinion by an independent auditor <sup>11</sup>
9	ISO 9000 (Quality Management) certification of the lead firm, if available
10	Information regarding experts/personnel available with the firm (including access to pool of expertise) highlighting the key qualifications and details of similar experience of each expert (tabular form)
11	Curricula vitae (CVs) (in any template or format) of finance and legal experts indicating sufficient information on the experts' qualifications and experience <sup>12</sup>
12	Certification indicating that the legal specialists and project finance specialists to be nominated during the 2 <sup>nd</sup> stage/call-down assignment stage shall be among its list of experts submitted during the 1 <sup>st</sup> stage/pre-qualification, should the firm be prequalified during the pre-qualification stage <sup>13</sup>
13	Copy of Professional Liability Insurance
14	Authority to sign and submit the EOI on behalf of the applicant, consortium of JV

(Please insert more rows as necessary)

<sup>9</sup> There are no prescribed forms or formal requirements for the certifications mentioned in this section, as well as for association documents or agreements among firms and association members. The firms may use the legal/formal requirements applicable in the country/place of execution. It should be noted, however, that the association agreements are not yet required during the EOI submission and evaluation. If a firm/association is pre-qualified, the GDPPP will require submission of these agreements along with other relevant documents, prior to signing or amendment of the IDC.

<sup>10</sup> Refers to the sector experience of the firm

<sup>11</sup> If not required by the law of the lead firm's country, other financial statements acceptable to the GDPPP

<sup>12</sup> Submission of CVs of technical experts is not required during Stage 1 (IDC-Panel Selection Stage)

<sup>13</sup> If the association includes a technical/engineering firm, no similar certification is required for the technical specialist listed in the EOI.

## **V. Eligibility Declaration**

We, the undersigned, certify to the best of our knowledge and belief:

- ☐ We have read the advertisement, including the terms of reference (TOR), for this assignment.
- ☐ Neither the consulting firm nor its JV member or consortium member or sub-consultant or any of its experts prepared the TOR for this activity.
- ☐ We confirm that the project references submitted as part of this EOI accurately reflect the experience of the specified firm/consortium.
- ☐ We further confirm that, if any of our experts is engaged to prepare the TOR for any ensuing assignment resulting from our work product under this assignment, our firm, JV member or consortium member sub-consultant, and the expert(s) will be disqualified from short-listing and participation in the assignment.
- ☐ All consulting entities and experts proposed in this EOI are eligible to participate in Cambodia's projects
- ☐ The lead entity and JV or Consortium member or sub-consultant are NOT currently sanctioned by The Government of the Kingdom of Cambodia or has ever been convicted of an integrity-related offense or crime related to theft, corruption, fraud, collusion or coercion.
- ☐ We understand that it is our obligation to notify the GDPPP should any member of the consortium become ineligible to work with The Government of the Kingdom of Cambodia or be convicted of an integrity-related offense or crime as described above.
- ☐ JV or Consortium member or sub-consultant, including all proposed experts named in this EOI, confirmed their interest in this activity in writing.
- ☐ JV or Consortium member or sub-consultant, including all proposed experts named in this EOI, authorized us in writing to represent them in expressing interest in this activity.
- ☐ None of the proposed consortia are subsidiaries of and/or dependent on the Implementing Agency or individuals related to them.
- ☐ We understand that any misrepresentations that knowingly or recklessly mislead, or attempt to mislead may lead to the automatic rejection of the proposal or cancellation of the contract, if awarded, and may result in further remedial action, in accordance with the relevant laws of Cambodia.



## Appendix 4

### Sample Terms of Reference for Stage 2

#### A. Scope of Assignment

1. The IA requires the services of a Transaction Advisor (TA) to undertake the project preparation and transaction advisory services for ***[insert name of project]***
2. The TA is expected to work closely with the concerned IA and the GDPMP during the assignment. The TA shall ensure capacity building of the Government staff and knowledge transfer with respect to the entire PPP project development cycle.
3. The detailed scope of work for each assignment shall be prescribed at the call-down assignment stage depending upon the project specific requirements, which shall cover different stages of project preparation and transaction including pre-feasibility studies (in exceptional cases where the PIC has agreed to finance this from the PDF for PPP Projects), feasibility studies, bidding document preparation, and transaction advisory services. Where a feasibility study (FS) has been conducted for a project, the scope of work for the TA shall cover validation/and or updating of the FS, in addition to carrying out financial modeling, managing the PPP bidding process, including bid document preparation, assisting in contract award and providing advisory services until the financial close of the project. Broadly, the services of the TA shall cover technical, financial, and legal services including management of the bidding process. In carrying out these services, the TA shall be guided by the Government's **SOP for PPP Projects, Vol. I: Policies and Procedures, Vol. II: Guidelines, and Vol III: Procurement Manual**. The scope of the specific services<sup>14</sup> would generally include, but not be limited to, any or a combination of the following:

**Preparation of a pre-feasibility study [where agreed by the PIC to use PDF funds for this].** Preparation of a project pre-feasibility study, which could include, among others, the following: (i) project rationale and legal basis; (ii) technical description of the project; (iii) initial financial and economic analysis and proposed cost-recovery mechanism; (iv) initial environmental and social/gender assessment; (v) preliminary risk analysis and required government support, if any; (vi) proposed PPP modality, and (vii) tentative implementation plan.

The TA shall undertake an informal market sounding exercise with select private sector stakeholders to determine the initial acceptability of the project as a PPP. This will include assessing and, where possible, resolving issues raised by the private sector for the project to proceed to the next stage as well as matters raised that will require detailed evaluation during the feasibility assessment stage. The feedback received from the private sector stakeholders will form an integral part of the reporting for the pre-feasibility assessment undertaken by the TA.

The TA shall carry out further studies after the approval of the pre-feasibility study report by the IA.

**Preparation of project feasibility study and development of PPP options:** Preparation of a project feasibility study or validity assessment/updating of existing feasibility study and overall assessment of PPP options depending on the results of the following in-depth research: (i) economic analysis, (ii) project rationale, (iii) project cost estimates, (iv) technical design, (v) institutional analysis, (vi) value for money

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<sup>14</sup> Specific scope of services will be determined by the different stages of development of the proposed project. In some cases, a feasibility study (FS) may already be available, and therefore the scope of work under Stage 2 would require "validating" or "updating" the FS. In other cases, a pre-FS, FS and bid documents may already be available; therefore, the needed services would be purely transaction services to bring the project into the bidding, negotiation and award stage, etc.

(VfM) analysis from the project viability point of view that shall include determination of financial internal rate of return (FIRR), traffic validation, debt service coverage ratio (DSCR) and other applicable financial ratios (vii) preliminary financial model and financing plan, (viii) evaluation of PPP options including a recommendation on the PPP modality to be followed, (ix) risk allocation matrix with clear risk management tools, and assessment of contingent liabilities arising from the project; and (x) any other related tasks as proposed by the TA and agreed upon by the IA.

To facilitate conduct of all the aforementioned tasks and to enable preparation of the Final Feasibility Report, the TA shall undertake a formal market sounding exercise<sup>15</sup>.

**Carrying out financial analysis and project structuring:** On the basis of information and analysis in the task above and for the selected option, the TA will need to finalize (i) technical design and related cost estimates (capital expenditure and operations & maintenance costs, interest costs, and other costs, warranties, etc., and stability of future revenues assessment); (ii) financial modeling and sustainability analysis; (iii) institutional aspects, legal issues, and contract structure; (iv) right of way and other related issues; (v) financing plan (including options for attracting financing and/or guarantees from domestic and international financial institutions - IFIs); (v) project risk analysis; (vi) social/gender and environmental impacts; (vii) project implementation schedule; (viii) stakeholder consultations, particularly with potential private sector bidders; and (ix) detailed timelines for the bid process. If the project is determined to be financially and commercially viable for procurement under the PPP modality and approved by the IA and MEF, the TA will proceed with the next task on the management of the bidding process. If it is found to be not feasible and not approved by the IA and MEF, the contract for the TAS will be terminated at this point and the TA will not be required to provide any further services.

**Management of the PPP bidding process and transaction, as well as preparation of contractual documentation:** The TA will undertake preparation and finalization of (i) bidding documents (request for qualification and request for proposal), contractual agreements; (ii) project pre-bid consultations; (iii) bidder qualification and bid evaluation criteria; (iv) monitoring and evaluation frameworks; (v) required due diligence documents for potential debt providers and guarantors (if IFI financing or guarantee is involved, then compliance with IFI policies and procedures, including on safeguards); (vi) institutional arrangements and (vii) assistance with the bidding process (e.g. setting up of data room for prospective bidders, issuance of all bidding-related notices/requests, conduct of pre-bid conferences, conduct of bidding, responding to queries, pre-qualification of bidders), bid evaluations, and contract negotiations, expected to lead to the award of the proposed project to a bidder. The TA shall also assist in drafting of the TOR for procurement of an independent consultant (IC) who will be engaged by the IA for supervision during project implementation and/or operation.

**Assistance until financial close:** The TA shall provide all the required assistance until the financial close of the Project (or for a period of 180 days from the effective date of the contractual agreements signed with the Private Partner or the Proponent/Private Sponsor, whichever is earlier).

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<sup>15</sup>The consultant shall organize consultation meetings with concerned stakeholders, including, but not limited to, potential equity partners, investors, lenders and guarantors to fulfill the market sounding requirements. Main outputs of the consultants include the market sounding document for distribution to the market, and market sounding report summarizing the findings from the exercise. The conclusions drawn from said consultation meetings shall be taken into account in the preparation of the feasibility report and project structuring.

## **B. Indicative Duration of Assignment**

4. Considering that many activities will be undertaken concurrently, it is estimated that the above services would be required over a period of around twenty (20) calendar months from the date of commencement of the services (depending on the complexity and stage of development of the project) until the financial close of the project. The actual time schedule for the services will be indicated for each assignment in the Request for Proposal (RFP) documents at Stage 2. The detailed work plan submitted as part of the technical proposal for the assignment shall be discussed and agreed with the respective IA and the GDPPP before signing the call-down assignment contract.

## **C. Terms of Payment**

5. The TA will be paid on a lump sum basis. The total fees shall be paid based on various milestones achieved. The payment shall be released by the GDPPP based on the approval by the IA/PMU of the outputs delivered by the TA. The IA shall accord this approval after ensuring that the outputs delivered by the TA conform to the requirements of the TOR. The detailed structure of the payment milestones, including the maximum timeframe for such release by the Employer, shall be prescribed in the RFP documents for Stage 2. The indicative milestones for payment are shown below.
  - (i) Submission of inception report;
  - (ii) Approval of the pre-feasibility study (where this is included in the scope);
  - (iii) Approval of the final feasibility study;
  - (iv) Approval of the financial model;
  - (v) Approval of the tender documents and draft Contract;
  - (vi) Completion of bid evaluation and determination of winning private partner;
  - (vii) Signing of PPP contract or other agreement with the private partner;
  - (viii) Financial close of the project.

## **D. Requirement of Key Personnel**

6. The team of the TA will include qualified personnel including experts from specific sectors, public-private partnerships, project preparation and appraisal, project implementation, financial modeling/structuring, investment promotion, economic and financial analysis, risk analysis, procurement, policy and legal issues. The TA will be required to be available at short notice as and when their services are needed by the IA. The TA shall have sufficient qualified personnel and resources to provide all necessary professional, technical, and expert services as required to accomplish all the services described hereinabove within the prescribed time. Consulting firms are encouraged to form joint ventures or associations with other consulting firms to enhance their capabilities and the value and quality of their services for the proposed assignment, before submitting the proposals, if allowed in the RFP.
7. The Team shall be composed of consultants, who shall have extensive technical and country-specific experience that would include extensive knowledge of the sector, regulatory issues involved and the initiatives taken by the Government for the successful implementation of PPP projects, the project's taxation framework, including tax exemption regime, the country's accounting systems, domestic insurance sector and its products, special privileges and incentives available to the PPP projects, concessional financing options available for PPP projects from the public sector and other country-specific knowledge.
8. The team shall be responsible to carry out the specific tasks relevant to various stages like pre-feasibility, feasibility, validating/updating of existing feasibility study, financial analysis and project structuring, management of bidding process, etc.

9. Depending upon the project and the scope of services required, the requirement of various national and international consultants<sup>16</sup> will be prescribed in the RFP for the Stage 2: call-down assignments. The team composition and indicative scope of work and deliverables from each specialist area are as indicated below:

**Group A (Specialization areas common for all projects)**

**(i) Team Leadership**

The Team Leader will generally be responsible for coordinating all inputs of the team; submission of all reports; facilitation of meetings and stakeholder consultations, as required; and liaison with the relevant IA and GDPPP, as required. Specific tasks would include, among others, the following:

- a) liaise with concerned IA and keep all stakeholders apprised of any issues or concerns that could impact project performance and/or completion of the consulting assignment;
- b) be responsible for drafting inception report, progress reports, updating the agreed work program, and provision of timely information to the concerned IA on contract administration issues;
- c) manage the team of experts to ensure integrated monitoring of the agreed work program;
- d) coordinate the inputs of team members as per the agreed work plan, advise team members of changes to the work plan, and monitor team members' activities other project commitments to ensure appropriate priority attention is given to the assigned task;
- e) ensure that the outputs of team members are in accordance with the contractual Terms of Reference and the Employer's quality expectations;
- f) ensure smooth implementation of the internal quality assurance mechanism and be ultimately responsible for output quality by reviewing, commenting upon and approving all such outputs;
- g) ensure all contracted deliverables are prepared in a timely manner and manage project scheduling; and
- h) brief and supervise team members on (i) quality management, and (ii) integrity and professional conduct as well as keep the team updated on changes in the operating environment or procedures.

**(ii) Deal/Bid Management**

The consultants shall have proven work experience in deal/bid management. They shall prepare bid implementation plan, conduct market sounding, manage bidding process, and prepare bid process report. In doing so, the consultants will, among others, carry out the following tasks:

- a) Administer and manage the virtual data room;
- b) Conduct market sounding, pre-bid conference, and one-on-one sessions with the bidders;
- c) Produce and manage all project and bidding process documentation and post-bid monitoring frameworks in coordination with the legal specialist;

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<sup>16</sup> "International Consultant" means any consulting firm established or incorporated in any country, or a person who is a citizen of any country and "National Consultant" means any consulting firm or individual from Cambodia that is established or incorporated and has a registered office in Cambodia, or a person who is a citizen of Cambodia

- d) Manage the bidding process, including marketing, pre-bid meetings, identification of potential bidders, bidder query responses, bidder qualification and evaluation criteria development;
- e) Assist in the preparation of the bid process report; and
- f) Act as primary point of contact for the IA during the bid process.

(iii) **Project Finance Expertise**

The consultants shall have proven work experience in financial modeling and project structuring of PPP projects. They shall develop a financial model, incorporating an appropriate PPP modality and manage the bidding process according to the provisions of the Law on PPPs and its SOP for PPP Projects, based on the technical (engineering) evaluation, assess expenditures (capital, operations, provisions) and projected revenues for reasonableness, completeness with project objectives, and accuracy. In doing so, the consultants will, among others, carry out the following tasks:

- a) develop an appropriate base case financial model with suitable assumptions, resulting in a set of projected financial statements (balance sheet, cash flow, income statement, key ratio analysis) and sensitivity scenarios;
- b) recommend a suitable PPP modality for the project after assessment of alternative choices including the commercial, legal, and institutional impacts of this suggested modality such as the required contracts (e.g., PPP contracts) and institutional structures (e.g., special purpose company);
- c) ascertain the potential acceptability of the recommended PPP structure by the investors and potential lenders;
- d) in consultation with the economic specialist, ensure that the project provides desired and equitable benefits to end users, with a satisfactory project rationale;
- e) recommend a suitable bankable financing plan for the recommended PPP structure, including appropriate debt equity ratios, loan tenures and rates for project viability, and required government grant support;
- f) identify appropriate funding sources, including (i) government grant funds, (ii) commercial debt and equity funds, (iii) financing, credit enhancement, or guarantee products of the International Financial Institutions (IFIs), and (iv) private sector financing; and identify their likely terms and conditions, incorporating them in the base case financial model;
- g) develop all required due diligence documents for potential lenders;
- h) test all key assumptions against financial model outputs, including the financial internal rate of return and debt service coverage ratio, identifying any required policy revisions for project sustainability, including on the revenue model;
- i) provide project risk analysis with suitable mitigation strategies;
- j) assess contingent liabilities arising from the project;
- k) assess project financial management capacity;
- l) provide all required support until the financial close of the project; and
- m) provide inputs related to the Cambodian taxation system, tax exemptions and tax incentives, financial accounting systems and the domestic insurance market and its products.

(iv) **Economic Analysis Expertise**

The consultants will undertake project economic analysis to provide an economic cost–benefit analysis and project rationale on the proposed project. The analysis should, among other issues, include the following:

- a) sector assessments, demand-supply for public services, opportunity cost implications, projected project benefits and impacts;
- b) project economic rationale in comparison with alternative options, and develop indicators for project performance monitoring;
- c) realistic economic rates of return for the project under various scenarios.

They shall also assist in developing appropriate bidder qualification and evaluation criteria.

(v) **Legal Expertise**

The consultants will develop a policy and institutional analysis to take into account the requirements of the selected PPP modality, and assist in the bidding process, project documentation, and evaluation procedures. Specifically, this analysis will include, but not be limited to:

- a) conducting a policy and institutional assessment to ascertain the validity and viability of the proposed PPP structure for the project;
- b) assessing the IA's capacity to manage the project once operational, and recommend required changes and capacity improvement measures as appropriate;
- c) recommending institutional measures to improve the governance of the IA with the purpose of ensuring efficient management of project assets after PPP project completion;
- d) developing "bankability" measures for the proposed PPP project structure, such as fee payment mechanisms, preconditions for a private operator to fulfill in meeting service obligations, default and risk clauses, and step-in rights of government;
- e) assisting in the bidding process management through documentation preparation, including request for qualification, request for proposal, contractual agreements between project sponsor and winning bidder, as well as in developing bidder instructions, bid qualification parameters and bid evaluation criteria, bidding process schedules, and undertake stakeholder consultations in accordance with the Law on PPPs and its SOP for PPP Projects;
- f) providing advice on country-specific legal experience of PPP projects in the sector, judiciary-related, legal and regulatory issues pertaining to the project, legal perspective on special privileges and incentives available for PPP projects, and on accessing concessional financing options available for PPP projects from the public sector, and other country-specific legal knowledge; and
- g) providing all required support until the financial close of the project.

(vi) **Social Sector Expertise**

The consultants will ensure adequate due diligence on project social impacts consistent with the country's social/gender and safeguard policies. To fulfill this, the consultants will, among others, do the following:

- a) undertake an initial poverty and social analysis in accordance with country requirements;

- b) based on the initial poverty and social analysis, conduct a comprehensive analysis of likely social/gender impacts, design measures, and implementation arrangements for maximizing project social/gender benefits and minimizing/avoiding social/gender risks;
- c) prepare a poverty reduction and social strategy (with, e.g., gender action plans, resettlement plans, indigenous peoples development plan) with recommendations for involuntary resettlement, indigenous peoples, and gender safeguards;
- d) assess IA's capacity and commitment to undertake social impact due diligence, impact monitoring, and mitigation measures implementation (e.g., resettlement implementation);
- e) ensure adequate investigations and consultations with affected persons, beneficiaries, and government institutions; and
- f) ensure overall project compliance with the Cambodian involuntary resettlement and indigenous peoples regulatory framework.

(vii) **Environmental Sustainability Expertise**

The consultants will ensure that the project environmental impact assessment is adequate and compliant with the Cambodian requirements. This will be done through implementation, among others, of the following activities:

- a) carry out a comprehensive environmental assessment and ensure consistency and compliance with the Government's environmental requirements;
- b) conduct public consultation requirements, including informing the affected persons and local non-government organizations, and information disclosure of project-specific and quantitative information on potential environmental impacts (both positive and negative) and proposed mitigation measures;
- c) estimate the cost of an environmental management plan and funding sources, ensuring that these are included in the total project cost;
- d) assist the IA in securing government environmental clearance, required permits, and approvals;
- e) evaluate IA's capacities to implement mitigation measures, and where necessary recommend capacity improvement training programs and measures; and
- f) include environmental management plan in the bidding documents, along with the requirement to comply with mitigation measures therein.

## **Group B (Sector-specific Specialization)**

### **(viii) Sector Specific Expertise**

The consultants will need to complete the sector-specific technical validation of project design and cost estimates through, but not limited to, implementation of the following tasks:

- a) update the pre-feasibility studies' technical analysis to confirm the technical validity/viability of the project, including verifying assumptions such as population coverage, loss levels, national policy guidelines, current and projected demand levels for project outputs, design criteria and standards, capacity, and prevailing topographical and other conditions;
- b) verify quantities and rates for major civil works, equipment, construction and supervision consulting, and other input items;
- c) verify and develop projected operations and maintenance costs for the project on a whole of life basis;
- d) review and quantify costs and benefits from the project, and confirm the project design on a least-cost basis in financial and economic terms;
- e) assist in the project's financial and economic analysis with inputs on project rationale, project costs (capital expenditures, operations, maintenance), required contingency levels, and any other information as requested; and
- f) provide all required support until the financial close of the project.

10. Depending on the type of the project and the extent of coverage required, the estimated total man-month requirements shall be indicated in the RFP documents for Stage 2.



## Appendix 5

### Sector Experience<sup>17</sup>

Sector	Experience (Check the Box if Yes)
Agriculture	<input type="checkbox"/>
Airports	<input type="checkbox"/>
Education	<input type="checkbox"/>
Health Facilities	<input type="checkbox"/>
Highways and Expressways	<input type="checkbox"/>
Housing and Urban Development	<input type="checkbox"/>
IT/MIS Facilities	<input type="checkbox"/>
Ports	<input type="checkbox"/>
Power	<input type="checkbox"/>
Railways	<input type="checkbox"/>
Others (Please specify)	<input type="checkbox"/>

<sup>17</sup> This form should be completed by each consulting firm or association/JV/Consortium partner submitting EOI for prequalification.

## Appendix 6 Sample Contract for Consulting Service (Lump-Sum)

### I. FORM OF CONTRACT - LUMP SUM

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

*[In case the Consultant is a JV/Association, then replace “Consultant” with the following: “a Joint Venture/Association [name of the JV/Association] consisting of the following firms, each member of which will be jointly and severally liable to the Employer for all the Consultant’s obligations under this Contract, namely, [names of all the member] (hereinafter called the “Consultant”).”]*

#### WHEREAS

- (a) the Employer has requested the Consultant to provide certain consulting services as defined in this Contract (hereinafter called the “Services”);
- (b) the Consultant, having represented to the Employer that it has the required professional skills, expertise and technical resources, has agreed to provide the Services on the terms and conditions set forth in this Contract;

#### NOW THEREFORE the parties hereto hereby agree as follows:

- 1. The following documents attached hereto shall be deemed to form an integral part of this Contract:
  - (a) The General Conditions of Contract (including Attachment 1 “Government Policy – Corrupt and Fraudulent Practices);
  - (b) The Special Conditions of Contract;
  - (c) Appendices:
    - Appendix A: Terms of Reference
    - Appendix B: Key Experts
    - Appendix C: Breakdown of Contract Price
    - Appendix D: Form of Advance Payments Guarantee.

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

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

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

**For the Employer** [*insert name of the Employer*]

Signature:

Name:

Designation:

Seal:

**For and on behalf of** [*Name of the Consultant or Name of a Joint Venture/Association*]

Signature:

Name:

Designation:

Seal:

*[For a joint venture/association, either all members shall sign or only the lead member, in which case the power of attorney to sign on behalf of all members shall be attached.]*

**For and on behalf of each of the members of** [*insert the Name of the Joint Venture/Association*]

Signature of Authorized Representative:

Name:

Name of the Lead Member:

Designation:

Seal of Lead Member:

## II. GENERAL CONDITIONS OF CONTRACT

### A. GENERAL PROVISIONS

#### 1. Definitions

- 1.1. Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:
- (a) “Applicable Guidelines” means the Standard Operating Procedures (SOPs) for PPP Projects, Volume III: Procurement Manual - Section II: Selection of Consultants promulgated under the Sub-decree dated 31 August 2022.
  - (b) “Applicable Law” means the laws and any other instruments having the force of law in the Kingdom of Cambodia as they may be issued and in force from time to time.
  - (c) “Employer” means the implementing agency that signs the Contract for the Services with the selected Consultant.
  - (d) “Consultant” means a legally established professional consulting firm or entity selected by the Employer to provide the Services under the signed Contract.
  - (e) “Contract” means the legally binding written agreement signed between the Employer and the Consultant and which includes all the attached documents listed in its paragraph 1 of the Form of Contract (the General Conditions of Contract (**GCC**), the Special Conditions of Contract (**SCC**), and the Appendices).
  - (f) “Day” means a working day unless indicated otherwise.
  - (g) “Effective Date” means the date on which this Contract comes into force and effect pursuant to Clause GCC 11.
  - (h) “Experts” means, collectively, Key Experts, Non- Key Experts, or any other personnel of the Consultant, Sub-consultant or JV member(s) assigned by the Consultant to perform the Services or any part thereof under the Contract.
  - (i) “Foreign Currency” means any currency other than the currency of the Employer’s country.
  - (k) “GCC” means these General Conditions of Contract.
  - (l) “Government” means the Government of the Kingdom of Cambodia.
  - (m) “Joint Venture (JV)” means an association with or without a legal personality distinct from that of its members, of more than one entity where one member has the authority to conduct all businesses for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally liable to the Employer for the performance of the Contract.
  - (n) “Key Expert(s)” means an individual professional whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose Curricula Vitae (CV) was taken into account in the technical evaluation of the Consultant’s proposal.
  - (o) “Local Currency” means the Cambodian Riel (KHR).
  - (p) “Non-Key Expert(s)” means an individual professional provided

by the Consultant or its Sub-consultant to perform the Services or any part thereof under the Contract.

- (q) “Party” means the Employer or the Consultant, as the case may be, and “Parties” means both of them.
- (r) “**SCC**” means the Special Conditions of Contract by which the GCC may be amended or supplemented but not over-written.
- (s) “Services” means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A hereto.
- (t) “Sub-consultants” means an entity to whom/which the Consultant subcontracts any part of the Services while remaining solely liable for the execution of the Contract.
- (u) “Third Party” means any person or entity other than the Government, the Employer, the Consultant or a Sub-consultant.

## **2. Relationship between the Parties**

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

## **3. Law Governing Contract**

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

## **4. Language**

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

## **5. Headings**

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

## **6. Communications**

- 6.1. Any communication required or permitted to be given or made pursuant to this Contract shall be in writing in the language specified in Clause GCC 4. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the **SCC**.
- 6.2. A Party may change its address for notice hereunder by giving the other Party any communication of such change to the address specified in the **SCC**.

## **7. Location**

- 7.1. The Services shall be performed at such locations as are specified in **Appendix A** hereto and, where the location of a particular task is not so specified, at such locations, whether in the Government’s country or elsewhere, as the Employer may approve.

## **8. Authority of Member in Charge**

- 8.1. In case the Consultant is a Joint Venture, the members hereby authorize the member specified in the **SCC** to act on their behalf in exercising all

the Consultant's rights and obligations towards the Employer under this Contract, including without limitation the receiving of instructions and payments from the Employer.

**9. Authorized Representative**

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

**10. Corrupt and Fraudulent Practices**

10.1. The Government *requires* compliance with the Laws and Regulations on Corruption and its prevailing sanction policies and procedures in regard to corrupt and fraudulent practices as set forth in Attachment 1 to the GCC.

**(a) Commissions and Fees**

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

**B. COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT**

**11. Effectiveness of Contract**

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

**12. Termination of Contract for Failure to Become Effective**

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

**13. Commencement of Services**

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

**14. Expiration of Contract**

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

**15. Entire Agreement**

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

## **16. Modifications or Variations**

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

## **17. Force Majeure**

### **a. Definition**

- 17.1. For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible under the circumstances, and subject to those requirements, includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action confiscation or any other action by Government agencies.
- 17.2. Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party's Experts, Sub-consultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both take into account at the time of the conclusion of this Contract, and avoid or overcome in the carrying out of its obligations hereunder.
- 17.3. Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

### **b. No Breach of Contract**

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

### **c. Measures to be Taken**

- 17.5. A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.
- 17.6. A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than seven (7) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.
- 17.7. Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.
- 17.8. During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the Employer, shall either:

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

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

## **18. Suspension**

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

## **19. Termination**

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

### **a. By the Employer**

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

- (a) If the Consultant fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause GCC 18;
- (b) If the Consultant becomes (or, if the Consultant consists of more than one entity, if any of its members becomes) insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary;
- (c) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GCC 45.1;
- (d) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days;
- (e) If the Employer, in its sole discretion and for any reason whatsoever, decides to terminate this Contract;
- (f) If the Consultant fails to confirm availability of Key



Experts as required in Clause GCC 13.

19.1.2. Furthermore, if the Employer determines that the Consultant has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices, in competing for or in executing the Contract, then the Employer may, after giving seven (7) days written notice to the Consultant, terminate the Consultant's employment under the Contract.

**b. By the Consultant**

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

- (a) If the Employer fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clause GCC 45.1 within forty-five (45) days after receiving written notice from the Consultant that such payment is overdue.
- (b) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than thirty (30) days.
- (c) If the Employer fails to comply with any final decision reached as a result of arbitration pursuant to Clause GCC 45.1.
- (d) If the Employer is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the Consultant may have subsequently approved in writing) following the receipt by the Employer of the Consultant's notice specifying such breach.

**c. Cessation of Rights and Obligations**

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

**d. Cessation of Services**

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

respectively, by Clauses GCC 27 or GCC 28.

**e. Payment upon Termination**

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

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

**C. OBLIGATIONS OF THE CONSULTANT**

**20. General**

**a. Standard of Performance**

- 20.1. The Consultant shall perform the Services and carry out the Services with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as a faithful adviser to the Employer, and shall at all times support and safeguard the Employer's legitimate interests in any dealings with the third parties.
- 20.2. The Consultant shall employ and provide such qualified and experienced Experts and Sub-consultants as are required to carry out the Services.
- 20.3. The Consultant may subcontract part of the Services to an extent and with such Key Experts and Sub-consultants as may be approved in advance by the Employer. Notwithstanding such approval, the Consultant shall retain full responsibility for the Services.

**b. Law Applicable to Services**

- 20.4. The Consultant shall perform the Services in accordance with the Contract and the Applicable Law and shall take all practicable steps to ensure that any of its Experts and Sub-consultants, comply with the Applicable Law.
- 20.5. Throughout the execution of the Contract, the Consultant shall comply with the import of goods and services prohibitions in the Employer's country when
  - (a) as a matter of law or official regulations, Cambodia prohibits commercial relations with that country; or
  - (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Cambodia prohibits any import of goods from that country or any payments to any country, person, or entity in that country.

**21. Conflict of Interests**

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

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

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

**b. Consultant and Affiliates Not to Engage in Certain Activities**

21.1.2. The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-consultants and any entity affiliated with such Sub-consultants, shall be disqualified from providing goods, works or non-consulting services resulting from or directly related to the Consultant's Services for the preparation or implementation of the project, unless otherwise indicated in the **SCC**.

**c. Prohibition of Conflicting Activities**

21.1.3. The Consultant shall not engage, and shall cause its Experts as well as its Sub-consultants not to engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.

**d. Strict Duty to Disclose Conflicting Activities**

21.1.4. The Consultant has an obligation and shall ensure that its Experts and Sub-consultants shall have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of their Employer, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of its Contract.

**22. Confidentiality**

22.1. Except with the prior written consent of the Employer, the Consultant and the Experts shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant and the Experts make public their recommendations formulated in the course of, or as a result of, the Services.

**23. Liability of the Consultant**

23.1. Subject to additional provisions, if any, set forth in the **SCC**, the Consultant's liability under this Contract shall be provided by the Applicable Law.

**24. Insurance to be Taken out by the Consultant**

24.1. The Consultant (i) shall take out and maintain, and shall cause any Sub-consultants to take out and maintain, at its (or the Sub-consultants', as the case may be) own cost but on terms and conditions approved by the Employer, insurance against the risks, and for the coverage specified in the **SCC**, and (ii) at the Employer's request, shall provide evidence to the Employer showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid. The Consultant shall ensure that such insurance is in place prior to

commencing the Services as stated in Clause GCC 13.

**25. Accounting, Inspection and Auditing**

- 25.1. The Consultant shall keep, and shall make all reasonable efforts to cause its Sub-consultants to keep, accurate and systematic accounts and records in respect of the Services and in such form and detail as will clearly identify relevant time changes and costs.
- 25.2. The Consultant shall permit and shall cause its Sub-consultants to permit, the Government or persons appointed by the Government to inspect all accounts and records relating to the performance of the Contract and the submission of the Proposal to provide the Services, and to have such accounts and records audited by auditors appointed by them if requested by them. The Consultant's attention is drawn to Clause GCC 10 which provides, inter alia, that acts intended to materially impede the exercise of the Government inspection and audit rights provided for under this Clause GCC 25.2 constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility under the Government prevailing sanctions procedures).

**26. Reporting Obligations**

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

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

- 27.1. Unless otherwise indicated in the **SCC**, all reports and relevant data and information such as maps, diagrams, plans, databases, other documents and software, supporting records or material compiled or prepared by the Consultant for the Employer in the course of the Services shall be confidential and become and remain the absolute property of the Employer. The Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Employer, together with a detailed inventory thereof. The Consultant may retain a copy of such documents, data and/or software but shall not use the same for purposes unrelated to this Contract without prior written approval of the Employer.
- 27.2. If license agreements are necessary or appropriate between the Consultant and third parties for purposes of development of the plans, drawings, specifications, designs, databases, other documents and software, the Consultant shall obtain the Employer's prior written approval to such agreements, and the Employer shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned. Other restrictions about the future use of these documents and software, if any, shall be specified in the **SCC**.

**28. Equipment, Vehicles and Materials**

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

insure them at the expense of the Employer in an amount equal to their full replacement value.

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

## **D. CONSULTANT'S EXPERTS AND SUB-CONSULTANTS**

### **29. Description of Key Experts**

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

### **30. Replacement of Key Experts**

- 30.1. Except as the Employer may otherwise agree in writing, no changes shall be made in the Key Experts.
- 30.2. Notwithstanding the above, the substitution of Key Experts during Contract execution may be considered only based on the Consultant's written request and due to circumstances outside the reasonable control of the Consultant like in the event of death or medical incapacity. In such case, the Consultant shall forthwith provide as a replacement, a person of equivalent or better qualifications and experience, and at the same rate of remuneration.

### **31. Removal of Experts or Sub-consultants**

- 31.1. If the Employer finds that any of the Experts or Sub-consultant has committed serious misconduct or has been charged with having committed a criminal action, or shall the Employer determine that Consultant's Expert or Sub-consultant have engaged in corrupt, fraudulent, collusive, coercive or obstructive practice while performing the Services, the Consultant shall, at the Employer's written request, provide a replacement.
- 31.2. In the event that any of Key Experts, Non-Key Experts or Sub-consultants is found by the Employer to be incompetent or incapable in discharging assigned duties, the Employer, specifying the grounds therefore, may request the Consultant to provide a replacement.
- 31.3. Any replacement of the removed Experts or Sub-consultants shall possess better qualifications and experience and shall be acceptable to the Employer.
- 31.4. The Consultant shall bear all costs arising out of or incidental to any removal and/or replacement of such Experts.

## **E. OBLIGATIONS OF THE EMPLOYER**

### **32. Assistance and Exemptions**

- 32.1. Unless otherwise specified in the **SCC**, the Employer shall use its best efforts to:
- (a) Assist the Consultant with obtaining work permits and such other documents as shall be necessary to enable the Consultant to perform the Services.
  - (b) Assist the Consultant with promptly obtaining, for the Experts and, if appropriate, their eligible dependents, all necessary entry and

exit visas, residence permits, exchange permits and any other documents required for their stay in the Employer's country while carrying out the Services under the Contract.

(c) Issue to officials, agents and representatives of the Government all such instructions and information as may be necessary or appropriate for the prompt and effective implementation of the Services.

(d) Provide to the Consultant any such other assistance as may be specified in the **SCC**.

**33. Access to Project Site**

33.1. The Employer warrants that the Consultant shall have, free of charge, unimpeded access to the project site in respect of which access is required for the performance of the Services.

**34. Change in the Applicable Law Related to Taxes and Duties**

34.1. If, after the date of this Contract, there is any change in the applicable law in the Employer's country with respect to taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Contract shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the Contract price amount specified in Clause GCC 38.1.

**35. Services, Facilities and Property of the Employer**

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

**36. Counterpart Personnel**

36.1. The Employer shall make available to the Consultant such professional and support counterpart personnel, to be nominated by the Employer with the Consultant's advice, if specified in **Appendix A**. The Employer and Consultant shall agree on any allowances to be provided to meet their incidental and other assignment related expenditures and such amounts shall be included in the Contract for payment by the Consultant to them.

36.2. Professional and support counterpart personnel, excluding Employer's liaison personnel, shall work under the supervision of the Consultant.

36.3. If any member of the counterpart personnel fails to perform adequately any work assigned to such member by the Consultant that is consistent with the position occupied by such member, the Consultant may request the replacement of such member, and the Employer shall not unreasonably refuse to act upon such request.

**37. Payment Obligation**

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

## F. PAYMENTS TO THE CONSULTANT

### 38. Contract Price

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

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

### 39. Taxes and Duties

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

### 40. Currency of Payment

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

### 41. Mode of Billing and Payment

41.1. The total payments under this Contract shall not exceed the Contract price set forth in Clause GCC 38.1.

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

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

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

41.2.3. The Final Payment. The final payment under this Clause shall be made only after the final report I have been submitted by the Consultant and approved as satisfactory by the Employer. The Services shall then be deemed completed and finally accepted by the Employer. The last lump-sum installment shall

be deemed approved for payment by the Employer within ninety (90) days after receipt of the final report by the Employer unless the Employer, within such ninety (90) calendar day period, gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report. The Consultant shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated.

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

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

#### **42. Interest on Delayed Payments**

42.1. If the Employer had delayed payments beyond thirty (30) days after the due date stated in Clause GCC 41.2.2, interest shall be paid to the Consultant on any amount due by, not paid on, such due date for each day of delay at the annual rate stated in the **SCC**.

### **G. FAIRNESS AND GOOD FAITH**

#### **43. Good Faith**

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

### **H. SETTLEMENT OF DISPUTES**

#### **44. Amicable Settlement**

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

44.2. If either Party objects to any action or inaction of the other Party, the objecting Party may file a written Notice of Dispute to the other Party providing in detail the basis of the dispute. The Party receiving the Notice of Dispute will consider it and respond in writing within fourteen (14) days after receipt. If that Party fails to respond within fourteen (14) days, or the dispute cannot be amicably settled within fourteen (14) days following the response of that Party, Clause GCC 45.1 shall apply.

#### **45. Dispute Resolution**

45.1. 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 in accordance with the provisions specified in the **SCC**.



## ATTACHMENT 1

### Government Policy - Corrupt and Fraudulent Practices

#### 1. Requirements

- 1.1 The Government requires bidders (applicants/proposers), consultants, contractors and suppliers; any sub-contractors, sub-consultants, service providers or suppliers; any agents (whether declared or not); and any personnel thereof, adhere to the highest standards of ethic during the procurement process, selection and execution of contracts, and refrain from Fraud and Corruption.
- 1.2 In pursuance of this policy, the Government:
- (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<sup>1</sup>;
    - (ii) “Fraudulent Practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit, or to avoid an obligation<sup>2</sup>;
    - (iii) “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<sup>3</sup>;
    - (iv) “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<sup>4</sup>;
    - (v) “Abuse” means theft, waste, or improper use of assets related to project activity, either committed intentionally or through reckless disregard;

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<sup>1</sup> For the purpose of this sub-paragraph, “another party” refers to a public official acting in relation to the selection process or contract execution. In this context “public official” includes Government staff, and employees of other organizations taking or reviewing selection decisions.

<sup>2</sup> For the purpose of this sub-paragraph, “party” refers to a public official; the terms “benefit” and “obligation” relate to the selection process or contract execution; and the “act or omission” is intended to influence the selection process or contract execution.

<sup>3</sup> For the purpose of this sub-paragraph, “party” refers to a participant in the selection process or contract execution.

<sup>4</sup> For the purpose of this sub-paragraph, “parties” refers to participants in the procurement or selection process (including public officials) attempting either themselves, or through another person or entity not participating in the procurement or selection process, to simulate competition or to establish prices at artificial, non-competitive levels, or are privy to each other’s bid prices or other conditions.

- (vi) "Conflict of Interest" means any situation in which a party has interests that could improperly influence that party's performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations;
- (vii) "Obstructive Practice" is:
  - (aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation, or making false statements to investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice by the competent Government authority; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or
  - (bb) acts intended to materially impede the exercise of the Government inspection and audit rights;
- (b) will reject a recommendation for award of the contract if it is determined that the consultant recommended for the award or any of its personnel, or its agents, or its sub-consultants, sub-contractors, services providers, suppliers, and/or their employees have directly or indirectly engaged in corrupt, fraudulent, coercive, collusive or obstructive practices, or other integrity violations in competing for the contract in question;
- (c) will sanction a firm or individual at any time, including by publicly declaring such firm or individual ineligible, either indefinitely or for a stated period of three years: (i) to be awarded or otherwise benefit from a Government-financed contract, financially or in any other manner; and (ii) to be a nominated sub-consultant under a Government financed contract.

### III. SPECIAL CONDITIONS OF CONTRACT

Number of GCC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
1.1.(b) and 3.1.	The Contract shall be construed in accordance with the Laws of the Kingdom of Cambodia.
6.1. and 6.2.	<p><b>The addresses are:</b></p> <p><b>Employer:</b> _____</p> <p>_____</p> <p>Attention: _____</p> <p>Facsimile: _____</p> <p>E-mail: _____</p> <p><b>Consultant:</b> _____</p> <p>_____</p> <p>Attention: _____</p> <p>Facsimile: _____</p> <p>E-mail: _____</p>
8.1.	<p><i>[ If the Consultant consists only of one entity, state "N/A"]</i></p> <p style="text-align: center;"><b>OR</b></p> <p><i>[If the Consultant is a Joint Venture consisting of more than one entity, the name of the lead member whose address is specified in Clause <b>SCC</b> 6.1. should be inserted here.]</i></p> <p>The Lead Member on behalf of the JV is _____</p> <p>_____ <i>[insert name of the member].</i></p>
9.1.	<p>The Authorized Representatives are:</p> <p><b>For the Employer:</b></p> <p>Name: _____</p> <p>Designation: _____</p> <p>Email: _____</p> <p><b>For the Consultant:</b></p> <p>Name: _____</p> <p>Designation: _____</p> <p>Email: _____</p>
11.1.	<p>The conditions of effectiveness are as follows:</p> <p>(a) Confirmation of availability of Key Experts.</p> <p>Confirmation of the availability of Key Experts to start the assignment shall be submitted to the Employer in writing with a written statement signed by each Key Expert.</p> <p><i>[List here any conditions of effectiveness of the Contract.]</i></p> <p><i>[if there are no conditions, state N/A]</i></p>

12.1.	Termination of Contract for Failure to Become Effective: The time period shall be sixty (60) days
13.1.	<b>Commencement of Services:</b> The number of days shall be ten (10) days.
14.1.	<b>Expiration of Contract:</b> The time period shall be <u>  insert the duration of the Contract  </u> .
21.1.3.	The Employer reserves the right to determine on a case-by-case basis whether the Consultant should be disqualified from providing goods, works or non-consulting services due to a conflict of a nature described in Clause GCC 21.1.3.
23.1.	<p>The following limitation of the Consultant's Liability towards the Employer can be subject to the Contract's negotiations:</p> <p><b>“Limitation of the Consultant's Liability towards the Employer:</b></p> <p>(a) Except in the case of gross negligence or willful misconduct on the part of the Consultant or on the part of any person or a firm acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused by the Consultant to the Employer's property, shall not be liable to the Employer:</p> <p style="padding-left: 40px;">(i) for any indirect or consequential loss or damage; and</p> <p style="padding-left: 40px;">(ii) for any direct loss or damage that exceeds the Contract Value.</p> <p>(b) This limitation of liability shall not</p> <p style="padding-left: 40px;">(i) affect the Consultant's liability, if any, for damage to Third Parties caused by the Consultant or any person or firm acting on behalf of the Consultant in carrying out the Services;</p> <p style="padding-left: 40px;">(ii) be construed as providing the Consultant with any limitation or exclusion from liability which is prohibited by the applicable law in the Kingdom of Cambodia.”</p>
24.1.	<p>The insurance coverage against the risks shall be as follows:</p> <p>(a) Professional liability insurance, with a minimum coverage of USD <i>insert 1.5 times the contract value</i></p> <p>Third Party motor vehicle liability insurance in respect of motor vehicles operated in the Cambodia by the Consultant or its Experts or Sub-consultants, with a minimum coverage in accordance with the applicable law in the Cambodia;</p> <p>(c) Third Party liability insurance, with a minimum coverage of in accordance with the applicable law in Cambodia;</p> <p>(d) Employer's liability and workers' compensation insurance in respect of the experts and Sub-consultants in accordance with the relevant provisions of the applicable law in Cambodia, as well as, with respect to such Experts, any such life, health, accident, travel or other insurance as may be appropriate; and</p> <p>(e) Insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii)</p>

	the Consultant's property used in the performance of the Services, and (iii) any documents prepared by the Consultant in the performance of the Services.																											
27.1.	No Exceptions.																											
27.2.	The Consultant shall not use any <i>documents or software</i> for purposes unrelated to this Contract without the prior written approval of the Employer.																											
32.1.(d)	Not Applicable.																											
38.1.	<p>The Contract Price: USD _____ inclusive of all taxes and duties including local indirect taxes.</p>																											
41.2.	<p>The payment schedule:</p> <p><i>[Payment of installments shall be linked to the deliverables specified in the Terms of Reference in Appendix A.]</i></p> <p><b>1<sup>st</sup> Payment: Not exceed 15%. Insert the amount of the installment, percentage of the total Contract Price, and the currency. If the first payment is an advance payment, it shall be made against the bank guarantee for the same amount as per GCC 41.2.1.]</b></p> <table><tr><th>No.</th><th>% of Contract Price</th><th>Output/Milestone</th></tr><tr><td>1<sup>st</sup></td><td>10%</td><td>Contract Signing</td></tr><tr><td>2<sup>nd</sup></td><td>10%</td><td>Approval of Inception Report</td></tr><tr><td>3<sup>rd</sup></td><td>20%</td><td>Submission of Feasibility Report</td></tr><tr><td>4<sup>th</sup></td><td>(Balance)  Note: <b>The Total 1 to 4<sup>th</sup> payments but not exceed contract price for tasks up to the completion of FS</b></td><td>Approval of Feasibility Study  <i>[in case project is not financially viable, no further inputs will be required, and the Contract shall be terminated]</i></td></tr><tr><td>5<sup>th</sup></td><td>15%</td><td>Submission of Procurement Documents</td></tr><tr><td>6<sup>th</sup></td><td>15%</td><td>Signing of PPP Contract</td></tr><tr><td>7<sup>th</sup></td><td>15%</td><td>Financial Closure</td></tr><tr><td>Final</td><td>5%</td><td>Submission of Final Report</td></tr></table> <p><b>Note: Adjust 5<sup>th</sup>, 6<sup>th</sup>, and 7<sup>th</sup> Payment % based on Contract Price remaining after total of 1<sup>st</sup> to 4<sup>th</sup> Payments]</b></p>	No.	% of Contract Price	Output/Milestone	1 <sup>st</sup>	10%	Contract Signing	2 <sup>nd</sup>	10%	Approval of Inception Report	3 <sup>rd</sup>	20%	Submission of Feasibility Report	4 <sup>th</sup>	(Balance)  Note: <b>The Total 1 to 4<sup>th</sup> payments but not exceed contract price for tasks up to the completion of FS</b>	Approval of Feasibility Study  <i>[in case project is not financially viable, no further inputs will be required, and the Contract shall be terminated]</i>	5 <sup>th</sup>	15%	Submission of Procurement Documents	6 <sup>th</sup>	15%	Signing of PPP Contract	7 <sup>th</sup>	15%	Financial Closure	Final	5%	Submission of Final Report
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7 <sup>th</sup>	15%	Financial Closure																										
Final	5%	Submission of Final Report																										
41.2.1.	<p>The following provisions shall apply to the advance payment and the advance bank payment guarantee:</p> <p>(1) An advance payment of [insert amount - maximum of 15% of Contract Price] in foreign currency shall be made within thirty (30) days after the receipt of an advance bank payment guarantee, issued by a bank in Cambodia, by the Employer. The advance payment will be set off by the Employer in equal portions against</p>																											

	<p>the 2<sup>nd</sup> and 3<sup>rd</sup> payments.</p> <p>(2) The advance bank payment guarantee shall be in the amount and in the currency of the advance payment.</p> <p>(3) The bank guarantee will be released when the advance payment has been fully set off.</p> <p><i>[if no advance is provided and 1<sup>st</sup> payment is on signing of Contract, delete above and state N/A]</i></p>
<b>41.2.4.</b>	<p>The Account Details are as follows:</p> <p><i>[insert all the details at the time of contract negotiations]</i></p>
<b>42.1.</b>	<p>The interest rate is: <i>[insert rate based on inter-bank lending rate as provided by NBC].</i></p>
<b>45.1.</b>	<p>Disputes shall be settled by adjudication as follows:</p> <p>(a) Where the Parties agree that the dispute concerns a technical matter, they may agree to appoint a sole adjudicator 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 the Arbitration Council of Cambodia for a list of not fewer than two (2) nominees and, on receipt of such list, the Parties shall agree on one name who shall be the sole adjudicator for the matter in dispute.</p> <p>If a Party does not agree with the decision of the adjudicator, that Party may file a lawsuit in the relevant courts in Cambodia at its own costs.</p> <p>(b) Where the Parties agree that the dispute concerns a legal matter, the aggrieved Party may fill seek a resolution through the judicial system in Cambodia. The aggrieved Party will bear the cost of such actions.</p> <p>(c) The decision of the courts under (a) or (b) shall be enforced by the courts and both Parties must abide by its decision.</p>

## IV. APPENDICES

### APPENDIX A – TERMS OF REFERENCE

*[This Appendix shall include the final Terms of Reference (TORs) worked out by the Employer and the Consultant during the negotiations; dates for completion of various tasks; location of performance for different tasks; detailed reporting requirements and list of deliverables against which the payments to the Consultant will be made; Employer's input, including counterpart personnel assigned by the Employer to work on the Consultant's team; specific tasks or actions that require prior approval by the Employer.]*

*[Insert the text based on the Section 7 (Terms of Reference) of the ITC in the RFP and modified based on the Forms TECH-1 through TECH-4 of the Consultant's Proposal. Highlight the changes to Section 7 of the RFP.]*

.....  
.....

### APPENDIX B - KEY EXPERTS

*[Insert a table based on Form TECH-5 of the Consultant's Technical Proposal and finalized at the Contract's negotiations. Attach the CVs (updated and signed by the respective Key Experts) demonstrating the qualifications of Key Experts.]*

.....  
.....

### APPENDIX C – BREAKDOWN OF CONTRACT PRICE

*[Insert the table with the unit rates to arrive at the breakdown of the lump-sum price. The table shall be based on Form FIN-3 and FIN-4 of the Consultant's Proposal and reflect any changes agreed at the Contract negotiations, if any. The footnote shall list such changes made to Form FIN-3 and FIN-4 at the negotiations or state that none has been made.]*

*Note during contract negotiations the lump sum quoted in the Financial Proposal will be further broken down as follows:*

- 1. Total Costs for Tasks up to the Preparation of the Feasibility Study and the breakdown of these costs*
- 2. Total Costs for Tasks after the completion of the Feasibility Study up to until Financial Closure and the breakdown of these costs.*

*The above breakdown will be needed for determining the payment schedule particularly the 4<sup>th</sup> Payment based on the Payment Schedule prescribed under SCC 41.2*

## APPENDIX D - FORM OF ADVANCE PAYMENTS GUARANTEE

*[See Clause GCC 41.2.1. and SCC 41.2.1.]*

*{Guarantor letterhead or SWIFT identifier code}*

### Bank Guarantee for Advance Payment

**Guarantor:**

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*[Insert commercial Bank's name, and address of Issuing Branch or Office.]*

**Beneficiary:** \_\_\_\_\_ *[insert name and address of the Employer]*

**Date:** \_\_\_\_\_ *[insert date]*

**ADVANCE PAYMENT GUARANTEE No.:** \_\_\_\_\_ *[insert number].*

We have been informed that \_\_\_\_\_ *[name of the Consultant or a name of the Joint Venture, same as appears on the signed Contract]* (hereinafter called "the Consultant") has entered into Contract No. \_\_\_\_\_ *[reference number of the contract]* dated \_\_\_\_\_ *[insert date]* with the Beneficiary, for the provision of \_\_\_\_\_ *[brief description of Services]* (hereinafter called "the Contract").

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

At the request of the Consultant, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of \_\_\_\_\_ *[amount in figures]* (\_\_\_\_\_) *[amount in words]*<sup>18</sup> upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's a written statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Consultant is in breach of their obligation under the Contract because the Consultant:

- (a) has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount which the Consultant has failed to repay;
- (b) has used the advance payment for purposes other than toward providing the Services under the Contract.

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<sup>18</sup> The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency(ies) of the advance payment as specified in the Contract, or in a freely convertible currency acceptable to the Client.



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

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Consultant as indicated in certified statements or invoices marked as "paid" by the Employer which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of the payment certificate or paid invoice indicating that the Consultant has made full repayment of the amount of the advance \_\_\_\_\_ payment, \_\_\_\_\_ or \_\_\_\_\_ on the \_\_\_\_\_ day \_\_\_\_\_ of \_\_\_\_\_ *[month]* \_\_\_\_\_ *[year]*<sup>19</sup>, whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

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

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

*[Note: All italicized text is for indicative purposes only to assist in preparing this form and shall be deleted from the final product.]*

<sup>19</sup> Insert the expected expiration date. In the event of an extension of the time for completion of the Contract, the Client would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Client might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Client's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."