

Regional Road Development and Maintenance Project Phase 3

Bidding Document for Procurement of

Uliastai - Altai Road

**Construction of a new asphalt paved road for
the section from Uliastai - Tsagaankhairkhan
on a new alignment (40km)**

Volume 1

**Bidding Procedures, Conditions of Contract, and
Contract Forms**

Issued on: 20 March 2024

Invitation for Bids No.: ZTHYa/202211xx

OCB No.: CW2

**Employer: Ministry of Road and Transport Development
(MRTD)**

Country: Mongolia

Preface

This Bidding Document for the Procurement of Works has been prepared by Ministry of Road and Transport Development and is based on the Standard Bidding Document for the Procurement of Works (SBD Works) issued by the Asian Development Bank dated October 2022.

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Section 1: Instructions to Bidders

This section specifies the procedures to be followed by Bidders in the preparation and submission of their Bids. Information is also provided on the submission, opening, evaluation of bids, and award of contract.

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A. General

- 1. Scope of Bid**
 - 1.1 In connection with the Invitation for Bids (IFB) indicated in the Bid Data Sheet (BDS), the Employer, as indicated in the BDS, issues this Bidding Document for the procurement of Works as specified in Section 6 (Works' Requirements). The name, identification, and number of contracts of the open competitive bidding (OCB) are provided in the BDS.
 - 1.2 Throughout this Bidding Document,
 - (a) the term "in writing" means communicated in written form and delivered against receipt;
 - (b) except where the context requires otherwise, words indicating the singular also include the plural, and words indicating the plural also include the singular; and
 - (c) "day" means calendar day.
- 2. Source of Funds**
 - 2.1 The Borrower or Recipient (hereinafter called "Borrower") indicated in the BDS has applied for or received financing (hereinafter called "funds") from the Asian Development Bank (hereinafter called "ADB") toward the cost of the project named in the BDS. The Borrower intends to apply a portion of the funds to eligible payments under the contract(s) for which this Bidding Document is issued.
 - 2.2 Payments by the ADB will be made only at the request of the Borrower and upon approval by ADB in accordance with the terms and conditions of the Financing Agreement between the Borrower and ADB (hereinafter called "Financing Agreement"), and will be subject in all respects to the terms and conditions of that Financing Agreement. No party other than the Borrower shall derive any rights from the Financing Agreement or have any claim to the funds.
- 3. Fraud and Corruption**
 - 3.1 ADB requires Borrowers (including beneficiaries of ADB-financed activity) and their personnel, as well as firms and individuals participating in an ADB-financed activity, including but not limited to, Bidders, Suppliers, and Contractors, agents, subcontractors, subconsultants, service providers, subsuppliers, manufacturers (including their respective officers, directors, employees and personnel) under ADB-financed contracts to observe the highest standard of ethics during the procurement and execution of such contracts in accordance with ADB's Anticorruption Policy (1998, as amended from time to time. In pursuance of this policy, ADB
 - (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) "corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
 - (ii) "fraudulent practice" means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;

- (iii) “coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - (iv) “collusive practice” means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;
 - (v) “abuse” means theft, waste, or improper use of assets related to ADB-related activity, either committed intentionally or through reckless disregard;
 - (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; and
 - (vii) “integrity violation” means any act, as defined under ADB’s Integrity Principles and Guidelines (2015, as amended from time to time), which violates ADB’s Anticorruption Policy, including (i) to (vi) above and the following: obstructive practice, violations of ADB sanctions, retaliation against whistleblowers or witnesses, and other violations of ADB’s Anticorruption Policy, including failure to adhere to the highest ethical standards.
- (b) will reject a proposal for award if it determines that the Bidder recommended for award or any of its officers, directors, employees, personnel, subconsultants, subcontractors, service providers, suppliers or manufacturers has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations in competing for the Contract;
 - (c) will cancel the portion of the financing allocated to a contract if it determines at any time that representatives of the Borrower or of a beneficiary of ADB financing engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations during the procurement or the execution of that contract, without the Borrower having taken timely and appropriate action satisfactory to ADB to remedy the situation, including by failing to inform ADB in a timely manner at the time they knew of the integrity violations;
 - (d) will impose remedial actions on a firm or an individual, at any time, in accordance with ADB’s Anticorruption Policy and Integrity Principles and Guidelines, including declaring ineligible, either indefinitely or for a stated period of time, to participate¹ in ADB-financed, -administered, or -supported activities or to benefit from an ADB-financed, -administered, or -supported contract, financially or otherwise, if it at any time determines that the firm or individual has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices or other integrity violations; and
 - (e) will have the right to require that a provision be included in bidding documents and in contracts financed, administered, or supported by

¹ Whether as a Contractor, Subcontractor, Consultant, Manufacturer or Supplier, or Service Provider; or in any other capacity (different names are used depending on the particular Bidding Document).

ADB, requiring Bidders, suppliers and contractors, consultants, manufacturers, service providers and other third parties engaged or involved in ADB-related activities, and their respective officers, directors, employees and personnel, to permit ADB or its representative to inspect the site and their assets, accounts and records and other documents relating to the bid submission and contract performance and to have them audited by auditors appointed by ADB.

- 3.2 All Bidders, consultants, contractors, suppliers, manufacturers, service providers, and other third parties engaged or involved in ADB-related activities, and their respective officers, directors, employees and personnel, are required to cooperate fully in any investigation when requested by ADB to do so. As determined on a case-by-case basis by ADB, such cooperation is set out in detail in the Integrity Principles and Guidelines.
- 3.3 All Bidders, consultants, contractors and suppliers shall require their officers, directors, employees, personnel, agents to ensure that, in its contracts with its subconsultants, Subcontractors, and other third parties engaged or involved in ADB-related activities, such subconsultants, Subcontractors, and other third parties similarly are required to cooperate fully in any investigation when requested by ADB to do so.
- 3.4 The Employer hereby puts the Bidder on notice that the Bidder or any Joint Venture partner of the Bidder (if any) may not be able to receive any payments under the Contract if the Bidder or any of its Joint Venture partners, as appropriate, is, or is owned (in whole or in part) by a person or entity subject to applicable sanctions.
- 3.5 Furthermore, Bidders shall be aware of the provision stated in Sub-Clauses 1.17 and Part C [Corrupt and Fraudulent Practices] of the Particular Conditions of Contract.

4. Eligible Bidders

- 4.1 A Bidder may be a natural person, private entity, or government-owned enterprise subject to ITB 4.5 - or any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a Joint Venture. In the case of a Joint Venture,
 - (a) all partners shall be jointly and severally liable; and
 - (b) the Joint Venture shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the parties of the Joint Venture during the bidding process and, in the event the Joint Venture is awarded the Contract, during contract execution.
- 4.2 A Bidder, and all parties constituting the Bidder, shall have the nationality of an eligible country, in accordance with Section 5 (Eligible Countries). A Bidder shall be deemed to have the nationality of a country if the Bidder is a citizen or is constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed Subcontractors or Suppliers for any part of the Contract including related services.
- 4.3 A Bidder shall not have a conflict of interest. All Bidders found to have a conflict of interest shall be disqualified. A Bidder may be considered to

be in a conflict of interest with one or more parties in the bidding process if any of, including but not limited to, the following apply:

- (a) they have controlling shareholders in common; or
 - (b) they receive or have received any direct or indirect subsidy from any of them; or
 - (c) they have the same legal representative for purposes of this bid; or
 - (d) they have a relationship with each other, directly or through common third parties, that puts them in a position to have access to material information about or improperly influence the bid of another Bidder, or influence the decisions of the Employer regarding this bidding process; or
 - (e) a Bidder participates in more than one bid in this bidding process, either individually or as a partner in a Joint Venture, except for alternative offers permitted under ITB 13 of the Bidding Document. This will result in the disqualification of all Bids in which it is involved. However, subject to any finding of a conflict of interest in terms of ITB 4.3(a)-(d) above, this does not limit the participation of a Bidder as a Subcontractor in another Bid or of a firm as a Subcontractor in more than one Bid; or
 - (f) a Bidder, Joint Venture partner, associates, parent company, or any affiliated entity, participated as a Consultant in the preparation of the design or technical specifications of the works that are the subject of the Bid; or
 - (g) a Bidder was affiliated with a firm or entity that has been hired (or is proposed to be hired) by the Employer or Borrower as Engineer for the Contract; or
 - (h) a Bidder would be providing goods, works, or nonconsulting services resulting from or directly related to consulting services for the preparation or implementation of the project specified in the BDS ITB 2.1 that it provided or were provided by any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm; or
 - (i) A Bidder that has a financial or familial relationship with Employer's personnel including personnel of project implementing/executing agency, or of a recipient of a part of the loan who: (i) are directly or indirectly involved in the preparation of the bidding documents or specifications of the contract, and/or the bid evaluation process of such contract; or (ii) would be involved in the implementation or supervision of such contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to ADB throughout the procurement process and execution of the contract.
- 4.4 A firm will not be eligible to participate in any procurement activities under an ADB-financed, -administered, or -supported project while under temporary suspension or debarment by ADB pursuant to its Anticorruption Policy (see ITB 3), whether such debarment was directly imposed by ADB, or enforced by ADB pursuant to the Agreement for Mutual Enforcement of Debarment Decisions. A bid from a temporarily suspended or debarred firm will be rejected and such bid may be in breach of debarment conditions, thereby subject to further ADB's investigation.

- 4.5 Government-owned enterprises in the Employer's country shall be eligible only if they can establish that they (i) are legally and financially autonomous, (ii) operate under commercial law, and (iii) are not a dependent agency of the Employer.
- 4.6 A Bidder shall not be under suspension from bidding by the Employer as the result of the execution of a Bid-Securing Declaration.
- 4.7 Bidders shall provide such evidence of their continued eligibility satisfactory to the Employer, as the Employer shall reasonably request.
- 4.8 Bidders shall be excluded if, by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Borrower's country prohibits any import of goods from, or payments to, a particular country, person or entity in respect of goods or services originating in that country. Where the Borrower's country prohibits payments to a particular person or entity or for particular goods or services by such an act of compliance, that firm shall be excluded.
- 5. Eligible Materials, Equipment, and Services**
- 5.1 The materials, equipment, and services to be supplied under the Contract shall have their origin in eligible source countries as defined in ITB 4.2, and all expenditures under the Contract will be limited to such materials, equipment, and services. At the Employer's request, Bidders may be required to provide evidence of the origin of materials, equipment, and services.
- 5.2 For purposes of ITB 5.1 above, "origin" means the place where the materials and equipment are mined, grown, produced, or manufactured, and from which the services are provided. Materials and equipment are produced when, through manufacturing, processing, or substantial or major assembling of components, a commercially recognized product results that differs substantially in its basic characteristics or in purpose or utility from its components.

B. Contents of Bidding Document

- 6. Sections of Bidding Document**
- 6.1 The Bidding Document consist of Parts I, II, and III, which include all the sections indicated below, and should be read in conjunction with any addenda issued in accordance with ITB 8.
- PART I Bidding Procedures**
- Section 1 - Instructions to Bidders (ITB)
 - Section 2 - Bid Data Sheet (BDS)
 - Section 3 - Evaluation and Qualification Criteria (EQC)
 - Section 4 - Bidding Forms (BDF)
 - Section 5 - Eligible Countries (ELC)
- PART II Requirements**
- Section 6 - Works' Requirements (WRQ)
- PART III Conditions of Contract and Contract Forms**
- Section 7 - General Conditions of Contract (GCC)
 - Section 8 - Particular Conditions of Contract (PCC)

Section 9 - Contract Forms (COF)

- 6.2 The IFB issued by the Employer is not part of the Bidding Document.
- 6.3 The Employer is not responsible for the completeness of the Bidding Document and its addenda, if they were not obtained directly from the source stated by the Employer in the IFB.
- 6.4 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Document. Failure to furnish all information or documentation required by the Bidding Document may result in the rejection of the bid.
- 7. Clarification of Bidding Document, Site Visit, Pre-Bid Meeting**
- 7.1 A prospective Bidder requiring any clarification on the Bidding Document shall contact the Employer in writing at the Employer's address indicated in the BDS or raise his inquiries during the pre-bid meeting if provided for in accordance with ITB 7.4. The Employer will respond in writing to any request for clarification, provided that such request is received no later than 21 days prior to the deadline for submission of bids. The Employer shall forward copies of its response to all Bidders who have acquired the Bidding Document in accordance with ITB 6.3, including a description of the inquiry but without identifying its source. Should the Employer deem it necessary to amend the Bidding Document as a result of a request for clarification, it shall do so following the procedure under ITB 8 and ITB 22.2.
- 7.2 The Bidder is advised to visit and examine the Site of Works and its surroundings and obtain for itself on its own responsibility all information that may be necessary for preparing the Bid and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the Bidder's own expense.
- 7.3 The Bidder and any of its personnel or agents will be granted permission by the Employer to enter its premises and lands for the purpose of such visit, but only upon the express condition that the Bidder, its personnel, and agents will release and indemnify the Employer and its personnel and agents from and against all liability in respect thereof, and will be responsible for death or personal injury, loss of or damage to property, and any other loss, damage, costs, and expenses incurred as a result of the inspection.
- 7.4 The Bidder's designated representative is invited to attend a pre-bid meeting, if provided for in the BDS. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 7.5 The Bidder is requested to submit any questions in writing, to reach the Employer not later than 1 week before the meeting.
- 7.6 Minutes of the pre-bid meeting, including the text of the questions raised, without identifying the source, and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Bidders who have acquired the Bidding Document in accordance with ITB 6.3. Any modification to the Bidding Document that may become necessary as a result of the pre-bid meeting shall be made by the Employer exclusively through the issue of an addendum pursuant to ITB 8 and not through the minutes of the pre-bid meeting.

- 7.7 Nonattendance at the pre-bid meeting will not be a cause for disqualification of a Bidder.
- 8. Amendment of Bidding Document**
- 8.1 At any time prior to the deadline for submission of Bids, the Employer may amend the Bidding Document by issuing addenda.
- 8.2 Any addendum issued shall be part of the Bidding Document and shall be communicated in writing to all who have obtained the Bidding Document from the Employer in accordance with ITB 6.3.
- 8.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their Bids, the Employer may, at its discretion, extend the deadline for the submission of Bids, pursuant to ITB 22.2.

C. Preparation of Bids

- 9. Cost of Bidding** 9.1 The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the Employer shall in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.
- 10. Language of Bid** 10.1 The Bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Employer, shall be written in the language specified in the BDS. Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified in the BDS, in which case, for purposes of interpretation of the Bid, such translation shall govern.
- 11. Documents Comprising the Bid** 11.1 The Bid shall comprise the following:
- (a) Letter of Bid;
 - (b) completed schedules as required, including priced Bill of Quantities, in accordance with ITB 12 and ITB 14;
 - (c) Bid Security or Bid-Securing Declaration, in accordance with ITB 19;
 - (d) alternative Bids, if permissible, in accordance with ITB 13;
 - (e) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB 20.2;
 - (f) documentary evidence in accordance with ITB 17, establishing the Bidder's qualifications to perform the contract if its Bid is accepted;
 - (g) Technical Proposal in accordance with ITB 16; and
 - (h) any other document required in the BDS.
- 11.2 In addition to the requirements under ITB 11.1, Bids submitted by a Joint Venture shall include a copy of the Joint Venture Agreement entered into by all partners. Alternatively, a Letter of Intent to execute a Joint Venture Agreement in the event of a successful Bid shall be signed by all partners and submitted with the Bid, together with a copy of the proposed agreement.
- 12. Letter of Bid and Schedules** 12.1 The Letter of Bid and Schedules, including the Bill of Quantities, shall be prepared using the relevant forms furnished in Section 4 (Bidding Forms). The forms must be completed without any alterations to the text,

and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested and as required in the BDS.

13. Alternative Bids

- 13.1 Unless otherwise indicated in the BDS, alternative Bids shall not be considered.
- 13.2 When alternative times for completion are explicitly invited, a statement to that effect will be included in the BDS, as will the method of evaluating different times for completion.
- 13.3 Except as provided under ITB 13.4 below, Bidders wishing to offer technical alternatives to the requirements of the Bidding Document must first price the Employer's design as described in the Bidding Document and shall further provide all information necessary for a complete evaluation of the alternative by the Employer, including drawings, design calculations, technical specifications, breakdown of prices, and proposed construction methodology and other relevant details. Only the technical alternatives, if any, of the lowest evaluated Bidder conforming to the basic technical requirements shall be considered by the Employer.
- 13.4 When specified in the BDS, Bidders are permitted to submit alternative technical solutions for specified parts of the Works. Such parts will be identified in the BDS and described in Section 6 (Works' Requirements). The method for their evaluation will be stipulated in Section 3 (Evaluation and Qualification Criteria).

14. Bid Prices and Discounts

- 14.1 The prices and discounts quoted by the Bidder in the Letter of Bid and in the Bill of Quantities shall conform to the requirements specified below.
- 14.2 The Bidder shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items against which no rate or price is entered by the Bidder will not be paid for by the Employer when executed, and shall be deemed covered by the rates for other items and prices in the Bill of Quantities. Unit rates and prices for all items of the Works described in the Bill of Quantities shall be expressed in positive values. If unit rates and prices are expressed in negative values, the bid will be rejected.
- 14.3 The price to be quoted in the Letter of Bid, in accordance with ITB 12.1, shall be the total price of the Bid, excluding any discounts offered. Absence of the total bid price in the Letter of Bid may result in the rejection of the Bid.
- 14.4 The Bidder shall quote any discounts and the methodology for their application in the Letter of Bid, in accordance with ITB 12.1.
- 14.5 The prices shall be either fixed or adjustable as specified in the BDS.
 - (a) In the case of Fixed Price, prices quoted by the Bidder shall be fixed during the Bidder's performance of the contract and not subject to variation on any account. A Bid submitted with an adjustable price will be treated as nonresponsive and rejected.
 - (b) In the case of Adjustable Price, prices quoted by the Bidder shall be subject to adjustment during performance of the contract to reflect changes in the cost elements such as labor, material, transport, and contractor's equipment in accordance with the provisions of the Conditions of Contract. A Bid submitted with a fixed price will be treated as nonresponsive and be rejected. The Bidder shall furnish the indexes and weightings for the price adjustment formulas in the

Tables of Adjustment Data included in Section 4 (Bidding Forms) and the Employer may require the Bidder to justify its proposed indexes and weightings. Any bid that omits indexes and weightings shall be subject to clarification with the Bidder.

- 14.6 If so indicated in ITB 1.1, bids are being invited for individual contracts or for any combination of contracts (packages). Bidders wishing to offer any price reduction for the award of more than one Contract shall specify in their bid the price reductions applicable to each package, or alternatively, to individual Contracts within the package. Price reductions or discounts shall be submitted in accordance with ITB 14.4, provided the Bids for all contracts are submitted and opened at the same time.
- 14.7 All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 28 days prior to the deadline for submission of bids, shall be included in the rates and prices and the total Bid Price submitted by the Bidder.

15. Currencies of Bid and Payment

- 15.1 The unit rates and the prices shall be quoted by the Bidder entirely in the currency specified in the BDS.
- 15.2 Bidders shall indicate the portion of the bid price that corresponds to expenditures incurred in the currency of the Employer's country in the Schedule of Payment Currencies included in Section 4 (Bidding Forms).
- 15.3 Bidders expecting to incur expenditures in other currencies for inputs to the Works supplied from outside the Employer's country and wishing to be paid accordingly may indicate the other currencies in the Schedule of Payment Currencies included in Section 4 (Bidding Forms).
- 15.4 The rates of exchange to be used by the Bidder for currency conversion during bid preparation shall be the selling rates for similar transactions prevailing on the date 28 days prior to the deadline for submission of bids published by the source specified in the BDS. If exchange rates are not so published for certain currencies, the Bidder shall state the rates used and the source. Bidders should note that for the purpose of payments, the exchange rates confirmed by the source specified in the BDS as the selling rates prevailing 28 days prior to the deadline for submission of Bids shall apply for the duration of the Contract so that no currency exchange risk is borne by the Bidder.
- 15.5 Foreign currency requirements indicated by the Bidders in the Schedule of Payment Currencies shall include but not limited to the specific requirements for
- (a) expatriate staff and labor employed directly on the Works;
 - (b) social, insurance, medical and other charges relating to such expatriate staff and labor, and foreign travel expenses;
 - (c) imported materials, both temporary and permanent, including fuels, oil and lubricants required for the Works;
 - (d) depreciation and usage of imported Plant and Contractor's Equipment, including spare parts, required for the Works;
 - (e) foreign insurance and freight charges for imported materials, Plant and Contractor's Equipment, including spare parts; and
 - (f) overhead expenses, fees, profit, and financial charges arising outside the Employer's country in connection with the Works.

- 15.6 Bidders may be required by the Employer to clarify their foreign currency requirements, and to substantiate that the amounts included in the unit rates and prices and shown in the Schedule of Payment Currencies are reasonable and responsive to ITB 15.3 above, in which case a detailed breakdown of its foreign currency requirements shall be provided by the Bidder.
- 15.7 Bidders should note that during the progress of the Works, the foreign currency requirements of the outstanding balance of the Contract Price may be adjusted by agreement between the Employer and the Contractor in order to reflect any changes in foreign currency requirements for the Contract, in accordance with Sub-Clause 14.15 of the Conditions of Contract. Any such adjustment shall be effected by comparing the percentages quoted in the bid with the amounts already used in the Works and the Contractor's future needs for imported items.
- 16. Documents Comprising the Technical Proposal**
- 16.1 The Bidder shall furnish a Technical Proposal including a statement of work methods, equipment, personnel, schedule, environmental, health and safety (EHS) management plan commensurate with the proposed scope of works, EHS Code of Conduct, and any other information as stipulated in Section 4 (Bidding Forms), in sufficient detail to demonstrate the adequacy of the Bidders' proposal to meet the work requirements and the completion time.
- 17. Documents Establishing the Qualifications of the Bidder**
- 17.1 To establish its qualifications to perform the Contract in accordance with Section 3 (Evaluation and Qualification Criteria) the Bidder shall provide the information requested in the corresponding information sheets included in Section 4 (Bidding Forms).
- 17.2 Domestic Bidders, individually or in Joint Ventures, applying for eligibility for domestic preference shall supply all information required to satisfy the criteria for eligibility as described in ITB 33.
- 18. Period of Validity of Bids**
- 18.1 Bids shall remain valid for the bid validity period specified in the BDS. The bid validity period starts from the date fixed for the bid submission deadline date prescribed by the Employer in accordance with ITB 22.1. A bid valid for a shorter period shall be rejected by the Employer as nonresponsive.
- 18.2 In exceptional circumstances, prior to the expiration of the bid validity period, the Employer may request Bidders to extend the period of validity of their Bids. The request and the responses shall be made in writing. If a bid security is requested in accordance with ITB 19, it shall also be extended 28 days beyond the deadline of the extended validity period. A Bidder may refuse the request without forfeiting its bid security. A Bidder granting the request shall not be required or permitted to modify its Bid.
- 19. Bid Security/Bid-Securing Declaration**
- 19.1 Unless otherwise specified in the BDS, the Bidder shall furnish as part of its Bid, in original form, either a Bid-Securing Declaration or a bid security as specified in the BDS. In the case of a bid security, the amount and currency shall be as specified in the BDS.
- 19.2 If a Bid-Securing Declaration is required pursuant to ITB 19.1, it shall use the form included in Section 4 (Bidding Forms). The Employer will declare a Bidder ineligible to be awarded a Contract for a specified period of time, as indicated in the BDS, if the Bid-Securing Declaration is executed.

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

- (a) an unconditional bank guarantee (hard copy of the bank guarantee or in the form of SWIFT message MT760), or
- (b) an irrevocable letter of credit, or
- (c) a cashier's or certified check

all from a reputable source from an eligible country as described in Section 5 (Eligible Countries). In the case of a bank guarantee, the bid security shall be submitted either using the Bid Security Form included in Section 4 (Bidding Forms) or another form acceptable to the Employer. The form must include the complete name of the Bidder. The bid security shall be valid for 28 days beyond the original validity period of the bid, or beyond any period of extension if requested under ITB 18.2.

19.4 Unless otherwise specified in the BDS, any Bid not accompanied by a substantially compliant bid security or Bid-Securing Declaration, if one is required in accordance with ITB 19.1, shall be rejected by the Employer as nonresponsive.

19.5 If a bid security is specified pursuant to ITB 19.1, the bid security of unsuccessful Bidders shall be returned promptly upon the successful Bidder's furnishing of the performance security pursuant to ITB 44.

19.6 If a bid security is specified pursuant to ITB 19.1, the bid security of the successful Bidder shall be returned promptly once the successful Bidder has signed the Contract and furnished the required performance security.

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

- (a) notwithstanding ITB 24.3, a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Letter of Bid, except as provided in ITB 18.2; or
- (b) the successful Bidder fails to
 - (i) sign the Contract in accordance with ITB 43;
 - (ii) furnish a performance security in accordance with ITB 44;
 - (iii) accept the arithmetical correction of its Bid in accordance with ITB 31; or
 - (iv) furnish a domestic preference security if so required.

19.8 If the bid security is required as per ITB 19.1, the bid security of a Joint Venture shall be in the name of the Joint Venture that submits the Bid. If the Joint Venture has not been legally constituted at the time of bidding, the bid security shall be in the name of any or all of the Joint Venture partners. If the Bid-Securing Declaration is required as per ITB 19.1, the Bid-Securing Declaration of a Joint Venture shall be in the name of the Joint Venture that submits the Bid. If the Joint Venture has not been legally constituted at the time of bidding, the Bid-Securing Declaration shall be in the names of all future partners as named in the letter of intent mentioned in ITB 4.1.

20. Format and Signing of Bid

- 20.1 The Bidder shall prepare one original set of the documents comprising the Bid as described in ITB 11 and clearly mark it "ORIGINAL." Alternative Bids, if permitted in accordance with ITB 13, shall be clearly marked "ALTERNATIVE." In addition, the Bidder shall submit copies of the Bid, in the number specified in the BDS and clearly mark them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.
- 20.2 The original and all copies of the Bid shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder. This authorization shall consist of a written confirmation as specified in the BDS and shall be attached to the bid. The name and position held by each person signing the authorization must be typed or printed below the signature. If a Bidder submits a deficient authorization, the Bid shall not be rejected in the first instance. The Employer shall request the Bidder to submit an acceptable authorization within the number of days as specified in the BDS. Failure to provide an acceptable authorization within the period as stated in the Employer's request shall cause the rejection of the Bid. If either the Letter of Bid or Bid-Securing Declaration (if applicable) is not signed, the Bid shall be rejected.
- 20.3 Any amendments such as interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Bid.

D. Submission and Opening of Bids

21. Sealing and Marking of Bids

- 21.1 Bidders shall submit their Bids as specified in the BDS. Procedures for submission, sealing, and marking are as follows:
- (a) Bidders submitting Bids by mail or by hand shall enclose the original and all copies of the Bid, including alternative Bids, if permitted in accordance with ITB 13, in separate sealed envelopes, duly marking the envelopes as "ORIGINAL," "ALTERNATIVE," and "COPY." These envelopes containing the original and the copies shall then be enclosed in one single envelope. The rest of the procedure shall be in accordance with ITB 21.2 and ITB 21.3.
 - (b) Bidders submitting Bids electronically shall follow the electronic bid submission procedures specified in the BDS.
- 21.2 The inner and outer envelopes shall
- (a) bear the name and address of the Bidder;
 - (b) be addressed to the Employer in accordance with BDS 22.1;
 - (c) bear the specific identification of this bidding process indicated in the BDS 1.1; and
 - (d) bear a warning not to open before the time and date for bid opening.
- 21.3 If all envelopes are not sealed and marked as required, the Employer will assume no responsibility for the misplacement or premature opening of the Bid.

22. Deadline for Submission of Bids

- 22.1 Bids must be received by the Employer at the address and no later than the date and time indicated in the BDS.

- 22.2 The Employer may, at its discretion, extend the deadline for the submission of Bids by amending the Bidding Document in accordance with ITB 8, in which case all rights and obligations of the Employer and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.
- 23. Late Bids**
- 23.1 The Employer shall not consider any Bid that arrives after the deadline for submission of bids, in accordance with ITB 22. Any bid received by the Employer after the deadline for submission of Bids shall be declared late, rejected, and returned unopened to the Bidder.
- 24. Withdrawal, Substitution, and Modification of Bids**
- 24.1 A Bidder may withdraw, substitute, or modify its Bid after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITB 20.2 (except for withdrawal notices, which do not require copies). The corresponding substitution or modification of the Bid must accompany the respective written notice. All notices must be
- (a) prepared and submitted in accordance with ITB 20 and ITB 21 (except for withdrawal notices, which do not require copies), and in addition, the respective envelopes shall be clearly marked "WITHDRAWAL," "SUBSTITUTION," "MODIFICATION"; and
- (b) received by the Employer no later than the deadline prescribed for submission of Bids, in accordance with ITB 22.
- 24.2 Bids requested to be withdrawn in accordance with ITB 24.1 shall be returned unopened to the Bidders.
- 24.3 No Bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of Bids and the expiration of the period of bid validity specified by the Bidder on the Letter of Bid or any extension thereof.
- 25. Bid Opening**
- 25.1 The Employer shall open the Bids in public at the address, on the date and time specified in the BDS in the presence of Bidders` designated representatives and anyone who chooses to attend. Any specific electronic bid opening procedures required if electronic bidding is permitted in accordance with ITB 21.1, shall be as specified in the BDS.
- 25.2 First, envelopes marked "WITHDRAWAL" shall be opened and read out and the envelope with the corresponding Bid shall not be opened, but returned to the Bidder. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at bid opening. Next, envelopes marked "SUBSTITUTION" shall be opened and read out and exchanged with the corresponding Bid being substituted. The substituted Bid shall not be opened, but returned to the Bidder. No bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at bid opening. Envelopes marked "MODIFICATION" shall be opened and read out with the corresponding Bid. No bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at bid opening. Only envelopes that are opened and read out at bid opening shall be considered further.
- 25.3 All other envelopes shall be opened one at a time, reading out the name of the Bidder and whether there is a modification; the Bid Price(s), including any discounts and alternative offers; the presence of a bid security or Bid-Securing Declaration, if required; and any other details as

the Employer may consider appropriate. Only discounts and alternative offers read out at bid opening shall be considered for evaluation. Unless otherwise specified in the BDS, all pages of the Letter of Bid and Bill of Quantities are to be initialed by at least three representatives of the Employer attending bid opening. No Bid shall be rejected at bid opening except for late Bids, in accordance with ITB 23.1.

25.4 The Employer shall prepare a record of the bid opening that shall include, as a minimum, the name of the Bidder and whether there is a withdrawal, substitution, or modification; the Bid Price, per contract if applicable, including any discounts and alternative offers; and the presence or absence of a bid security or Bid-Securing Declaration, if one was required. The Bidders' representatives who are present shall be requested to sign the record. The omission of a Bidder's signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Bidders who submitted Bids on time, and posted online when electronic bidding is permitted.

E. Evaluation and Comparison of Bids

26. Confidentiality

26.1 Information relating to the examination, evaluation, comparison, and postqualification of Bids and recommendation of contract award, shall not be disclosed to Bidders or any other persons not officially concerned with such process until the publication of Contract award.

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

26.3 Notwithstanding ITB 26.2, from the time of bid opening to the time of Contract award, if any Bidder wishes to contact the Employer on any matter related to the bidding process, it may do so in writing.

27. Clarification of Bids

27.1 To assist in the examination, evaluation, and comparison of the bids, and qualification of the Bidders, the Employer may, at its discretion, ask any Bidder for a clarification of its Bid. Any clarification submitted by a Bidder that is not in response to a request by the Employer shall not be considered. The Employer's request for clarification and the response shall be in writing. No change in the prices or substance of the Bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the Bids, in accordance with ITB 31.

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

28. Deviations, Reservations, and Omissions

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

- (a) "Deviation" is a departure from the requirements specified in the Bidding Document;
- (b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Document; and
- (c) "Omission" is the failure to submit part or all of the information or documentation required in the Bidding Document.

- 29. Determination of Responsiveness**
- 29.1 The Employer's determination of a Bid's responsiveness is to be based on the contents of the Bid itself, as defined in ITB11.
- 29.2 A substantially responsive Bid is one that meets the requirements of the Bidding Document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that,
- (a) if accepted, would
 - (i) affect in any substantial way the scope, quality, or performance of the Works specified in the Contract; or
 - (ii) limit in any substantial way, inconsistent with the Bidding Document, the Employer's rights or the Bidder's obligations under the proposed Contract; or
 - (b) if rectified, would unfairly affect the competitive position of other Bidders presenting substantially responsive Bids.
- 29.3 The Employer shall examine the technical aspects of the Bid submitted in accordance with ITB 16, Technical Proposal, in particular, to confirm that all requirements of Section 6 (Works' Requirements) have been met without any material deviation, reservation, or omission.
- 29.4 If a Bid is not substantially responsive to the requirements of the Bidding Document, it shall be rejected by the Employer and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.
- 30. Nonmaterial Nonconformities**
- 30.1 Provided that a Bid is substantially responsive, the Employer may waive any nonconformities in the Bid that do not constitute a material deviation, reservation, or omission.
- 30.2 Provided that a Bid is substantially responsive, the Employer may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities in the Bid related to documentation requirements. Requesting information or documentation on such nonconformities shall not be related to any aspect of the price of the Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid.
- 30.3 Provided that a Bid is substantially responsive, the Employer shall rectify quantifiable nonmaterial nonconformities related to the Bid Price. To this effect, the Bid Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or nonconforming item or component. The adjustment shall be made using the method indicated in Section 3 (Evaluation and Qualification Criteria).
- 31. Correction of Arithmetical Errors**
- 31.1 Provided that the Bid is substantially responsive, the Employer shall correct arithmetical errors on the following basis:
- (a) If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Employer there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected.
 - (b) If there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected.

- (c) If there is a discrepancy between the bid price in the Summary of Bill of Quantities and the bid amount in item (c) of the Letter of Bid, the bid price in the Summary of Bill of Quantities will prevail and the bid amount in item (c) of the Letter of Bid will be corrected.
 - (d) If there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a), (b) and (c) above.
 - 31.2 If the Bidder that submitted the lowest evaluated Bid does not accept the correction of errors, its Bid shall be disqualified and its bid security may be forfeited or its Bid-Securing Declaration executed.
- 32. Conversion to Single Currency**
 - 32.1 For evaluation and comparison purposes, the currency(ies) of the Bid shall be converted into a single currency as specified in the BDS.
- 33. Domestic Preference**
 - 33.1 Unless otherwise specified in the BDS, domestic preference shall not apply.
- 34. Subcontractors**
 - 34.1 Unless otherwise stated in the BDS, the Employer does not intend for the contractor to execute any specific elements of the Works through nominated subcontractors.
 - 34.2 If subcontractors are proposed for any of the key activities listed in Section 3 (Evaluation and Qualification Criteria) 2.4.2, they shall be considered as "Specialist Subcontractors" and shall meet qualification requirements for the relevant key activities.
- 35. Evaluation and Comparison of Bids**
 - 35.1 The Employer shall use the criteria and methodologies listed in this Clause. No other evaluation criteria or methodologies shall be permitted.
 - 35.2 To evaluate a Bid, the Employer shall consider the following:
 - (a) the bid price, excluding Provisional Sums and the provision, if any, for contingencies in the Summary Bill of Quantities, but including Daywork items, where priced competitively;
 - (b) price adjustment for correction of arithmetic errors in accordance with ITB 31.1;
 - (c) price adjustment due to discounts offered in accordance with ITB 14.4;
 - (d) converting the amount resulting from applying (a) to (c) above, if relevant, to a single currency in accordance with ITB 32;
 - (e) adjustment for nonmaterial nonconformities in accordance with ITB 30.3;
 - (f) assessment whether the bid is abnormally low in accordance with ITB 36; and
 - (g) application of all the evaluation factors indicated in Section 3 (Evaluation and Qualification Criteria).
 - 35.3 The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be taken into account in bid evaluation.
 - 35.4 If this Bidding Document allows Bidders to quote separate prices for different contracts, and the award to a single Bidder of multiple contracts, the methodology to determine the lowest evaluated price of

the contract combinations, including any discounts offered in the Letter of Bid, is specified in Section 3 (Evaluation and Qualification Criteria).

35.5 The Employer shall compare all substantially responsive Bids to determine the lowest evaluated Bid price, in accordance with ITB 35.2.

36. Abnormally Low Bids

36.1 An abnormally low bid is one where the bid price, in combination with other elements of the bid, appears to be so low that it raises concerns as to the capability of the Bidder to perform the contract for the offered bid price.

36.2 When the offered bid price appears to be abnormally low, the Employer shall undertake a three-step review process as follows:

(a) identify abnormally low costs and unit rates by comparing them with the Engineer's estimates, other substantially responsive bids, or recently awarded similar contracts;

(b) clarify and analyze the bidder's resource inputs and pricing, including overheads, contingencies and profit margins; and

(c) decide whether to accept or reject the bid.

36.3 With regard to ITB 36.2 (b) above, the Employer will seek a written explanation from the bidder of the reasons for the offered bid price, including a detailed analysis of costs and unit prices, by reference to the scope, proposed methodology, schedule, and allocation of risks and responsibilities. This may also include information regarding the economy of the manufacturing process; the services to be provided, or the construction method to be used; the technical solutions to be adopted; and any exceptionally favorable conditions available to the bidder for the works, equipment or services proposed.

36.4 After examining the explanation given and the detailed price analyses presented by the bidder, the Employer may:

(a) accept the bid, if the evidence provided satisfactorily accounts for the low bid price and costs, in which case the bid is not considered abnormally low;

(b) accept the bid, but require that the amount of the performance security be increased at the expense of the bidder to a level sufficient to protect the Employer against financial loss. The amount of the performance security shall generally be not more than 20% of the contract price; or

(c) reject the bid if the evidence provided does not satisfactorily account for the low bid price, and make a similar determination for the next ranked bid, if required.

37. Unbalanced or Front-Loaded Bids

37.1 If the Bid, which results in the lowest evaluated Bid Price, is seriously unbalanced or front-loaded in the opinion of the Employer, the Employer may require the Bidder to produce detailed price analyses for any or all items of the Bill of Quantities, to demonstrate the internal consistency of those prices with the construction methods and schedule proposed, as well as the pricing and sources of materials, equipment and labor.

37.2 After the evaluation of the information and detailed price analyses presented by the Bidder, the Employer may as appropriate:

(a) accept the Bid; or

- (b) accept the Bid, but require that the total amount of the Performance Security be increased at the expense of the Bidder to a level sufficient to protect the Employer against financial loss in the event of default of the successful Bidder under the Contract subject to ITB 44.2; or
- (c) reject the Bid and make a similar determination for the next ranked bid.
- 38. Qualification of the Bidder**
- 38.1 The Employer shall determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated and substantially responsive Bid meets the qualifying criteria specified in Section 3 (Evaluation and Qualification Criteria).
- 38.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB 17.1. Unless permitted in the BDS, the determination shall not take into consideration the qualifications of other firms such as the Bidder's subsidiaries, parent entities or affiliates.
- 38.3 An affirmative determination shall be a prerequisite for award of the Contract to the Bidder. The Employer reserves the right to reject the bid of any Bidder found to be in circumstances described in Sub-Clause GCC 15.2.1 (g) or Sub-Clause PCC 15.2.1 (h). A negative determination shall result in disqualification of the Bid, in which event the Employer shall proceed to the next lowest evaluated bid to make a similar determination of that Bidder's qualifications to perform satisfactorily.
- 39. Employer's Right to Accept Any Bid, and to Reject Any or All Bids**
- 39.1 The Employer reserves the right to accept or reject any Bid, and to annul the bidding process and reject all Bids at any time prior to contract award, without thereby incurring any liability to Bidders. In case of annulment, all Bids submitted and specifically, bid securities, shall be promptly returned to the Bidders.
- 40. Notice of Intention for Award of Contract**
- 40.1 If Standstill provisions apply as specified in the BDS, the standstill period shall be defined in the BDS to specify the duration subsequent to notification of intention for award of contract (before making the actual contract award) within which any unsuccessful bidder can challenge the proposed award.

F. Award of Contract

- 41. Award Criteria**
- 41.1 The Employer shall award the Contract to the Bidder whose offer has been determined in line with ITB 35 to ITB 37 above to be the lowest evaluated Bid and is substantially responsive to the Bidding Document, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.
- 42. Notification of Award**
- 42.1 Prior to the expiration of the period of bid validity and upon expiry of the standstill period specified in ITB 40.1; or upon satisfactory resolution of a complaint filed within standstill period, if applicable, the Employer shall transmit the Notification of Award through issuance of Letter of Acceptance using the form included in Section 9 (Contract Forms) to the successful Bidder, in writing, that its Bid has been accepted.
- 42.2 Unless standstill period applies, upon notification of award through issuance of Letter of Acceptance, unsuccessful Bidders may request in writing to the Employer for a debriefing seeking explanations on the

grounds on which their Bids were not selected. The Employer shall promptly respond in writing and/or in a debriefing meeting to any unsuccessful Bidder who, after publication of contract award, requests a debriefing.

42.3 Until a formal contract is prepared and executed, the notification of award through issuance of Letter of Acceptance shall constitute a binding Contract.

42.4 Within 2 weeks of the award of contract or expiry of the standstill period, where such period applies; or, if a complaint has been filed within the standstill period, upon receipt of ADB's confirmation of satisfactory resolution of the complaint, the borrower shall publish in an English language newspaper or widely known and freely accessible website the results identifying the bid and lot or package numbers, as applicable and the following information:

- (a) name of each Bidder who submitted a Bid;
- (b) bid prices as read out at bid opening;
- (c) name and evaluated prices of each Bid that was evaluated;
- (d) name of Bidders whose bids were rejected and the reasons for their rejection; and
- (e) name of the winning Bidder, and the price it offered, as well as the duration and summary scope of the contract awarded.

43. Signing of Contract

43.1 The Employer shall send the successful Bidder the Contract Agreement together with or promptly after the issuance of Letter of Acceptance.

43.2 Within 35 days of receipt of the Contract Agreement, the successful Bidder shall sign, date, and return it to the Employer.

44. Performance Security

44.1 Within 28 days of the receipt of notification of award through issuance of Letter of Acceptance from the Employer, the successful Bidder shall furnish the performance security in accordance with the Conditions of Contract, subject to ITB 36 and ITB 37, using for that purpose the Performance Security Form included in Section 9 (Contract Forms), or another form acceptable to the Employer. If the bank issuing performance security is located outside the Employer's country, it shall be counter-guaranteed or encashable by a bank in the Employer's country.

44.2 Failure of the successful Bidder to submit the abovementioned performance security or to sign the Contract Agreement shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security or execution of the Bid-Securing Declaration. In that event, the Employer may award the Contract to the next lowest evaluated Bidder whose offer is substantially responsive and is determined by the Employer to be qualified to perform the Contract satisfactorily.

44.3 The above provision shall also apply to the furnishing of a domestic preference security if so required.

45. Bidding-Related Complaints

45.1 The procedures for dealing with Bidding-Related Complaints arising out of this bidding process are specified in the BDS.

Section 2: Bid Data Sheet

This section consists of provisions that are specific to each procurement and supplement the information or requirements included in Section 1 (Instructions to Bidders).

A. General

ITB 1.1	The number of the Invitation for Bids (IFB) is: ZTHYa/202211xx
ITB 1.1	The Employer is: the Ministry of Road and Transport Development (MRTD) The State Procurement Agency (SPA) will undertake procurement for this contract on behalf of the Employer.
ITB 1.1	The name of the open competitive bidding (OCB) is: Uliastai - Altai Road: Construction of a new asphalt paved road for the section from Uliastai - Tsagaankhairkhan on a new alignment (40km) The identification of the contract comprising this OCB is: CW2
ITB 2.1	The Borrower is: the Government of Mongolia
ITB 2.1	The name of the Project is Regional Road Development and Maintenance Project Phase 3 (ADB Project Number 48186-008)

ITB 7.1	For clarification purposes only, the Employer's address is: Attention: <i>Officer of State Procurement agency, Building-IX Peace Avenue, 16 Bayanzurkh district</i> Floor/Room number: <i>2nd floor, #212</i> City: <i>Ulaanbaatar</i> ZIP code: <i>210349</i> Country: <i>Mongolia</i> Telephone: <i>976-263014</i> E-mail: <i>info@spa.gov.mn</i>
ITB 7.4	A Pre-Bid meeting will take place. Date: 10 April, 2024 Time: 11:00 am Place: State procurement agency, Building-IX Peace Avenue, 16 Bayanzurkh district Floor/Room number: 2nd floor, #212 City: Ulaanbaatar A site visit conducted by the Employer will not be organized.

C. Preparation of Bids

ITB 10.1	The language of the Bid is: English
ITB 11.1 (h)	The Bidder shall submit with its Bid the following additional documents: <ol style="list-style-type: none"> 1. Documentary evidence as required in clause 2.4 (Construction Experience) of Section 3. of the bidder's participation and completion of contracts declared for contract experience shown in forms EXP-1(a) and EXP-1(b) 2. Copies of the following licenses required for execution of construction and maintenance works in territory of Mongolia:

	License	CW2
	Construction of paved roads /Stated in Section 2.8.2.1 of the Regulation licensing procedure for the provision of Feasibility Study and Designing, Construction, Maintenance and Repair, Technical and Technological Supervision Services for the roads and road facilities./	Yes
	Construction of all types of bridges, tunnels, and flood protection dams /Stated in Section 2.8.2.3 of the Regulation licensing procedure for the provision of Feasibility Study and Designing, Construction, Maintenance and Repair, Technical and Technological Supervision Services for the roads and road facilities./	Yes
	<p>The license must remain valid from the bid opening through the contract signing, and it is the contractor's responsibility to renew or extend it as needed. The contractor must ensure the continuous validity of the license until the completion of the contract. Members of a Joint Venture or sub-contractors shall submit special permits/licenses for works to be assigned. Foreign bidders shall either a) submit appropriate documents, licenses, and certifications of their home country equivalent to the above, which as a minimum permit construction of roads and bridges, or b) associate with partners in the form of joint venture, or with sub-contractors, who possess the above-mentioned Mongolian licenses and submit copies of their licenses.</p>	
ITB 12.1	The units and rates in figures entered into the Bill of Quantities and Daywork Schedule should be typewritten and, if written by hand, must be in print form. Bill of Quantities and Daywork Schedule not presented accordingly may be considered nonresponsive.	
ITB 13.1	Alternative Bids shall not be permitted.	
ITB 13.2	Alternative times for completion shall not be permitted.	
ITB 13.4	Alternative technical solutions shall be permitted for the following parts of the Works: None	
ITB 14.5	<p>The prices quoted by the Bidder shall be adjustable. The formula for adjusting the prices and explanatory details is specified in the GCC Clause 13.7. Bidder shall fill out the Tables of Adjustment Data in Section 4 (Bidding Forms).</p>	
ITB 15.1	The unit rates and the prices shall be quoted by the Bidder entirely in US Dollars.	
ITB 15.4	The rates of exchange shall be the selling rates 28 days prior to the deadline for submission of bids published by Bank of Mongolia (Central Bank of Mongolia)	
ITB 18.1	The bid validity period shall be 90 days.	
ITB 19.1	The Bidder shall furnish (for each contract for which they submit a bid) either a) a Bid-Securing Declaration, or b) a bid security in the amount of US\$ 290,000.	
ITB 19.2	The ineligibility period will be 2 years	
ITB 19.4	Subject to the succeeding sentences, any bid not accompanied by a Bid-Securing Declaration shall be rejected by the Employer as nonresponsive. If a Bidder submits a Bid-Securing Declaration that (i) deviates in form, content, and/or period of validity or (ii) does not provide sufficient identification of the Bidder (including, without limitation, failure to indicate the name of the Joint Venture or, where the Joint Venture has not yet been constituted, the names of all future Joint Venture Partners), the Employer shall request the Bidder to submit a compliant Bid-Securing Declaration within 7 days of receiving such a request. Failure to provide a compliant Bid-Securing Declaration within the prescribed period of receiving such a request shall cause the rejection of the Bid.	

ITB 20.1	<p>In addition to the original Bid, the number of copies is: 2(two) and one (1) in digital format (on USB flash disc). The information submitted in digital format must be in Word or Adobe Acrobat format (pdf). The Bill of Quantities and Price must be also be submitted in Microsoft Excel (xls) format.</p> <p>The USB Flash disc must be enclosed in the sealed envelope containing the hard copy of the Bidder's Original Bid Proposal. If there are discrepancies between the contents of hard (printed) copy of the Bidder's Original Bid Proposal and the contents in the Flash Disc, the contents in the hard copy of the Bidder's Original Bid Proposal shall prevail.</p>
ITB 20.2	<p>The written confirmation of authorization to sign on behalf of the Bidder shall consist of: An organizational document, board resolution or its equivalent, or power of attorney specifying the representative's authority to sign the Bid on behalf of, and to legally bind, the Bidder. If the Bidder is an intended or an existing Joint Venture, the power of attorney should be signed by all partners and specify the authority of the named representative of the Joint Venture to sign on behalf of, and legally bind, the intended or existing Joint Venture. If the Joint Venture has not yet been formed, also include evidence from all proposed Joint Venture partners of their intent to enter into a Joint Venture in the event of a contract award in accordance with ITB 11.2.</p>
ITB 20.2	<p>The Bidder shall submit an acceptable authorization within 7 days.</p>

D. Submission and Opening of Bids

ITB 21.1	<p>Bidders shall submit their Bids by mail or by hand.</p>
ITB 21.1 (b)	<p>Electronic bidding submission procedures shall be: Not applicable.</p>
ITB 22.1	<p>For bid submission purposes only, the Employer's address is: Attention: <i>officer of State procurement agency, Building-IX Peace avenue, 16 Bayanzurkh district</i> Floor/Room number: <i>2nd floor, #212</i> City: <i>Ulaanbaatar</i> ZIP code: <i>210349</i> Country: <i>Mongolia</i> Telephone: <i>976-263014</i> E-mail: info@spa.gov.mn The deadline for bid submission is: Date: <i>01 May, 2024</i> Time: <i>11:00 (local time)</i></p>
ITB 25.1	<p>The bid opening shall take place at: Address: <i>State procurement agency, Building-IX Peace avenue, 16 Bayanzurkh district</i> Floor/Room number: <i>2nd floor, #212</i> City: <i>Ulaanbaatar</i> Date: <i>01 May, 2024</i> Time: <i>11:00 (local time)</i></p>
ITB 25.1	<p>Electronic bid opening procedure shall be as follows: Not applicable</p>
ITB 25.3	<p>The Letter of Bid and Bill of Quantities shall be initialed by the chair and two members of the Employer's Bid Evaluation committee attending the Bid opening.</p>

E. Evaluation and Comparison of Bids

ITB 32.1	<p>The currency that shall be used for bid evaluation and comparison purposes to convert all bid prices expressed in various currencies into a single currency is: US dollar The source of the selling exchange rate shall be: Bank of Mongolia (Central Bank of Mongolia)</p>
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	The date for the selling exchange rate shall be: the selling rates 28 days before the deadline for submission of bids published by the Bank of Mongolia (Central Bank of Mongolia).
ITB 33.1	Domestic preference shall not apply.
ITB 34.1	The Employer does not intend for the contractor to execute any specific elements of the Works through nominated Subcontractors.
ITB 38.2	The qualifications of the Bidder's subsidiaries shall be permitted for criterion 2.4.1 Contracts of Similar Size and Nature and/or 2.4.2 Construction Experience in Key Activities in Section 3. The other firms must satisfy the criteria stated in 2.1 Eligibility in Section 3. The Bidder shall provide the Affiliate Company Guarantee Form included in Section 4 (Bidding Forms) filled out and signed by each subsidiary, parent entity, or affiliate that the Bidder submits for consideration of the Employer in determining its qualifications.
ITB 40.1	Standstill provisions shall not apply.

F. Award of Contracts

ITB 45.1	The procedures for Bidding-Related Complaints are referenced in the Procurement Regulations for ADB Borrowers (Appendix 7). The Bidder should submit its complaint following these procedures, in writing, to: <i>Attention: An officer of the State procurement agency, Building-IX Peace Avenue, 16 Bayanzurkh district</i> City: <i>Ulaanbaatar</i> ZIP code: <i>210349</i> Country: <i>Mongolia</i> E-mail: info@spa.gov.mn
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Section 3: Evaluation and Qualification Criteria - Without Prequalification -

This Section contains all the criteria that the Employer shall use to evaluate bids and qualify Bidders. In accordance with ITB 35 to ITB 38, no other methods, criteria and factors shall be used. The Bidder shall provide all the information requested in the forms included in Section 4 (Bidding Forms).

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1. Evaluation

In addition to the criteria listed in ITB 35.2(a)–(f), other relevant factors are as follows:

1.1 Adequacy of Technical Proposal

Evaluation of the Bidder's Technical Proposal will include an assessment of the Bidder's technical capacity to successfully implement the contract considering its proposed site organization, method statement, mobilization, and construction schedule (to be described by the Bidder in sufficient detail to demonstrate the adequacy of its work methods, scheduling, and material sourcing) including the extent to which they are presented in a consistent manner and comply with requirements stipulated in Section 6 (Works' Requirements) without material deviation, reservation, or omission.

The Bidder's Technical Proposal will be assessed to confirm their technical adequacy in terms of:

- a) Updating of the design is required to give a higher level of traffic safety (meeting an iRAP 3 star rating), to incorporate additional features and modifications as agreed between the Employer and ADB, and to provide both English and Mongolian language versions of the contract documents.
- a) Since the detailed design was prepared in 2022, it meets current Mongolian standards and has received expertise appraisal.
- b) Revision of the design to meet an iRAP 3 star rating requires revision of the typical design cross section to apply more gentle embankment side slope and side ditch slopes to reduce the risk of rollover accidents. Embankments slopes for sections with embankment height >3m and <1m are already in compliance with iRAP 3 star rating, but sections with embankment height between 1 and 3m height will require amendment. Guardrail is to be provided at locations of high embankment. Side ditch designs, and culvert lengths and headwall / wingwall locations and arrangements are to be modified accordingly.
- c) Preparation of drawings and specifications in both English and Mongolian language versions (or a single bilingual version)
- d) Possibility to meet Construction Schedule stipulated in the Bidding Documents, taking due consideration of time for updating of the detailed design, and of the winter season.
- e) Identification of sources of compliant materials for the principal construction materials and their transport routes to the Site,
- f) Feasibility of technical solutions, construction methods,

Noncompliance with equipment and key personnel requirements described in Section 6 (Works' Requirements) shall not normally be a ground for bid rejection, and such noncompliance will be subject to clarification during bid evaluation and rectification prior to contract award.

1.2 Completion Time

An alternative Completion Time, if permitted under ITB 13.2, will be evaluated as follows: Not applicable.

1.3 Technical Alternatives

Technical alternatives, if permitted under ITB 13.4, will be evaluated as follows: Not applicable.

1.4 Specialist Subcontractors

Only the specific experience of Specialist Subcontractors for key activities specified in criterion 2.4.2 Construction Experience in Key Activities will be considered. The experience of Specialist Subcontractors in contracts of similar size and nature, and their financial resources shall not be added to those of the Bidder for purposes of qualification of the Bidder.

1.5 Quantifiable Nonconformities and Omissions

Subject to ITB 14.2 and ITB 35.2, the evaluated cost of quantifiable nonconformities including omissions, is determined as follows:

Pursuant to ITB 30.3, the cost of all quantifiable nonmaterial nonconformities shall be evaluated, including omissions in Daywork where competitively priced but excluding omission of prices in the Bill of Quantities. The Employer will make its own assessment of the cost of any nonmaterial nonconformities and omissions for the purpose of ensuring fair comparison of Bids.

1.6 Domestic Preference

Domestic preference shall not apply.

1.7 Multiple Contracts

Multiple contracts shall not apply.

2. Qualification

2.1 Eligibility

Criteria	Compliance Requirements			Documents
	Single Entity	Joint Venture		Submission Requirements
All Partners Combined		Each Partner	One Partner	

2.1.1 Nationality

Criteria	Single Entity	All Partners Combined	Each Partner	One Partner	Documents
Nationality in accordance with ITB 4.2.	Must meet requirement	Must meet requirement	Must meet requirement	Not applicable	Forms ELI - 1; ELI - 2 with attachments

2.1.2 Conflict of Interest

Criteria	Single Entity	All Partners Combined	Each Partner	One Partner	Documents
No conflicts of interest in accordance with ITB 4.3.	Must meet requirement	Must meet requirement	Must meet requirement	Not applicable	Letter of Bid

2.1.3 ADB Eligibility

Criteria	Single Entity	All Partners Combined	Each Partner	One Partner	Documents
Not having been declared ineligible by ADB, as described in ITB 4.4.	Must meet requirement	Must meet requirement	Must meet requirement	Not applicable	Letter of Bid

2.1.4 Government-Owned Entity

Criteria	Single Entity	All Partners Combined	Each Partner	One Partner	Documents
Bidder required to meet conditions of ITB 4.5.	Must meet requirement	Must meet requirement	Must meet requirement	Not applicable	Forms ELI - 1; ELI - 2 with attachments

2.1.5 United Nations Eligibility

Criteria	Single Entity	All Partners Combined	Each Partner	One Partner	Documents
Not having been excluded by an act of compliance with a United Nations Security Council resolution in accordance with ITB 4.8.	Must meet requirement	Must meet requirement	Must meet requirement	Not applicable	Letter of Bid

2.2 Historical Contract Nonperformance

2.2.1 History of Nonperforming Contracts

Criteria	Compliance Requirements			Documents	
Requirement	Single Entity	Joint Venture			Submission Requirements
		All Partners Combined	Each Partner	One Partner	
Nonperformance of a contract ^a did not occur as a result of contractor default since 1 January 2021	Must meet requirement	Must meet requirement	Must meet requirement ^b	Not applicable	Form CON-1

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

^b This requirement also applies to contracts executed by the Bidder as Joint Venture partner.

^c Nonperformance of a contract refers to major breaches of contract obligations that had a substantial impact on project outcomes, such as the contractor's failure to commence the contract, termination with cause by the Employer, imposition of liquidated damages on the contractor due to delayed completion, or non compliance with quality requirements of key elements of the works. It does not refer to resolution of issues arising from ambiguities in the contract, the correction of low value or minor defects in the works, or implementation delay that did not lead to either termination or imposition of liquidated damages.

^d The date of nonperformance of a contract refers to the date on which the breach of contract occurred, and not the date of the conclusion of any dispute resolution process.

2.2.2 Suspension Based on Execution of Bid-Securing Declaration

Criteria	Compliance Requirements			Documents	
Requirement	Single Entity	Joint Venture			Submission Requirements
		All Partners Combined	Each Partner	One Partner	
Not under suspension based on execution of a Bid-Securing Declaration pursuant to ITB 4.6.	Must meet requirement	Must meet requirement	Must meet requirement	Not applicable	Letter of Bid

2.2.3 Pending Litigation and Arbitration

Pending litigation and arbitration criterion shall apply.

Criteria	Compliance Requirements			Documents	
Requirement	Single Entity	Joint Venture			Submission Requirements
		All Partners Combined	Each Partner	One Partner	

All pending litigation and arbitration, if any, shall be treated as resolved against the Bidder and so shall in total not represent more than fifty (50%) percent of the Bidder's net worth calculated as the difference between total assets and total liabilities should be positive.	Must meet requirement	Not applicable	Must meet requirement	Not applicable	Form CON - 1
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2.3 Financial Situation

2.3.1 Historical Financial Performance

Criteria	Compliance Requirements				Documents
Requirement	Single Entity	Joint Venture			Submission Requirements
		All Partners Combined	Each Partner	One Partner	
Submission of audited financial statements or, if not required by the law of the Bidder's country, other financial statements acceptable to the Employer, for the last 3 years to demonstrate the current soundness of the Bidder's financial position. As a minimum, the Bidder's net worth for the last year calculated as the difference between total assets and total liabilities should be positive.	Must meet requirement	Not applicable	Must meet requirement	Not applicable	Form FIN - 1 with attachments

2.3.2 Average Annual Construction Turnover

Criteria	Compliance Requirements				Documents
Requirement	Single Entity	Joint Venture			Submission Requirements
		All Partners Combined	Each Partner	One Partner	
Minimum average annual construction turnover calculated as total certified payments received for contracts in progress or completed, within the last 3 years of the following amount: CW2 - US\$9.7m.	Must meet requirement	Must meet requirement	Must meet 25% of the requirement	Must meet 40% of the requirement	Form FIN - 2

2.3.3 Financial Resources

If the bid evaluation process and the decision for the award of the Contract takes more than 1 year from the date of bid submission, Bidders may be asked to resubmit their current contract commitments and latest information on financial resources supported by latest audited accounts or audited financial statements, or if not required by the law of the Bidder's country, other financial statements acceptable to the Employer, and the Bidders' financial capacity, will be reassessed on this basis.

Criteria Requirement	Compliance Requirements			Documents Submission Requirements	
	Single Entity	Joint Venture			
		All Partners Combined	Each Partner	One Partner	
<p>For Single Entities</p> <p>The Bidder must demonstrate that its financial resources defined in FIN - 3, less its financial obligations for its current contract commitments defined in FIN - 4, meet or exceed the total requirement for the Subject Contract of of the following amount:</p> <p>CW2 - US\$2.3m</p>	Must meet requirement	Not applicable	Not applicable	Not applicable	Form FIN – 3 and Form FIN – 4
<p>For Joint Ventures</p> <p>(1) One partner must demonstrate that its financial resources defined in FIN - 3, less its financial obligations for its own current contract commitments defined in FIN - 4, meet or exceed its required share of 40% of the total requirement for the Subject Contract.</p> <p>AND</p>	Not applicable	Not applicable	Not applicable	Must meet requirement	Form FIN – 3 and Form FIN – 4
<p>(2) Each partner must demonstrate that its financial resources defined in FIN - 3, less its financial obligations for its own current contract commitments defined in FIN - 4, meet or exceed its required share of 25% of the total requirement for the Subject Contract.</p> <p>AND</p>	Not applicable	Not applicable	Must meet requirement	Not applicable	Form FIN – 3 and Form FIN – 4
<p>(3) The Joint Venture must demonstrate that the combined financial resources of all partners defined in FIN - 3, less all the partners' total financial obligations for the current contract commitments defined in FIN - 4, meet or exceed the total requirement for the Subject Contract</p>	Not applicable	Must meet requirement	Not applicable	Not applicable	Form FIN – 3 and Form FIN – 4

2.4 Construction Experience

2.4.1 Contracts of Similar Size and Nature

Criteria	Compliance Requirements			Documents	
Requirement	Single Entity	Joint Venture			Submission Requirements
		All Partners Combined	Each Partner	One Partner	
Participation as a contractor, Joint Venture partner, or Subcontractor, in at least one contract that has been satisfactorily and substantially completed within the last 10 years and that is similar to the proposed works, where the value of the Bidder's participation ^{a, b} exceeds the amounts below. CW2 - US\$14.5m Similar contracts are defined as any contract for road or (road) bridge construction or rehabilitation works.	Must meet requirement	Not applicable	Not applicable	Must meet requirement	Form EXP – 1 ^c

^a For contracts under which the Bidder participated as a Joint Venture partner or Subcontractor, only the Bidder's share, by value, shall be considered to meet this requirement.

^b For contracts implemented by a Joint Venture contractor, if the Bidder comprises the same Joint Venture, the 'Single Entity' requirements will apply.

^c In addition to the submission requirement Form EXP - 1, the Bidder shall provide the following supporting documents:

1. Signed Contract Agreement, or Letter of Award, and
2. Taking-Over Certificate, Contract Completion Certificate or Performance Certificate,

in sufficient detail to verify the contract name, value and completion time (or substantial completion). If the documents are other than in English, an accurate certified translation of these documents in English shall be provided.

2.4.2 Construction Experience in Key Activities

2.4.2 (a) Must be complied with by the Bidder. In case of a Joint Venture Bidder, the Bidder or at least one of the partners must meet the requirement in the key activity. For contracts under which the Bidder participated as a Joint Venture partner, only the Bidder's designated scope of works under the contracts shall be considered to meet this requirement.

Table A

Criteria	Compliance Requirements		Documents
Requirement	Single Entity	Joint Venture	Submission Requirements
For the above or other contracts executed during the period stipulated in 2.4.1, a minimum construction experience is required in the following key activities:	Must meet requirement	Must meet requirement	Form EXP – 2 ^a

<p>One contract that has been satisfactorily and substantially completed for construction of asphalt concrete pavement in a location having severe cold winters and short summer working season similar to Mongolia.^b of at least CW2: 200,000m²</p>			
<p>One contract outside the home country that has been satisfactorily and substantially completed where the value of the Bidder's participation was at least US\$5 million that has been successfully or is substantially completed. (This criterion does not apply if the Bidder is a Mongolian firm, or includes a Mongolian firm as JV member)</p>			

^a In addition to the submission requirement Form EXP - 2, the Bidder shall provide the following supporting documents:

1. Signed Contract Agreement, or Letter of Award, and
2. Taking-Over Certificate, Contract Completion Certificate or Performance Certificate,

in sufficient detail to verify the contract name, value and completion time (or substantial completion). If the documents are other than in English, an accurate certified translation of these documents in English shall be provided.

^b Having at least 4 months each having average temperature less than 5 degrees celsius. Reference data at national and subnational level be found at climateknowledgeportal.worldbank.org

2.4.2. (b) The Employer accepts any of the following activities to be subcontracted. They may be complied with by the Bidder or by its proposed Specialist Subcontractor.

If the key activity is to be undertaken by a Specialist Subcontractor, the Employer shall require evidence of the subcontracting agreement from the Bidder.

Table B

Criteria	Compliance Requirements		Documents
Requirement	Single Entity or Its Specialist Subcontractors	Joint Venture or Its Specialist Subcontractors	Submission Requirements
<p>For the above or other contracts executed during the period stipulated in 2.4.1, a minimum construction experience is required in the following key activities:</p>	<p>Must meet requirement</p>	<p>Must meet requirement</p>	<p>Form EXP – 2^a</p>
<p>One contract that has been satisfactorily and substantially completed for construction of a prestressed concrete bridge with deck area of at least 600m².</p>			

^a In addition to the submission requirement Form EXP - 2, the Bidder shall provide the following supporting documents:

1. Signed Contract Agreement, or Letter of Award, and
2. Taking-Over Certificate, Contract Completion Certificate or Performance Certificate,

in sufficient detail to verify the contract name, value and completion time (or substantial completion). If the documents are other than in English, an accurate certified translation of these documents in English shall be provided.

2.4.3 Specific Experience in Managing Environmental, Health, and Safety Aspects

A.

Requirement	Single Entity or Its Specialist Subcontractors	Joint Venture or Its Specialist Subcontractors	Submission Requirements
For the contracts in 2.4.1 and 2.4.2 above and/or any other contracts [substantially completed and under implementation] as prime contractor, Joint Venture partner, or Subcontractor between 1st January 2014 and Bid submission deadline, experience in managing EHS risks and impacts in the following aspects:	Must meet requirements	One member must meet the requirements	Form EXP – 3

Section 4: Bidding Forms

- Without Prequalification -

This section contains the forms to be completed by the Bidder and submitted as part of its Bid.

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Letter of Bid

NOTE

The Bidder must accomplish the Letter of Bid on its letterhead clearly showing the Bidder's complete name and address.

Date:

OCB No.:

Invitation for Bid No.:

To: [insert complete name of the Employer]

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Documents, including Addenda issued in accordance with Instructions to Bidders (ITB) 8.
- (b) We acknowledge that we have read and understand ADB's Anticorruption Policy (1998) and Integrity Principles and Guidelines (2015), both as amended from time to time.
- (c) We offer to execute in conformity with the Bidding Documents the following Works: [insert narrative]
- (d) The total price of our Bid, excluding any discounts offered in item (d) below is:

[amount of foreign currency in words], [amount in figures], and [amount of local currency in words], [amount in figures]

The total bid price from the Summary of Bill of Quantities should be entered by the Bidder inside this box. Absence of the total bid price in the Letter of Bid may result in the rejection of the bid.

- (e) The discounts offered and the methodology for their application are: [insert discounts and methodology for their application if any]
- (f) Our bid shall be valid for a period of [insert bid validity period as specified in ITB 18.1 of the BDS] days starts from the date fixed for the bid submission deadline in accordance with ITB 22.1, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
- (g) If our bid is accepted, we commit to obtain a performance security in accordance with the Bidding Documents.
- (h) Our firm, including any Subcontractors or Suppliers for any part of the Contract, have nationalities from eligible countries in accordance with ITB 4.2.
- (i) We, our directors, key officers, key personnel, including any Subcontractors, consultants, subconsultants, manufacturers, service providers or Suppliers for any part of the contract, do not have any conflict of interest in accordance with ITB 4.3.

If there is any conflict of interest, please state details:

- (i) Parties involved in the conflict of interest: _____
 - (ii) Details about the conflict of interest: _____
- (j) We are not participating, as a Bidder, either individually or as partner in a Joint Venture, in more than one Bid in this bidding process in accordance with ITB 4.3(e), other than alternative offers submitted in accordance with ITB 13.
- (k) Our firm, Joint Venture partners, our respective direct and indirect shareholders, directors, key officers, key personnel, associates, parent company, affiliates or subsidiaries, including any Subcontractors, consultants, subconsultants, manufacturers, service providers or Suppliers for any part of the contract, are not subject to, or not controlled by any entity or individual that is subject to a temporary suspension or a debarment imposed by the Asian Development Bank or a debarment imposed by the Asian Development Bank in accordance with the Agreement for Mutual Enforcement of Debarment Decisions between the Asian Development Bank and other development banks.²
- (l) We have checked all the parties mentioned in the declaration above against ADB's published sanctions list accessed via <https://www.adb.org/who-we-are/integrity/sanctions>.
- (m) Our firm, Joint Venture partners, our respective direct and indirect shareholders, directors, key officers, key personnel, associates, parent company, affiliates or subsidiaries, including any Subcontractors, consultants, subconsultants, manufacturers, service providers or Suppliers for any part of the contract, are not under ongoing investigation and/or sanctions proceedings by the Asian Development Bank or any multilateral development bank.

If under ongoing investigation and/or sanctions proceedings by the Asian Development Bank or any multilateral development bank, please state details:

- (i) Name of the multilateral development bank: _____
 - (ii) Reason for the ongoing investigation/allegations: _____
- (n) Our firm, Joint Venture partners, our respective direct and indirect shareholders, directors, key officers, key personnel, associates, parent company, affiliates or subsidiaries, including any Subcontractors, consultants, subconsultants, manufacturers, service providers or Suppliers for any part of the Contract, are not temporarily suspended, debarred, declared ineligible, or subject to any national and/or international sanctions by any country, any international organization, any multilateral development bank and other donor agency.

If so temporarily suspended, debarred, declared ineligible, or subject to any national and/or international sanctions by any country, any international organization, any multilateral development bank and other donor agency, please state details (as applicable to each Joint Venture partner, their respective direct or indirect shareholders, directors, key officers, key personnel, associate, parent company, affiliate, subsidiaries, Subcontractors, consultants, subconsultants, manufacturers, service providers and/or Suppliers):

- (i) Name of Institution: _____
- (ii) Period of the temporary suspension, debarment, ineligibility, or national or international sanction [start and end date]: _____

² These institutions include African Development Bank, European Bank for Reconstruction and Development, Inter-American Development Bank, and the World Bank Group. According to paragraph 9 of the Agreement, other international financial institutions may join upon the consent of all Participating Institutions and signature of a Letter of Adherence by the international financial institution substantially in the form provided (Annex B to the Agreement). Upon adherence, such international financial institution shall become a Participating Institution for purposes of the Agreement. Bidders are advised to check www.adb.org/integrity for updates.

- (iii) Reason for the temporary suspension, debarment, ineligibility, or national or international sanction: _____
- (o) Our firm, Joint Venture partners, associates, parent company, affiliates or subsidiaries, including any Subcontractors, consultants, subconsultants, manufacturers, service providers, Suppliers, key officers, directors and key personnel have never been charged or convicted with any criminal offense (including felonies but excluding misdemeanors) or infractions and/or violations of ordinance; nor charged or found liable in any civil or administrative proceedings in the last 10 years; or undergoing investigation for such, or subject to any criminal, civil or administrative orders, monitorship or enforcement actions.
- If so charged, convicted/found liable, under ongoing investigation, or subject to orders, monitorship or enforcement actions, please state details:
- (i) Nature of the offense, violation, proceedings, investigation, and/or monitorship or enforcement actions: _____
- (ii) Court, area of jurisdiction and/or the enforcement agency: _____
- (iii) Resolution [*i.e. dismissed, settled, or convicted; duration of penalty*]: _____
- (iv) Other relevant details [*please specify*]: _____
- (p) Our firm, Joint Venture partners, our respective direct and indirect shareholders, directors, key officers, key personnel, associates, affiliates or subsidiaries, including any Subcontractors, consultants, subconsultants, manufacturers, service providers or Suppliers, can make and receive payments through the international banking system or otherwise discharge the Employer's obligation upon initiation of wire transfer.
- If unable to make or receive funds through the international banking system or otherwise discharge the Employer's obligation upon initiation of wire transfer, please state the details:
- (i) Nature of the restriction: _____
- (ii) Jurisdiction of the restriction: _____
- (iii) Other relevant details: _____
- (q) Our firm, Joint Venture partners, associates, parent company, affiliates or subsidiaries, including any Subcontractors, consultants, subconsultants, manufacturers, service providers or Suppliers, key officers, directors and key personnel are not from a country which is prohibited to export goods or services to, or receive any payments from the Employer's country and/or are not prohibited to receive payments for particular goods or services by the Employer's country 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.
- (r) We understand that it is our obligation to notify the Employer of any changes in connection with the matters described in paragraphs (i), (k), (m), (n), (o), (p), (q) and (u) of this Letter of Bid.
- (s) [We are not a government-owned enterprise] / [We are a government-owned enterprise but meet the requirements of ITB 4.5]³
- (t) We have not been suspended nor declared ineligible by the Employer based on execution of a Bid-Securing Declaration in accordance with ITB 4.6.
- (u) We have paid, or intend to pay, either directly or indirectly, the following commissions, gratuities, or fees with respect to the bidding process or execution of the Contract:⁴

³ Use one of the two options as appropriate.

⁴ If none has been paid or is to be paid, indicate "None".

Name of Recipient	Address	Reason	Amount
.....
.....

- (v) We understand that this bid, together with your written acceptance thereof included in your notification of award through the issuance of Letter of Acceptance, shall constitute a binding contract between us, until a formal contract is prepared and executed.
- (w) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive.
- (x) At any time following submission of our Bid, we shall permit, and shall cause our Joint Venture partners, directors, key officers, key personnel, associates, parent company, affiliates or subsidiaries, including any Subcontractors, consultants, subconsultants, manufacturers, service providers or Suppliers for any part of the contract to permit ADB or its representative to inspect our site, assets, accounts and records and other documents relating to the bid submission and to have them audited by auditors appointed by ADB. We understand that failure of this obligation may constitute obstructive practice that may result in debarment and/or contract termination.
- (y) Regardless of whether the contract will be awarded to us, we shall preserve all accounts, records and other documents related to bid submission for at least 3 years from the date of submission of the bid or the period prescribed in applicable law, whichever is longer.
- (z) If we are awarded the contract, we shall preserve all accounts, records and other documents related to the procurement and execution of the contract for at least 5 years after completing the works contemplated in the relevant contracts or the period prescribed in applicable law, whichever is longer.
- (aa) If our Bid is accepted, we commit to mobilizing key equipment and personnel in accordance with the requirements set forth in Section 6 (Works' Requirements) and our technical proposal, or as otherwise agreed with the Employer.
- (bb) We certify on behalf of the Bidder, that the information provided in the bid has been fully reviewed, given in good faith, and to the best of our knowledge is true and complete. We understand that it is our obligation to inform the Employer of any changes to the information as and when it becomes known to us. We understand that any misrepresentation that knowingly or recklessly misleads, or attempts to mislead may lead to the automatic rejection of the Bid or cancellation of the contract, if awarded; and may result in remedial actions, in accordance with ADB's Anticorruption Policy (1998, as amended to date) and Integrity Principles and Guidelines (2015, as amended from time to time).

Name: [insert complete name of person signing the bid]

In the capacity of [insert legal capacity of person signing the bid]

Signed: [insert signature of person whose name and capacity are shown above]

Duly authorized to sign the Bid for and on behalf of [insert complete name of the Bidder]

Date: [insert date of signing]

Schedules

Schedule of Payment Currencies

	A	B	C	D
Name of Payment Currency	Amount of Currency	Rate of Exchange to USD	USD Equivalent $C = A \times B$	Percentage of Net Bid Price (NBP) $\frac{100 \times C}{NBP}$
Local Currency				
Foreign Currency #1 _____				
Foreign Currency #2 _____				
Foreign Currency #3 _____				
Net Bid Price				100.00
Provisional Sums Expressed in USD		1.00		
BID PRICE				

NOTE

The rates of exchange shall be the selling rates 28 days prior to the deadline for submission of bids published by the source specified in BDS 15.

Schedule of Cost Indexation

The formulae for price adjustment shall be of the following general type:

$$P_n = a + b \frac{L_n}{L_o} + c \frac{E_n}{E_o} + d \frac{M_n}{M_o} + \dots$$

where:

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

“a” is a fixed coefficient, stated in the relevant table of adjustment data, representing the non-adjustable portion in contractual payments;

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

“L_n”, “E_n”, “M_n”, ... are the current cost indices or reference prices for period “n”, expressed in the relevant currency of payment, each of which is applicable to the relevant tabulated cost element on the date 49 days prior to the last day of the period (to which the particular Payment Certificate relates); and

“L_o”, “E_o”, “M_o”, ... are the base cost indices or reference prices, expressed in the relevant currency of payment, each of which is applicable to the relevant tabulated cost element on the Base Date.

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

The cost indices stated in the Table of Adjustment Data shall be used. If their source is in doubt, it shall be determined by the Engineer. For this purpose, reference shall be made to the values of the indices at stated dates.

If the currency in which the Contract price is expressed is different from the currency of the country of origin of the indices, a correction factor will be applied to avoid incorrect adjustments of the Contract Price. The correction factor shall be: Z₀ / Z₁, where,

Z₀ = the number of units of currency of the origin of the indices which equal to one unit of the currency of the Contract Price at the Base Date, and

Z₁ = the number of units of currency of the origin of the indices which equal to one unit of the currency of the Contract Price at the Date of Adjustment.

Tables of Adjustment Data

Table B - Foreign Currency Payment

Name of Currency: [Insert name of currency. If the bidder wishes to quote in more than one foreign currency, this table should be repeated for each foreign currency such as #1, #2 and #3]

Index Code	Index Description	Source of Index	Base Value and Date	Bidder's Proposed Weighting
X:A	Nonadjustable	The corresponding indices officially published by Mongolian National Statistical Committee ¹	28 days prior to the closing date for submission of bids	a: 0.15 _____
L: B	Labor			b: 0.25 – 0.35_
FU: C	Fuel (diesel)			c: 0.20 – 0.30_
BT: D	Bitumen			d: 0.15 – 0.25_
CE: E	Cement			e: 0.05 – 0.15_
ST: F	Steel			f: 0.05 – 0.15_
Total				1.00

To be entered by the Bidder, within the permitted range.

1 Bitumen price index from a readily available foreign index may be used

Bid Security Bank Guarantee

[Bank's name, and address of issuing branch or office]⁵

Beneficiary:[Name and address of the oyer].....

Date:

Bid Security No.:

We have been informed that [name of the Bidder] (hereinafter called "the Bidder") has submitted to you its bid dated [please specify] (hereinafter called "the Bid") for the execution of [name of contract] under Invitation for Bids No. [please specify] ("the IFB").

Furthermore, we understand that, according to your conditions, bids must be supported by a bid guarantee.

At the request of the Bidder, we [name of bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [amount in words] [amount in figures] upon receipt by us of your first demand in writing accompanied by a written statement stating that the Bidder is in breach of its obligation(s) under the bid conditions, because the Bidder

- (a) has withdrawn its Bid during the period of bid validity specified by the Bidder in the Letter of Bid;
or
- (b) does not accept the correction of errors in accordance with the Instructions to Bidders (hereinafter "the ITB"); or
- (c) having been notified of the acceptance of its Bid by the Employer during the period of bid validity, (i) fails or refuses to execute the Contract Agreement, or (ii) fails or refuses to furnish the performance security, in accordance with the ITB, or (iii) fails or refuses to furnish a domestic preference security, if required.

This guarantee will expire (a) if the Bidder is the successful Bidder, upon our receipt of copies of the Contract Agreement signed by the Bidder and the Performance Security issued to you upon the instruction of the Bidder; or (b) if the Bidder is not the successful Bidder, upon the earlier of (i) our receipt of a copy of your notification to the Bidder of the name of the successful Bidder, or (ii) 28 days after the expiration of the Bidder's bid.

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

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758.⁶

.....
[Authorized signature(s) and bank's seal (where appropriate)]

⁵ All italicized text is for use in preparing this form and shall be deleted from the final document.

⁶ Or the employer may use "Uniform Rules for Demand Guarantees (URDG) ICC Publication No. 458" as appropriate.

Bid-Securing Declaration

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

Bid No.: [insert number of bidding process]

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

To: [insert complete name of the Employer]

We, the undersigned, declare that:

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

We accept that we will automatically be suspended from being eligible for bidding in any contract with the Borrower for the period of time of [insert number of years as indicated in ITB 19.2 of the BDS] starting on the date that we receive a notification from the Employer, if we are in breach of our obligation(s) under the bid conditions, because we

- (a) have withdrawn our Bid during the period of bid validity specified in the Letter of Bid; or
- (b) do not accept the correction of errors in accordance with the Instructions to Bidders (hereinafter "the ITB"); or
- (c) having been notified of the acceptance of our Bid by the Employer during the period of bid validity, (i) fail or refuse to execute the Contract, if required; or (ii) fail or refuse to furnish the Performance Security, in accordance with the ITB; or (iii) fail or refuse to furnish a domestic preference security, if required.

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

Signed: [insert signature of person whose name and capacity are shown]

In the capacity of [insert legal capacity of person signing the Bid-Securing Declaration]

Name: [insert complete name of person signing the Bid-Securing Declaration]

Duly authorized to sign the bid for and on behalf of [insert complete name of the Bidder]

Dated on _____ day of _____, _____ [insert date of signing]

Corporate Seal [where appropriate]

Affiliate Company Guarantee

Name of Contract/Contract No.: _____

Name and Address of Employer: _____

[together with successors and assigns].

We have been informed that [name of Contractor] (hereinafter called the "Contractor") is submitting an offer for the above-referenced Contract in response to your invitation, and that the conditions of your invitation require its offer to be supported by an affiliate company guarantee.

In consideration of you, the Employer, awarding the Contract to the Contractor, we [name of affiliated company] irrevocably and unconditionally guarantee to you, as a primary obligation, that (i) throughout the duration of the Contract, we will make available to the Contractor our financial, technical capacity, expertise and resources required for the Contractor's satisfactory performance of the Contract; and (ii) we are fully committed, along with the Contractor, to ensuring a satisfactory performance of the Contract.

If the Contractor fails to so perform its obligations and liabilities and comply with the Contract, we will indemnify the Employer against and from all damages, losses and expenses (including legal fees and expenses) which arise from any such failure for which the Contractor is liable to the Employer under the Contract.

This guarantee shall come into full force and effect when the Contract comes into full force and effect. If the Contract does not come into full force and effect within a year of the date of this guarantee, or if you demonstrate that you do not intend to enter into the Contract with the Contractor, this guarantee shall be void and ineffective. This guarantee shall continue in full force and effect until all the Contractor's obligations and liabilities under the Contract have been discharged, when this guarantee shall expire and shall be returned to us, and our liability hereunder shall be discharged absolutely.

This guarantee shall apply and be supplemental to the Contract as amended or varied by the Employer and the Contractor from time to time. We hereby authorize them to agree on any such amendment or variation, the due performance of which and compliance with which by the Contractor are likewise guaranteed hereunder. Our obligations and liabilities under this guarantee shall not be discharged by any allowance of time or other indulgence whatsoever by the Employer to the Contractor, or by any variation or suspension of the works to be executed under the Contract, or by any amendments to the Contract or to the constitution of the Contractor or the Employer, or by any other matters, whether with or without our knowledge or consent.

This guarantee shall be governed by the law of the same country (or other jurisdiction) that governs the Contract and any dispute under this guarantee shall be finally settled under the [Rules or Arbitration provided in the Contract]. We confirm that the benefit of this guarantee may be assigned subject only to the provisions for assignment of the Contract.

Signed by:..... Signed by:

[signature]

[signature]

.....

[name]

[name]

.....

[position in parent/subsidiary company]

[position in parent/subsidiary company]

Date:.....

NOTE

If permitted in accordance with ITB 38.2 of the BDS, the Bidder shall provide the Affiliate Company Guarantee Form filled out and signed by each subsidiary, parent entity or affiliate that the Bidder submits for consideration of the Employer in determining its qualifications.

Bill of Quantities

A. Preamble

1. The Bill of Quantities shall be read in conjunction with the Instructions to Bidders, General and Particular Conditions of Contract, Technical Specifications, and Drawings.
2. The quantities given in the Bill of Quantities are estimated and provisional, and are given to provide a common basis for bidding. The basis of payment will be the actual quantities of work ordered and carried out, as measured by the Contractor and verified by the Engineer and valued at the rates and prices bid in the priced Bill of Quantities, where applicable, and otherwise at such rates and prices as the Engineer may fix within the terms of the Contract.
3. The rates and prices bid in the priced Bill of Quantities shall, except as otherwise provided under the Contract, include all construction equipment, labor, supervision, materials, erection, maintenance, insurance, profit, taxes, and duties, together with all general risks, liabilities, and obligations set out or implied in the Contract.
4. A rate or price shall be entered against each item in the priced Bill of Quantities, whether quantities are stated or not. The cost of items against which the Contractor has failed to enter a rate or price shall be deemed covered by other rates and prices entered in the Bill of Quantities. The units and rates in figures entered into the Bill of Quantities should be typewritten or if written by hand, must be in print form. Bill of Quantities not presented accordingly may be considered nonresponsive.
5. The whole cost of complying with the provisions of the Contract shall be included in the Items provided in the priced Bill of Quantities, and where no items are provided, the cost shall be deemed to be distributed among the rates and prices entered for the related Items of Work.
6. General directions and descriptions of work and materials are not necessarily repeated or summarized in the Bill of Quantities. References to the relevant sections of the Contract documentation shall be made before entering prices against each item in the priced Bill of Quantities.
7. Provisional Sums included and so designated in the Bill of Quantities shall be expended in whole or in part at the direction and discretion of the Engineer in accordance with the Conditions of Contract.
8. The method of measurement of completed work for payment shall be in accordance with the method in the Specifications.
9. The rates and sums entered by the Contractor against all items in the Bill of Quantities must bear a proper relationship to the cost of carrying out the work described in the Contract; all on costs and similar charges which are applicable to the Contract as a whole are to be spread over all the rates in the Bills of Quantities, whilst those which are applicable only to particular sections of the Contract are only to be spread over items to which these section refer.
10. Abbreviations
 - LS – lump sum
 - PS – provisional sum
 - m3 – cubic metre
 - m2 – square metre
 - ha - hectare
 - m – linear metre
 - km – kilometer
 - No. – number
 - t – ton
 - kg – kilogram
 - hr - hour

B. Dayworks

General

1. Reference should be made to the Conditions of Contract. Work shall not be executed on a daywork basis except by written order of the Engineer. Bidders shall enter unit rates for daywork items in the Schedules, which rates shall apply to any quantity of daywork ordered by the Engineer. Nominal quantities have been indicated against each item of daywork, and the extended total for Daywork shall be carried forward to the Summary Total Bid Amount. Unless otherwise adjusted, payments for daywork shall be subject to price adjustment in accordance with the provisions in the Conditions of Contract.

Daywork Labour

2. In calculating payments due to the Contractor for the execution of daywork, the hours for labour will be reckoned from the time of arrival of the labour at the job site to execute the particular item of daywork to the time of return to the original place of departure, but excluding meal breaks and rest periods. Only the time of classes of labour directly doing work ordered by the Engineer and for which they are competent to perform will be measured. The time of gangers (charge hands) actually doing work with the gangs will also be measured but not the time of foremen or other supervisory personnel.

3. The Contractor shall be entitled to payment in respect of the total time that labour is employed on daywork, calculated at the unit rates entered by him in the **Schedule of Daywork Rates: 1. Labour**. The unit rates for Labour shall cover the following:

- (a) All direct costs to the Contractor, including (but not limited to) the amount of wages paid to such labour, transportation time, overtime, subsistence allowances, and any sums paid to or on behalf of such labour for social benefits in accordance Mongolian law; and
- (b) The Contractor's profit, overheads, superintendence, liabilities, and insurances and allowances to labour, timekeeping, and clerical and office work, the use of consumable stores, water, lighting, and power; the use and repair of stagings, scaffolding, workshops, and stores, portable power tools, manual plant, and tools; supervision by the Contractor's staff, foremen, and other supervisory personnel; and charges incidental to the foregoing.

Daywork Materials

4. The Contractor shall be entitled to payment in respect of materials used for daywork (except for materials for which the cost is included in the percentage addition to labour costs as detailed heretofore), at the unit rates entered by him in the **Schedule of Daywork Rates: 2. Materials** and shall be deemed to include overhead charges and profit as follows:

- (a) the rates for materials shall be calculated on the basis of the invoiced price, freight, insurance, handling expenses, damage, losses, etc., and shall provide for delivery to store for stockpiling at the Site.
- (b) the cost of hauling materials for use on work ordered to be carried out as daywork from the store or stockpile on the Site to the place where it is to be used will be paid in accordance with the terms for Labor and Equipment in this schedule.

Daywork Contractor's Equipment

6. The Contractor shall be entitled to payments in respect of Contractor's Equipment already on Site and employed on daywork at the basic rental rates entered by him in the **Schedule of Daywork Rates: 3. Contractor's Equipment**. Said rates shall be deemed to include due and complete allowance for depreciation, interest, indemnity, and insurance, repairs, maintenance, supplies, fuel, lubricants, and other

consumables, and all overhead, profit, and administrative costs related to the use of such equipment. The cost of drivers, operators, and assistants will be paid for separately as described under the section on Daywork Labour.

7. In calculating the payment due to the Contractor's Equipment employed on daywork, only the actual number of working hours will be eligible for payment, except that where applicable and agreed with the Engineer, the travelling time from the part of the Site where the Contractor's Equipment was located when ordered by the Engineer to be employed on daywork and the time for return journey thereto shall be included for payment.

The Daywork Schedules to be filled by the Bidder are included in the Bill of Quantities.

C. Bills of Quantities

Technical Proposal

Personnel

Equipment

Site Organization

Method Statement

Mobilization Schedule

Construction Schedule

Environmental, Health and Safety Management Plan (EHSMP)

Environmental, Health and Safety Code of Conduct

Personnel

Form PER – 1: Proposed Personnel

Bidder should provide the details of the proposed personnel and their experience record in the relevant Information Forms below for each candidate:

1.	Title of position
	Name
2.	Title of position
	Name
3.	Title of position
	Name
4.	Title of position
	Name
5.	Title of position
	Name
6.	Title of position
	Name
etc.	Title of position
	Name

NOTE

All titles of positions will be as listed in Section 6 (Works' Requirements).

Form PER – 2: Resumé of Proposed Personnel

The Bidder shall provide all the information requested below. Use one form for each position.

Position		
Personnel information	Full Legal Name	Date of Birth
	Known as	Place of Birth
	Nationality	Citizenship
	Type of Government ID	ID number
	Attach a copy of ID to this form	
	Professional qualifications	
Present employment	Name of employer	
	Address of employer	
	Telephone	Contact (manager / personnel officer)
	Fax	E-mail
	Job title	Years with present employer

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

From	To	Company/Project/Position/Relevant Technical and Management Experience

Equipment

Form EQU: Equipment

The Bidder shall provide adequate information and details to demonstrate clearly that it has the capability to meet the equipment requirements indicated in Section 6 (Works' Requirements), using the Forms below. A separate Form shall be prepared for each item of equipment listed, or for alternative equipment proposed by the Bidder.

Item of Equipment	
Equipment Information	Name of manufacturer
	Capacity
	Model and power rating
	Year of manufacture
Current Status	Current location
	Details of current commitments
Source	Indicate source of the equipment <input type="checkbox"/> Owned <input type="checkbox"/> Rented <input type="checkbox"/> Leased <input type="checkbox"/> Specially manufactured

Omit the following information for equipment owned by the Bidder.

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

Site Organization

Method Statement

Mobilization Schedule

The Mobilization Schedule should reflect the no-objection request and approval step for the specific Environmental, Health, and Safety Management Plan as per Contract Conditions.

Construction Schedule

The construction schedule shall include the following key milestones:

1. Completion of updated design;
2. Obtain expertise appraisal;
3. Completion of EIA
4. Obtain an environmental construction permit
5. Preparation of the construction work;
6. Construction work;
7. Commission.

Environmental, Health and Safety Management Plan (EHSMP)

The Bidder shall submit an outline Environmental, Health, and Safety Management Plan (EHSMP) commensurate with the risks and impacts of the proposed works and activities. These strategies and plans shall describe in detail the actions, materials, equipment, management processes, etc. that will be implemented by the Contractor, and its subcontractors.

In developing these strategies and plans, the Bidder shall have regard to the EHS provisions of the contract and EHS risks including those as may be more fully described in Section 6 (Employer's Requirements).

Environmental, Health and Safety Code of Conduct

Environmental, Health and Safety Code of Conduct for Contractor's Personnel Form

NOTE TO BIDDER

The minimum content of the EHS Code of Conduct form as set out by the Employer shall not be substantially modified. However, the Bidder may add requirements as appropriate, including to take into account Contract-specific issues/risks.

The Bidder shall initial and submit the EHS Code of Conduct form as part of its bid.

ENVIRONMENTAL, HEALTH AND SAFETY CODE OF CONDUCT FOR CONTRACTOR'S PERSONNEL

We are the Contractor, [enter name of Contractor]. We have signed a contract with [enter name of Employer] for [enter description of the Works]. These Works will be carried out at [enter the Site and other locations where the Works will be carried out]. Our contract requires us to implement measures to address environmental, health and safety risks related to the Works.

This EHS Code of Conduct is part of our measures to deal with environmental, health and safety risks related to the Works. It applies to all our staff, laborers and other employees at the Works Site or other places where the Works are being carried out. It also applies to the personnel of each subcontractor and any other personnel assisting us in the execution of the Works. All such persons are referred to as "**Contractor's Personnel**" and are subject to this EHS Code of Conduct.

This EHS Code of Conduct identifies the behavior that we require from all Contractor's Personnel.

Our workplace is an environment where unsafe, offensive, abusive or violent behavior will not be tolerated and where all persons should feel comfortable raising issues or concerns without fear of retaliation.

REQUIRED CONDUCT

Contractor's Personnel shall:

1. carry out his/her duties competently and diligently;
2. comply with this EHS Code of Conduct and all applicable laws, regulations and other requirements, including requirements to protect the health, safety and well-being of other Contractor's Personnel and any other person;
3. maintain a safe working environment including by:
 - (a) ensuring that workplaces, machinery, equipment and processes under each person's control are safe and without risk to health;
 - (b) wearing required personal protective equipment;
 - (c) using appropriate measures relating to chemical, physical and biological substances and agents; and
 - (d) following applicable emergency operating procedures.
4. report work situations that he/she believes are not safe or healthy and remove himself/herself from a work situation which he/she reasonably believes presents an imminent and serious danger to his/her life or health;
5. treat other people with respect, and not discriminate against specific groups such as women, people with disabilities, migrant workers or children;
6. report violations of this EHS Code of Conduct; and
7. not retaliate against any person who reports violations of this EHS Code of Conduct, whether to us or the Employer, or who makes use of the grievance mechanism for Contractor's Personnel or the project's Grievance Redress Mechanism.

RAISING CONCERNS

If any person observes behavior that he/she believes may represent a violation of this EHS Code of Conduct, or that otherwise concerns him/her, he/she should raise the issue promptly. This can be done by call [] to reach the Contractor's hotline (if any) and leave a message.

The person's identity will be kept confidential, unless reporting of allegations is mandated by the country law. Anonymous complaints or allegations may also be submitted and will be given all due and appropriate consideration. We take seriously all reports of possible misconduct and will investigate and take appropriate action. We will provide warm referrals to service providers that may help support the person who experienced the alleged incident, as appropriate.

CONSEQUENCES OF VIOLATING THE ENVIRONMENTAL, HEALTH AND SAFETY CODE OF CONDUCT

Any violation of this EHS Code of Conduct by Contractor's Personnel may result in serious consequences, up to and including termination of the employment/engagement contract and possible referral to legal authorities.

FOR CONTRACTOR'S PERSONNEL:

I have received a copy of this EHS Code of Conduct written in a language that I comprehend. I understand that if I have any questions about this EHS Code of Conduct, I can contact [enter name of Contractor's contact person(s) with relevant experience] requesting an explanation.

Name of Contractor's Personnel: [insert name]

Signature: _____

Date: [day month year]: _____

Countersignature of authorized representative of the Contractor:

Signature: _____

Date: [day month year]: _____

Bidders Qualification

To establish its qualifications to perform the contract in accordance with Section 3 (Evaluation and Qualification Criteria) the Bidder shall provide the following information requested in the corresponding Information Sheets.

Form ELI - 1: Bidder's Information Sheet

Bidder's Information			
		Information of the Bidder	If the Bidder is a subsidiary or branch, information of any parent company/companies
Names	Full legal name(s)		
	Full trading name(s) (if any)		
Addresses	Registered address(es)		
	Trading address(es)		
	Postal address(es) (if different from trading address)		
Type of organization			
Country of constitution/incorporation/registration			
Year of constitution/incorporation/registration			
Corporate or registration number			
In case of a Joint Venture, legal name of each partner			
Bidder's authorized representative (name, address, telephone number(s), fax number(s), e-mail address)			
<p>Attached are copies of the following documents:</p> <ol style="list-style-type: none"> 1) In case of a single entity, articles of incorporation or constitution and company incorporation/registration of the legal entity named above, in accordance with ITB 4.1 and ITB 4.2. 2) Authorization to represent the firm or Joint Venture named above, in accordance with ITB 20.2. 3) In case of a Joint Venture, a letter of intent to form a Joint Venture or Joint Venture agreement, in accordance with ITB 4.1. 4) In case of a government-owned enterprise, any additional documents not covered under 1 above required to comply with ITB 4.5. 			

Form ELI - 2: Joint Venture Information Sheet

Each partner of the Joint Venture and Specialist Subcontractor must fill out this form separately.

Joint Venture / Specialist Subcontractor Information		
Bidder's legal name		
		Information of Joint Venture Partner or Specialist Subcontractor
		If any Joint Venture Partner or Specialist Subcontractor is a subsidiary or branch, information of any parent company/companies
Names	Full legal name(s)	
	Full trading name(s) (if any)	
Addresses	Registered address(es)	
	Trading address (es)	
	Postal address (es) (if different from trading address)	
Type of organization		
Country of constitution/incorporation/ registration		
Year of constitution/incorporation/ registration		
Corporate or registration number		
Joint Venture Partner's or Specialist Subcontractor's authorized representative information (name, address, telephone number(s), fax number(s), e-mail address)		
Attached are copies of the following documents: <ol style="list-style-type: none"> 1) Articles of incorporation or constitution and company incorporation/registration of the legal entity named above, in accordance with ITB 4.1 and ITB 4.2. 2) Authorization to represent the firm named above, in accordance with ITB 20.2. 3) In the case of a government-owned enterprise, documents establishing legal and financial autonomy and compliance with commercial law, in accordance with ITB 4.5. 		

Form CON - 1: Historical Contract Nonperformance

Each Bidder must fill out this form in accordance with Criteria 2.2.1 and 2.2.3 of Section 3 (Evaluation and Qualification Criteria) to describe any history of nonperforming contracts and pending litigation or arbitration formally commenced against it.

In case of a Joint Venture, each Joint Venture Partner must fill out this form separately and provide the Joint Venture Partner's name:

Joint Venture Partner: _____

Table 1: History of Nonperforming Contracts			
Choose one of the following: <input type="checkbox"/> No nonperforming contracts. <input type="checkbox"/> Below is a description of nonperforming contracts involving the Bidder (or each Joint Venture partner if Bidder is a Joint Venture).			
Year	Description	Amount of Nonperformed Portion of Contract (\$ equivalent)	Total Contract Amount (\$ equivalent)
[insert year]	Contract Identification: [indicate complete contract name/ number, and any other identification] Name of Employer: [insert full name] Address of Employer: [insert street/city/country] Reason(s) for nonperformance: [indicate main reason(s)]	[insert amount]	[insert amount]

Table 2: Pending Litigation and Arbitration			
Choose one of the following: <input type="checkbox"/> No pending litigation, arbitration or any other material events impacting the net worth and/or liquidity of the bidder. <input type="checkbox"/> Below is a description of all pending litigation, arbitration involving the Bidder or any other material events impacting the net worth and/or liquidity of the bidder (or each Joint Venture partner if Bidder is a Joint Venture).			
Year	Matter in Dispute	Value of Pending Claim in \$ Equivalent	Value of Pending Claim as a Percentage of Net Worth
[insert year]	Contract Identification, as applicable: [indicate complete contract name/ number, and any other identification] Name of Employer, parties involved in the material events impacting the net worth and/or liquidity of the bidder: [insert full name] Address of Employer, parties involved in the material events impacting the net worth and/or liquidity of the bidder: [insert street/city/country] Matter of Dispute: [indicate full description of dispute] Party who initiated the dispute: [indicate "Employer" or "Contractor"] Status: [indicate status of dispute]	[insert amount]	[insert amount]

NOTE

Table 2 of this form shall only be included if Criterion 2.2.3 of Section 3 (Evaluation and Qualification Criteria) is applicable.

Form FIN - 1: Historical Financial Performance

Each Bidder must fill out this form.

In case of a Joint Venture, each Joint Venture Partner must fill out this form separately and provide the Joint Venture Partner's name:

Joint Venture Partner: _____

Financial Data for Previous _____ Years [\$ Equivalent]		
Year 1:	Year 2:	Year ____:

Information from Balance Sheet

Total Assets (TA)			
Total Liabilities (TL)			
Net Worth = TA – TL			
Current Assets (CA)			
Current Liabilities (CL)			

Most Recent Working Capital		To be obtained for most recent year and carried forward to FIN - 3 Line 1; in case of Joint Ventures, to the corresponding Joint Venture Partner's FIN – 3.
------------------------------------	--	---

Information from Income Statement

Total Revenues			
Profits Before Taxes			
Profits After Taxes			

- Attached are copies of financial statements (balance sheets including all related notes and income statements) for the last _____ years, as indicated above, complying with the following conditions:
- 1) Unless otherwise required by Section 3 of the Bidding Document, all such documents reflect the standalone financial situation of the legal entity or entities comprising the Bidder and not the Bidder's parent companies, subsidiaries, or affiliates.
 - 2) Historical financial statements must be audited by a certified accountant.
 - 3) Historical financial statements must be complete, including all notes to the financial statements.
 - 4) Historical financial statements must correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).

Form FIN - 2: Average Annual Construction Turnover

Each Bidder must fill out this form.

The information supplied should be the Annual Turnover of the Bidder or each partner of a Joint Venture for the total certified payments received from the clients for contracts in progress or completed, converted to US dollars at the rate of exchange at the end of the period reported.

In case of a Joint Venture, each Joint Venture Partner must fill out this form separately and provide the Joint Venture Partner's name:

Joint Venture Partner: _____

Annual Turnover Data for the Last _____ Years (Construction only)			
Year	Amount Currency	Exchange Rate	\$ Equivalent

Average Annual Construction Turnover

Form FIN – 3: Availability of Financial Resources

Bidders must demonstrate sufficient financial resources, usually comprising of Working Capital supplemented by credit line statements or overdraft facilities and others to meet the Bidder's financial requirements for its current contract commitments, and the subject contract.

In case of a Joint Venture, each Joint Venture Partner must fill out this form separately and provide the Joint Venture Partner's name:

Joint Venture Partner: _____

Financial Resources		
No.	Source of financing	Amount (\$ equivalent)
1	Working Capital (to be taken from FIN - 1)	
2	Credit Line ^a	
3	Other Financial Resources	
Total Available Financial Resources		

^a To be substantiated by a letter from the bank issuing the line of credit.

Form FIN- 4: Financial Requirements for Current Contract Commitments

Bidders (or each Joint Venture partner) should provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

In case of a Joint Venture, each Joint Venture Partner must fill out this form separately and provide the Joint Venture Partner's name:

Joint Venture Partner: _____

Current Contract Commitments						
No.	Name of Contract	Employer's Contact (Address, Tel, Fax)	Contract Completion Date	Outstanding Contract Value (X)^a	Remaining Contract Period in months (Y)^b	Monthly Financial Resources Requirement (X / Y)
1						
2						
3						
4						
Total Monthly Financial Requirement for Current Contract Commitments						\$

^a Remaining outstanding contract values to be calculated from 28 days prior to the bid submission deadline (\$ equivalent based on the foreign exchange rate as of the same date).

^b Remaining contract period to be calculated from 28 days prior to bid submission deadline.

Form FIN - 5: Self-Assessment Tool for Bidder’s Compliance to Financial Resources (Criterion 2.3.3 of Section 3)

This form requires the same information submitted in Forms FIN - 3 and FIN - 4. All conditions of “Available Financial Resources Net of CCC \geq Requirement for the Subject Contract” must be satisfied to qualify.

Form FIN - 5A: For Single Entities

For Single Entities: (A)	Total Available Financial Resources from FIN – 3 (B)	Total Monthly Financial Requirement for Current Contract Commitments (CCC) from FIN – 4 (C)	Available Financial Resources Net of CCC $D = (B - C)$	Requirement for the Subject Contract (E)	Results: Yes or No [D must be greater than or equal to E] (F)
_____ (Name of Bidder)				

Form FIN - 5B: For Joint Ventures

For Joint Ventures: (A)	Total Available Financial Resources from FIN – 3 (B)	Total Monthly Financial Requirement for Current Contract Commitments (CCC) from FIN – 4 (C)	Available Financial Resources Net of CCC $D = (B - C)$	Requirement for the Subject Contract (E)	Results: Yes or No [D must be greater than or equal to E] (F)
One Partner:					
_____ (Name of Partner)				
Each Partner:					
_____ (Name of Partner 1)				
_____ (Name of Partner 2)				
_____ (Name of Partner 3)				
All partners combined	$\Sigma D =$ Sum of available financial resources net of current contract commitments for all partners		$\Sigma D =$ _____	

NOTE

Form FIN - 5 is made available for use by the bidder as a self-assessment tool, and by the Employer as an evaluation work sheet, to determine compliance with the financial resources requirement as stated in 2.3.3. Failure to submit Form FIN - 5 by the Bidder shall not lead to bid rejection.

Form EXP – 1: Contracts of Similar Size and Nature

Fill out one (1) form per contract. Each contract shall be supported by documents such as Signed Contract Agreement, Taking-Over Certificate, Contract Completion Certificate or Performance Certificate.

The exchange rate to be used to calculate the value of the contract for conversion to a specific currency shall be the selling rate of the Borrower’s Central bank on the date of the contract.

Contract of Similar Size and Nature		
Contract No of	Contract Identification	
Award Date	Completion Date	
Total Contract Amount	\$	
If partner in a Joint Venture or Subcontractor, specify participation of total contract amount	Percent of Total	Amount
Employer’s name Address Telephone number Fax number E-mail		
Description of the Similarity in Accordance with Criterion 2.4.1 of Section 3 (Evaluation and Qualification Criteria)		

Form EXP – 2: Construction Experience in Key Activities

Fill out one (1) form per contract. Each contract shall be supported by documents such as Signed Contract Agreement, Taking-Over Certificate or Contract Completion Certificate.

Each Bidder must fill out this form.

If complied by Specialist Subcontractor, each Specialist Subcontractor must fill out this form and provide the Specialist Subcontractor's name:

Specialist Subcontractor: _____

Contract with Similar Key Activities		
Contract No of	Contract Identification	
Award Date	Completion Date	
Total Contract Amount	\$	
If partner in a Joint Venture or Subcontractor, specify participation of total contract amount	Percent of Total	Amount
Employer's name Address Telephone number Fax number E-mail		
Description of the Key Activities in Accordance with Criterion 2.4.2 of Section 3 (Evaluation and Qualification Criteria)		

Form EXP – 3: Specific Experience in Managing Environmental, Health and Safety Aspects

Fill out one form per contract.

Each Bidder must fill out this form.

In case of a Joint Venture, each Joint Venture Partner must fill out this form separately and provide the Joint Venture Partner's name:

Joint Venture Partner: _____

1. Key Requirement no 1 in accordance with Criterion 2.4.3 of Section 3:

Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contractor <input type="checkbox"/>	Member in JV <input type="checkbox"/>	Management Contractor <input type="checkbox"/>	Subcontractor <input type="checkbox"/>
Total Contract Amount			US\$	
Details of relevant experience				

2. Key Requirement no 2 in accordance with Criterion 2.4.3 of Section 3: _____

3. Key Requirement no 3 in accordance with Criterion 2.4.3 of Section 3: _____

Section 5: Eligible Countries

This section contains the list of eligible countries.

Afghanistan	Micronesia, Federal States of
Armenia	Mongolia
Australia	Myanmar
Austria	Nauru, Republic of
Azerbaijan	Nepal
Bangladesh	Netherlands
Belgium	New Zealand
Bhutan	Niue
Brunei Darussalam	Norway
Cambodia	Pakistan
Canada	Palau
China, People's Republic of	Papua New Guinea
Cook Islands	Philippines
Denmark	Portugal
Fiji Islands, Republic of	Samoa
Finland	Singapore
France	Solomon Islands
Georgia	Spain
Germany	Sri Lanka
Hong Kong, China	Sweden
India	Switzerland
Indonesia	Tajikistan
Ireland	Taipei,China
Italy	Thailand
Japan	Timor-Leste, Democratic Republic of
Kazakhstan	Tonga
Kiribati	Türkiye
Korea	Turkmenistan
Kyrgyz	Tuvalu
Lao People's Democratic Republic	United Kingdom
Luxembourg	United States of America
Malaysia	Uzbekistan
Maldives	Vanuatu
Marshall Islands	Viet Nam

Section 6: Works' Requirements

This section comprising Works' Requirement contains the Specifications, Environmental, Health and Safety Management Requirement, Drawings, Supplementary Information that describe the Works to be procured, Key Personnel Requirements, and Equipment Requirements.

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Key Personnel Requirements	88
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Specifications

Refer to Volume 2 Technical Specification

Environmental, Health and Safety Management Requirement

Refer to Environment Management Plan (EMP) which forms an attachment to the Technical Specification and which sets out the Employer’s initial assessment of potential risks arising from the Project, and expected mitigation measures. The EMP would form the basis for preparation by the Contractor of the Site-Specific Environment Management Plan in order to address the measures relevant to the Contractor in the as set out in the EMP.

Drawings

Refer to Volume 3 onwards Drawings. It is noted that summary of quantities shown in the drawings are indicative only.

	Item	Date	Language	Pages	Location
1	Roads and drainage	2022	Mongolian	271	https://turiinhudaldanavakhajillaga-my.sharepoint.com/:u:/g/personal/sunjidmunkh_spa_gov_mn/Ed2JJym43ZMhNHe2cqWqBAB0s26i8C-tKpTT7Lr2oaFng?e=8sRwKy
2	Bridges	2022	Mongolian	158	https://turiinhudaldanavakhajillaga-my.sharepoint.com/:u:/g/personal/sunjidmunkh_spa_gov_mn/ESRv6AiYCMZKs3oZwwksEuUBOtquCmDBA4xbo-xT0sP9sQ?e=uzLTtM
3	Optical fiber cable	2022	Mongolian	10	
4	Electrical power and lighting	2022	Mongolian	70	

Supplementary Information Regarding Works to Be Procured

The following information is provided for reference only, and does not form part of Contract.

Item	Date	Language	Location

1) Scope of Work	2023	English	(see following page)
2) Brief report on alignment options	2022	Mongolian	
3) Geodesy report	2022	Mongolian	
4) Geology report	2022	Mongolian	
5) Geological profile	2022	Mongolian	
6) Hydrological report	2012	Mongolian	
7) Archaeological report	2012	Mongolian	
8) Road cross sections km 0 - 21	2022	Mongolian	
9) Road cross sections km 21-40+140	2022	Mongolian	https://turiinhudaldanavakhajillaga-my.sharepoint.com/:u:/g/personal/sunjidmunkh_spa_gov_mn/Ed2JJjym43ZMhNHe2cqWqBAB0s26i8C-tKpTT7Lr2oaFng?e=8sRwKy
10) Design report	2022	Mongolian	https://turiinhudaldanavakhajillaga-my.sharepoint.com/:u:/g/personal/sunjidmunkh_spa_gov_mn/EendpMADpRZOswxE1tMZKvgBXpJXmiK4jRCcJYuDcDGuFQ?e=uZSwyU
11) Environmental Impact Assessment baseline	2022	Mongolian	https://turiinhudaldanavakhajillaga-my.sharepoint.com/:u:/g/personal/sunjidmunkh_spa_gov_mn/EZ1vPaV0pgxEsb4TJdDLYiYBN62JZefUDngRkA3TT8EaWg?e=fh0GaH
12) Initial Environmental Examination (IEE)	2022	English	https://www.adb.org/projects/documents/mon-48186-008-iee-0
13) Autocad files of road, bridge, setting out, cross sections	2022	Mongolian	https://turiinhudaldanavakhajillaga-my.sharepoint.com/:u:/g/personal/sunjidmunkh_spa_gov_mn/EVlxgfRjN8dHlrPouRBAYbEBRs3cIWRMM66aYmYOalCjhA?e=Vzhai8

Scope of Work (for reference only)

1) The Project and its Contracts

The road construction in this package CW2 is part of the Regional Road Development and Maintenance Phase 3 project (the Project), to be financed through loans from the Asian Development Bank for \$150 million.

The project includes an investment component for construction of 263km of sections of asphalt paved road to upgrade existing earth roads on the Khovd – Ulaangom and Uliastai – Altai state roads which connect the Aimag (province) capitals.

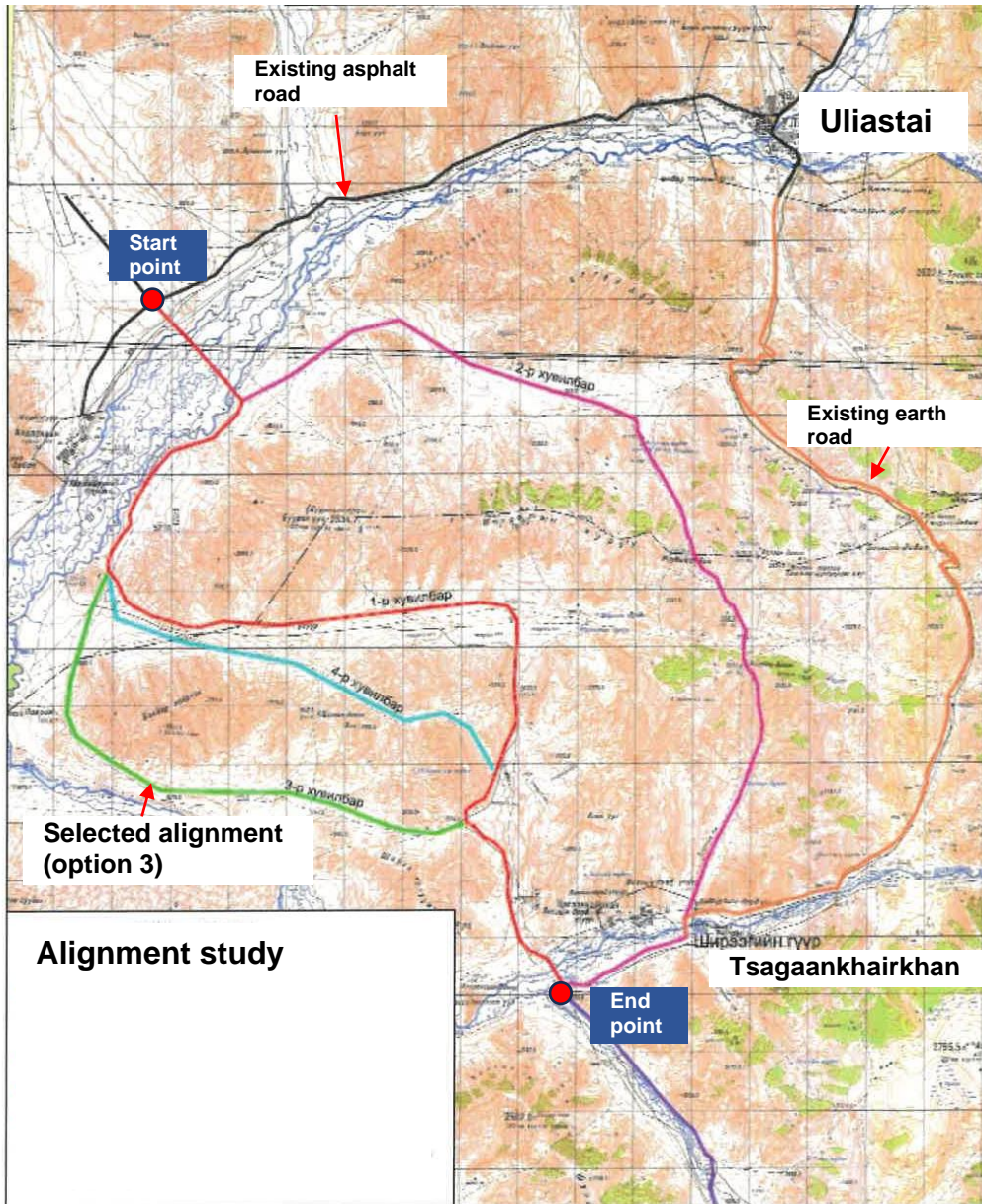
Location of the Project Roads



2) Package CW2

Scope of this Package CW2 is the northernmost 40.2km of the 238km long Uliastai - Altai route. Other sections of the route are currently earth roads, but it is planned to upgrade a further 60km of the route under the project, with construction commencing in 2025. The detailed design of Package CW2 was undertaken in 2022 by a Mongolian design firm.

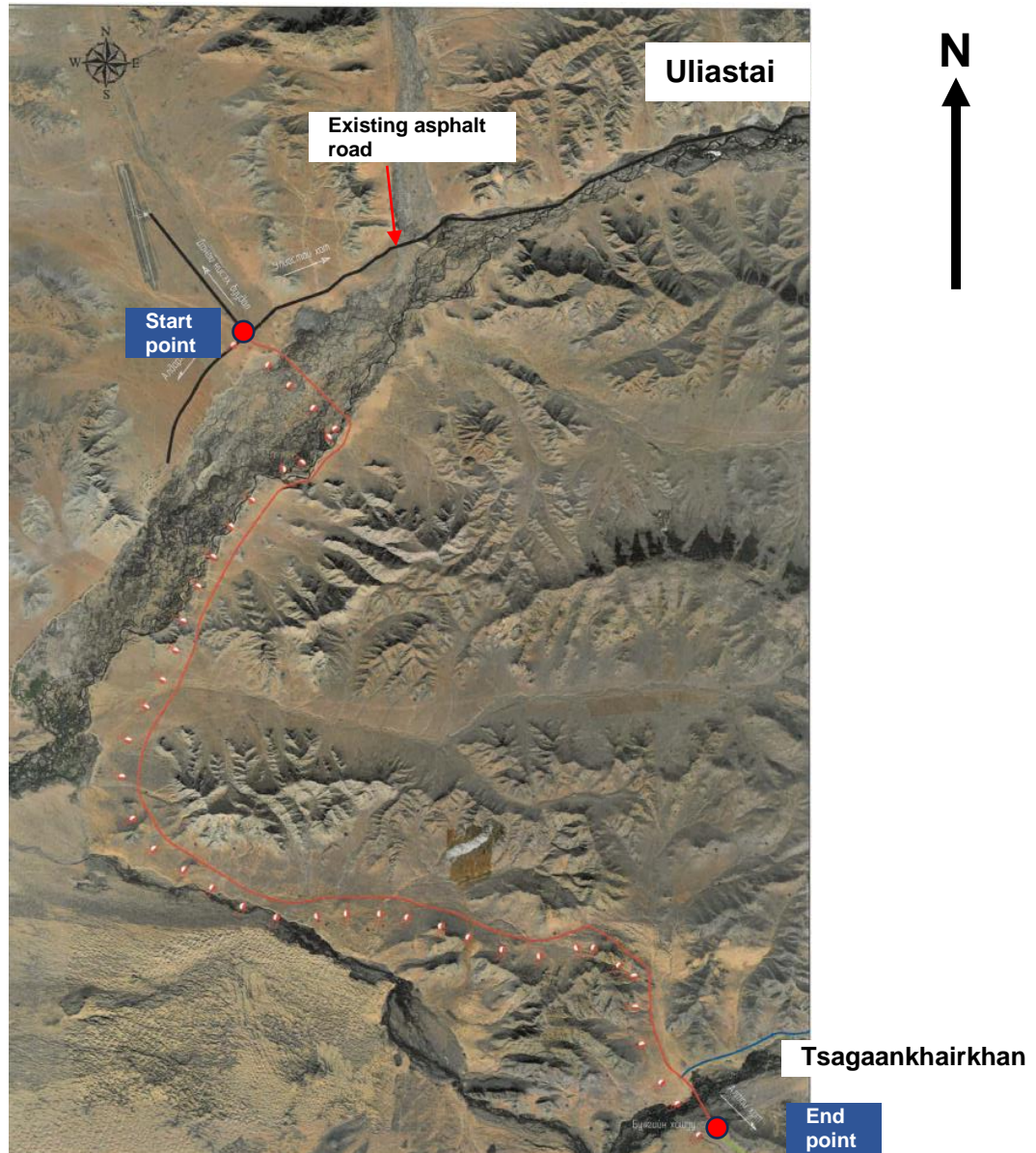
Package CW2 is construction of a new asphalt paved road on a new alignment to replace the existing earth road over a high mountain pass. The following figure shows the alignment study in which the existing earth road is in orange, and the new alignment is labelled as option 4 in green, and the start and end points of Package CW2 are shown.



3) Terrain

The terrain of the package may be seen in the satellite image. The elevation of the route varies within the range 1,650-1,980 m above sea level, and the designed vertical alignment has grades of up to 7%. In contrast, the existing (old) alignment reaches an elevation exceeding 2,500m above sea level making it impassable during severe weather.

The beginning of the route starts from the intersection of Uliastai-Aldarkhaan and Donoi Airport highways. The alignment crosses the broad river plain with bridges over the Yaru and Bogd Rivers, then turns and runs alongside the Bogd river. On approaching the Shiree River it turns east to follow the river before turning away from the river to find a route through mountainous terrain, before returning to and crossing the Shiree River.



3) Grade

The planned road is a state road, grade III conventional highway, and planned design is 7m carriageway with 1m shoulders of which 0.5m is paved, giving total asphalt paved width of 8m.

4) Pavement design

The road is generally set on a slight embankment, with 200mm thickness of paver laid Crushed Stone Base.

Asphalt pavement comprises 4cm of asphaltic concrete binder course, and 3cm of asphaltic concrete wearing course.

Bitumen is polymer modified PG 70-40 grade.

6) Other features

Item	Content
Bridges	All having superstructure of 21m pre-stressed I girders, bridge width of 11.7m, and spread foundations. Yaruu River Bridge, km 01+309 (length 127.15 m) Bogd River Bridge, km 03+810 (length 169.25 m) Dry Riverbed Bridge, km 13+795 (length 21.9 m) Shiree River Bridge, km 39+198 (length 127.15 m)
Rest areas	9 rest areas: km 3.58 both sides, km 12.66 both sides km 18.18, km 22.50, km 25.88, km 33.32, km 39.32

7) Design updating (by the Contractor)

Updating of the design is required to give a higher level of traffic safety (meeting an iRAP 3 star rating), to incorporate additional features and modifications as agreed between the Employer and ADB, and to provide both English and Mongolian language versions of the contract documents.

- a) Since the detailed design was prepared in 2022, it meets current Mongolian standards and has received expertise appraisal.
- b) Revision of the design to meet an iRAP 3 star rating requires revision of the typical design cross section to apply more gentle embankment side slope and side ditch slopes to reduce the risk of rollover accidents. Embankments slopes for sections with embankment height >3m and <1m are already in compliance with iRAP 3 star rating, but sections with embankment height between 1 and 3m height will require amendment. Side ditch designs, and culvert lengths and headwall / wingwall locations and arrangements are to be modified accordingly.
- c) Preparation of drawings and specifications in both English and Mongolian language versions (or a single bilingual version)
- d) Completion of updated design and obtain expertise appraisal, completion of EIA and obtain environmental construction permit is a Milestone

7) Limitations of information available to the Contractor

Data provided to bidders is shown in Table "Supplementary Information Regarding Works to Be Procured". However, during bid preparation bidders should note the following important limitations of the available data:

- a) Electronic files are provided on an "as is" basis and may contain output generated by another software, may require outdated software for its use, or may lack linked files etc. Bidders should carefully examine the adequacy of the available data and requirements to resurvey, recalculate, or recreate data.
- b) Supplementary information documents are mostly available in Mongolian language only.

7) Schedule

Given the need for a) survey and design updating and obtaining expertise appraisal of the design, b) logistics of the project location, and c) the short working season, the time for completion will be 36 months (i.e. covering 3 complete construction seasons).

Estimated construction schedule is:

- Commencement: August 2024
- Completion: July 2027
- Time for completion: 36 months
- Defects notification period; 36 months

Key Personnel Requirements

Using Form PER – 1 and PER – 2 in Section 4 (Bidding Forms), the Bidder must demonstrate that it has personnel who meet the following requirements:

No.	Position	Total Work Experience (years)	Experience in Similar Work (years)
1	Project Manager	15	10
2	Contract Manager	10	5
3	Pavement engineer	10	5
4	Plant Engineer	8	5
5	Highway Engineer	8	5
6	Surveyor	8	5
7	Bridge / structural engineer	8	5
8	Quantity engineer	8	5
9	Material engineer	8	5

Using Form EXP-6 in Section 4 (Bidding Forms), the Bidder must demonstrate that it has EHS personnel who meet the following requirements:

Key Personnel as determined by the EMP and other safeguard management plans⁷

No.	Position/Specialization	Relevant Academic Qualifications	Minimum Years of Relevant Work Experience	Minimum Time On-site (% full time)
1	Environmental specialist	Environmental / Construction	5	50% of working season
2	Health and Safety specialist	Construction / Engineering / Occupational health and safety	5	100% of working season

Equipment Requirements

Using Form EQU in Section 4 (Bidding Forms), the Bidder must demonstrate that it has the key equipment listed below:

No.	Equipment Type and Characteristics	Contract
		CW2
1	Washing and crushing plant, 60 ton/hr	1
2	Base course blending plant 180 ton/hr	1
3	Hot mix asphalt plant 120 ton/hr	1
4	Bulldozer, 250HP	1
5	Bulldozer, 130HP	3
6	Motor grader, 135HP	2
7	Electronic paver finisher (min.8 m width paving)	1
8	Paver (min 4.5m width paving)	1
	Total	11

Section 7: General Conditions of Contract

The Conditions of Contract consists of two parts, this Section 7 (General Conditions of Contract) and the following Section 8 (Particular Conditions of Contract).

Red Book:

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The Conditions of Contract are the “General Conditions” which form part of the “Conditions of Contract for Construction for Building and Engineering Works Designed by the Employer (“Red book”) Second edition 2017” published by the Federation Internationale Des Ingenieurs – Conseils (FIDIC) and the following Section 8 “Particular Conditions of Contract.”

An original copy of the above FIDIC publication i.e. “Conditions of Contract for Building and Engineering Works Designed by the Employer” must be obtained from FIDIC.

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Section 8: Particular Conditions of Contract

Part A – Contract Data

Ref. Sub-Clause (Col 1)	Conditions (Col 2)	Data (Col 3)
1.1.20 Percentage of Profit	Where the Contract allows for Cost Plus Profit, percentage profit to be added to the Cost	5%
1.1.27	Defects Notification Period	36 months
1.1.31	Employer's name and address	Ministry of Road and Transport Development, Government Building 13, Chinggis avenue 11, Ulaanbaatar, 14251, Mongolia
1.1.35	Engineer's name and address	To be advised
1.1.73	Sections	Not applicable
1.1.84	Time for Completion	<u>1092</u> days
1.1.89	Bank's name	Asian Development Bank
1.1.90	Borrower's name	Government of Mongolia
1.3 (a) (ii)	Electronic transmission system	E-mail is acceptable for use as communication providing the communication is sent as an attachment to the E-mail and is sent either as a scanned version of the signed original or as an electronic file with a digital signature agreed in advance by the other Party, and subject to evidence of transmission receipt for the same and subsequent delivery to and receipt by the recipient of the original signed paper version of the same within 07 days of the E-mail transmission. Unless these obligations are fully complied with, the E-mail will be deemed not to have been transmitted and date of receipt of the original document shall be deemed to be the effective date of the communication.
1.3(d)	Address of Employer for communications:	[Insert electronic transmission systems] to be advised
1.3(d)	Address of Engineer for communications:	[Insert electronic transmission systems] to be advised
1.3(d)	Address of Contractor for communications:	[Insert electronic transmission systems] to be advised
1.4	Governing Law	The law of the Borrower's country

Ref. Sub-Clause (Col 1)	Conditions (Col 2)	Data (Col 3)						
1.4	Ruling language	English						
1.4	Language for communications	English. Contractor is required to also submit Mongolian translation to facilitate communication, but in case of conflict, the English version shall prevail.						
1.8	Number of additional paper copies of Contractor's Documents	None						
1.15	Total liability of the Contractor to the Employer under or in connection with the Contract	50% of the Accepted Contract Amount						
2.1	Time for access to the Site	No later than the Commencement Date						
2.4	Employer's Financial Arrangements	Financed by a proposed loan of US\$ 150 million from the Asian Development Bank to the government of Mongolia under ADB project number 48186-008						
3.2	Engineer's Duties and Authority	A Variation resulting in an increase of the Accepted Contract Amount in excess of 1% shall require prior consent of the Employer. Similarly, when cumulative of all Variations results in an increase of the Accepted Contract Amount in excess of 10%, any further Variation shall require prior consent of the Employer.						
4.2	Performance Security	The Performance Security shall be in the form of an unconditional demand guarantee in the amount(s) of 10 percent of the Accepted Contract Amount and in the same currency (ies) of the Accepted Contract Amount.						
4.25	Definition of Milestones	<table border="1"> <thead> <tr> <th>Description of a part of the Plant or of the Works that shall be designated a Milestone for the purposes of the Contract</th> <th>Time for Completion</th> <th>Delay Damages (per day of delay)</th> </tr> </thead> <tbody> <tr> <td>Completion of updated design and obtain expertise appraisal, completion of EIA and obtain environmental construction permit..</td> <td>60 days</td> <td>0.01 % of the Accepted Contract Amount</td> </tr> </tbody> </table> <p>Maximum amount of Delay Damages for Milestones (percent of Accepted Contract Amount) 5 %.</p>	Description of a part of the Plant or of the Works that shall be designated a Milestone for the purposes of the Contract	Time for Completion	Delay Damages (per day of delay)	Completion of updated design and obtain expertise appraisal, completion of EIA and obtain environmental construction permit..	60 days	0.01 % of the Accepted Contract Amount
Description of a part of the Plant or of the Works that shall be designated a Milestone for the purposes of the Contract	Time for Completion	Delay Damages (per day of delay)						
Completion of updated design and obtain expertise appraisal, completion of EIA and obtain environmental construction permit..	60 days	0.01 % of the Accepted Contract Amount						
4.7.2 (a)	Period for notification of errors in the items of reference	28 days						

Ref. Sub-Clause (Col 1)	Conditions (Col 2)	Data (Col 3)
4.19	Period of payment for temporary utilities	Each month [Note: Specify days, if not stated, "each month" shall be applied]
4.20	Number of additional paper copies of progress reports	3 Nos.
5.1(a)	Maximum allowable accumulated value of work subcontracted (as a percentage of the Accepted Contract Amount)	70 %
5.1(b)	Parts of the Works for which subcontracting is not permitted	Not applicable
6.5	Normal working hours	07:00 – 19:00 daily
8.3	Number of additional paper copies of program	3 Nos.
8.8	Delay damages payable for each day of delay	0.05 % of the Accepted Contract Amount.
8.8	Maximum amount of delay damages	10 % of the Accepted Contract Amount.
12.2	Method of measurement	In accordance with the Bill of Quantities, and Technical Specification
12.3	Percentage profit	5 %
13.4 (b)(ii)	Percentage rate to be applied to Provisional Sums for overhead charges and profit	10 %
14.2	Total Advance Payment	10 % of the Accepted Contract Amount payable in the currencies and proportions in which the Accepted Contract Amount is payable
14.2.3	Repayment of Advance payment	(a) exceeds 10 % of the portion of the Accepted Contract Amount payable in that currency less Provisional Sums; and (b) deductions shall be made at the amortization rate of 15 %; provided that the advance payment shall be completely repaid prior to the time when 90 percent (90%) of the Accepted Contract Amount less Provisional Sums has been certified for payment.
14.3	Period of payment	1 month
14.3(b)	Number of additional paper copies of Statements	1 No.
14.3(iii)	Percentage of retention	5 %
14.3(iii)	Limit of Retention Money (as a percentage of Accepted Contract Amount)	5 %

Ref. Sub-Clause (Col 1)	Conditions (Col 2)	Data (Col 3)
14.5(b)(i)	Plant and Materials	If Sub-Clause 14.5 applies: Plant and Materials for payment when shipped: Not applicable
14.5(c)(i)		Plant and Materials for payment when delivered to the Site a) reinforcing steel bars b) bitumen c) cement d) crushed stone base e) aggregate for asphalt pavement
14.6.2	Minimum Amount of Interim Payment Certificates	0.2 % of the Accepted Contract Amount
14.7(a)	Period of payment of Advance Payment to the Contractor	28 days
14.7b(i)	Period for the Employer to make interim payments to the Contractor under Sub-Clause 14.6 (interim Payment)	56 days
14.7b(ii)	Period for the Employer to make the Final Payment to the Contractor under Sub-Clause 14.13	28 days
14.7(c)	Period for the Employer to make final payment to the Contractor	56 days
14.8	Financing charges for delayed payment (percentage points above the average bank short-term lending rate as referred to under subparagraph (a))	3 %
14.11.1(b)	Number of additional paper copies of draft Final Statement	3
17.2(d)	Forces of nature, the risks of which are allocated to the Contractor	None

Ref. Sub-Clause (Col 1)	Conditions (Col 2)	Data (Col 3)
19.1	Permitted deductible limits	insurance required for the Works: US\$50,000 insurance required for Goods: Not applicable insurance required for liability for breach of professional duty: US\$50,000 insurance required against liability for fitness for purpose (if any is required): Not applicable insurance required for injury to persons and damage to property: US\$10,000 insurance required for injury to employees: US\$10,000 other insurances required by Laws and by local practice: _____ _____ _____
19.2.1(b)	Additional amount to be insured (as a percentage of the replacement value, if less or more than 15%)	0 %
19.2.1(iv)	List of Exceptional Risks which shall not be excluded from the insurance cover for the Works	Not applicable
19.2.2	Extent of insurance required for Goods	Not applicable
	Amount of insurance required for Goods	Not applicable
19.2.3(a)	Amount of insurance required for liability for breach of professional duty	US\$ 1 million
19.2.3(b)	Insurance required against liability for fitness for purpose	No
19.2.3	Period of insurance required for liability for breach of professional duty	5 years
19.2.4	Amount of insurance required for injury to persons and damage to property	Limit per occurrence shall be not less than: US\$ 250,000 per occurrence with total insured amount not less than \$3,000,000
19.2.6	Other insurances required by Laws and by local practice (give details)	Not applicable
21.1	Time for appointment of DAAB member (s)	28 days after the Commencement Date, or if agreed by the Parties, within 28 days of one Party giving notice to the other Party, with a copy to the Engineer, of its requirement for a DAAB to be appointed.

Ref. Sub-Clause (Col 1)	Conditions (Col 2)	Data (Col 3)
21.1	The DAAB shall comprise	Three Members
21.1	List of proposed members of DAAB	Proposed by Employer 1. _____ 2. _____ 3. _____ Proposed by Contractor 1. _____ 2. _____ 3. _____
21.2	Appointment (if not agreed) to be made by	General Agency for Specialized Inspection of Mongolia
21.6 (a)(i)	Rules of arbitration and administration of arbitration proceedings	Rules of Arbitration of the Singapore International Arbitration Centre , with proceedings administered by SIAC shall apply
21.6 (a)(ii)	Number of arbitrators	One
21.6 (a)(iii)	Place of arbitration	Singapore

Part B – Special Provisions

Clause/Sub-Clause	
Sub-Clause 1.1.10 Contract	“the Contractor’s Proposal” is deleted
Sub-Clause 1.1.16 Contractor’s Equipment	The following is added at the end of the definition. The Contractor’s Equipment include, but not limited to the equipment stated in the Specification.
Sub-Clause 1.1.74 Site	The Sub-Clause is replaced with: “Site” means the places where the Permanent Works are to be executed, including storage and working area, and to which Plant and Materials are to be delivered, and any other places specified in the Contract as forming part of the Site.”
Sub-Clause 1.1.76 Specification	The following is added to the definition. The Specification includes Environment, Health and Safety Management Plan; Key Personnel requirement; and Equipment requirements.
Sub-Clause 1.1.77 Statement	On the second line after “Payment Certificate under...”, add “Sub-Clause 14.2.1 [Advance Payment Guarantee] (if applicable).”.
Sub-Clause 1.1.81 Tender	“the Contractor’s Proposal” is deleted.
Sub-Clause 1.1.90 Milestones	The following is added at the end of the definition “ “Milestone” means a part of the Plant and/or a part of the Works and/or Contractor’s Documents stated in the Contract Data (if any) which is to be completed by the time for completion stated in Sub-Clause 4.25 [Milestones] but is not to be taken over by the Employer after completion. “Milestone Certificate” means the certificate issued by the Engineer under Sub-Clause 4.25 [Milestones]. “
New Sub-Clause 1.1.89 Bank	“Bank” means the financing institution (if any) named in the Contract Data
New Sub-Clause 1.1.90 Borrower	“Borrower” means the person (if any) named as the borrower in the Contract Data
Sub-Clause 1.2 Interpretation	Sub-paragraph (a) is replaced with the following: “Words indicating one gender include all genders; “he/she” is replaced with: “it”; “him/her” is replaced with “it”; “his” and “his/her” are replaced with: “its”; “himself/herself” are replaced with: “itself”.”

Clause/Sub-Clause	
	<p>Further, “and” is deleted from the end of sub-paragraph (i) and added at the end of sub-paragraph (j). sub-paragraph (k) is added:</p> <p>(k) “The word “tender” is synonymous with “bid” or “proposal”, the word tenderer with “bidder” or “proposer” and the words “tender documents” with “request for bids documents” or “request for proposal documents”, as applicable.”</p>
<p>Sub-Clause 1.5 Priority of Documents</p>	<p>Delete sub-paragraphs from (a) to (k) and replace with the following;</p> <ul style="list-style-type: none"> (a) the Contract Agreement; (b) the Letter of Acceptance; (c) the Letter of Bid; (d) the Particular Conditions Part A – Contract Data; (e) the Particular Conditions Part B – Special Provisions; (f) the Particular Conditions Part C – Corrupt and Fraudulent Practices; (g) the Particular Conditions Part D - Environmental, Health, and Safety (EHS) Metrics for Progress Reports; (h) List of Eligible Countries as defined by the Bank; (i) these General Conditions; (j) the Specification including EMP, EHS, personnel and equipment requirements; (k) the Drawings; (l) the Schedules; (m) Environment, Health and Safety Code of Conduct for Contractor’s Personnel; (n) Environment, Health and Safety Management Plan (EHSMP (o) the Joint Venture Undertaking (if the Contractor is a Joint Venture); and (p) any other documents forming part of the Contract
<p>Sub-Clause 1.6 Contract Agreement</p>	<p>The last paragraph is replaced with:</p> <p>“If the Contractor comprises a Joint Venture, the authorized representative of the Joint Venture shall sign the Contract Agreement in accordance with Sub-Clause 1.14 [Joint and Several Liability].”</p>
<p>Sub-Clause 1.12 Confidentiality</p>	<p>The following is added at the end of the second paragraph: “The Contractor shall however be permitted to disclose such particulars if required to establish its qualifications to compete for other projects.”</p> <p>“or” at the end of (b) is deleted.</p> <p>“or” at the end of (c) is added.</p> <p>The following is then added as (d): “is required to be provided to the Bank.”</p>

Clause/Sub-Clause	
<p>New Sub-Clause 1.17 Inspections & Audit by the Bank</p>	<p>The following Sub-Clause is added after Sub-Clause 1.16:</p> <p>“Pursuant to paragraph 2.1(e) of Particular Conditions - Part C- [Corrupt and Fraudulent Practices], the Contractor shall permit and shall cause its agents (whether declared or not), Subcontractors, subconsultants, service providers, suppliers, and personnel, to permit the Bank and/or persons appointed by the Bank to inspect the Site, assets and/or the accounts, records and other documents relating to the procurement process, selection and/or Contract execution/performance, and to have such accounts, records, and other documents audited by auditors appointed by the Bank. The Contractor’s and its Subcontractors’ and subconsultants’ attention is drawn to Part C [Corrupt and Fraudulent Practices] which provides, inter alia, that obstructive practice constitutes an integrity violation subject to Contract termination (as well as to a determination of ineligibility pursuant to the Bank’s Anticorruption Policy and Integrity Principles and Guidelines, both as amended from time to time).”</p> <p>The Bank’s right to inspect the Site, assets and/or the Contractor’s accounts, records and other documents relating to the procurement and performance of the Contract stated in Sub-Clause 1.17 and Part C shall survive termination and/ or expiration of this Contract.</p>
<p>Sub-Clause 2.1 Right of Access to the Site</p>	<p>Add after the first sentence of the first paragraph:</p> <p>“For any part of the Site (or the whole Site as the case may be) for which the Contractor is to be given access to, and possession of, there shall be no physical works at the Site or any part thereof (as the case may be) unless the Employer shall give a Notice to the Contractor stating that all relevant provisions of the applicable Resettlement Plan (RP) were complied with and confirming that all compensation to the affected persons have been duly paid as per the RP. This Notice shall specify the date on which access to, and possession of the part of the Site (or the whole Site as the case may be) shall be given to the Contractor.”</p>
<p>Sub-Clause 2.4 Employer’s Financial Arrangements</p>	<p>The first paragraph is replaced with:</p> <p>“The Employer shall submit, before the Commencement Date, reasonable evidence that financial arrangements have been made for financing the Employer’s obligations under the Contract.”</p> <p>The following sub-paragraph is added at the end of Sub-Clause 2.4:</p> <p>“In addition, if the Bank has notified to the Borrower that the Bank has suspended disbursements under its loan, which finances in whole or in part the execution of the Works, the Employer shall give notice of such suspension to the Contractor with detailed particulars, including the date of such notification, with a copy to the Engineer, within 7 days of the Borrower having received the suspension notification from the Bank. If alternative funds will be available in appropriate currencies to the Employer to continue making payments to the Contractor beyond 60 days after the date of Bank notification of the suspension, the Employer shall provide reasonable evidence in its notice of the extent to which such funds will be available.”</p>
<p>Sub-Clause 3.1 The Engineer</p>	<p>Add the following at the end of first paragraph</p>

Clause/Sub-Clause	
	<p>“The Engineer shall be a third party capable of acting neutrally between the Parties”.</p>
<p>Sub-Clause 3.2 Engineer’s Duties and Authority</p>	<p>Add the following at the end of the third paragraph:</p> <p>The Engineer shall obtain the consent in writing of the Employer before taking action under the following Sub-Clauses of these Conditions:</p> <p>a) Sub-Clause 13.2 [Value Engineering]: stating consent or otherwise to a value engineering proposal submitted by the Contractor in accordance with Sub-Clause 13.2; or</p> <p>b) Sub-Clause 13.3 [Variation Procedure]: instructing a Variation, except:</p> <p>(i) if, in the opinion of the Engineer, an emergency situation occurs that may affect the safety of life or of the Works or of adjoining property. In such a situation, the Engineer may, without relieving the Contractor of any of his duties and responsibility under the Contract, instruct the Contractor to execute all such work, or to do all such things, as may, in the opinion of the Engineer, be necessary to abate or reduce the risk and the Contractor shall forthwith comply with such instruction; or</p> <p>(ii) if such a Variation would increase the Accepted Contract Amount by less than the percentage specified in the Contract Data.</p>
<p>Sub-Clause 3.3 Engineer’s Representative</p>	<p>Add the following third paragraph after paragraph 2.</p> <p>“The Engineer shall obtain the consent of the Employer before appointing or replacing an Engineer’s Representative.”</p>
<p>Sub-Clause 3.4 Delegation by the Engineer</p>	<p>The following is added at the end of the second paragraph:</p> <p>“If any assistants are not fluent in this language, the Engineer shall make competent interpreters available during all working hours, in a number sufficient for those assistants to properly perform their assigned duties and/or exercise their delegated authority.”</p>
<p>Sub-Clause 4.1 Contractor’s General Obligations</p>	<p>Replace the first paragraph with the following:</p> <p>“The Contractor shall execute the Works in accordance with the Contract. All Contractor’s Equipment, Material, and services to be incorporated in or required for the Works shall have their origin in any Eligible Country as defined by the Bank. The Contractor undertakes that the execution of the Works and the completed Works will be in accordance with the documents forming the Contract, as altered or modified by Variations, <i>and</i> with the Site-Specific Environment Management Plan (as per Sub-Clause 4.18) and Site-Specific Health and Safety Management Plan (as per Sub-Clause 4.8).”</p> <p>The following is inserted after the fourth paragraph:</p> <p>“The Contractor has the obligation to notify the Employer of any changes in connection with the representations made in the Letter of Bid. If the Contractor is debarred or temporarily suspended by ADB, it shall inform the Employer of such debarment or suspension.</p>

Clause/Sub-Clause	
	<p>The following is added as (g); and the current (g) and (h) of the Sub-Clause are then renumbered as (h) and (i) respectively.</p> <p>(g) "if so stated in the Specification, the Contractor shall:</p> <ul style="list-style-type: none"> (i) design structural elements of the Works taking into account climate change considerations; (ii) apply the concept of universal access (the concept of universal access means unimpeded access for people of all ages and abilities in different situations and under various circumstances); (iii) consider the incremental risks of the public's potential exposure to operational accidents or natural hazards, including extreme weather events; and (iv) any other requirement stated in the Specification."
<p>Sub-Clause 4.2.1 Contractor's obligations</p>	<p>The first paragraph is replaced with:</p> <p>"The Contractor shall deliver the Performance Security to the Employer within 28 days after receiving the Letter of Acceptance and shall send a copy to the Engineer. The Performance Security shall be issued by a reputable bank or financial institution selected by the Contractor and shall be in the form annexed to the Particular Conditions, as stipulated by the Employer in the Contract Data, or in another form approved by the Employer. If the bank issuing the Performance Security is located outside the Employer's country, it shall be counter-guaranteed or encashable by a bank in the Employer's country."</p>
<p>Sub-Clause 4.2.2 Claims under the Performance Security</p>	<p>In the first paragraph after the words "is entitled under the Contract", replace "in the event of" with "including in, but not limited to, the event of:".</p>
<p>Sub-Clause 4.2.3 Return of Performance Security</p>	<p>In sub-paragraph (a) "21 days" is replaced with: "28 days"</p>
<p>Sub-Clause 4.3 Contractor's Representative</p>	<p>The following is added at the end of the last paragraph: "If any of these persons is not fluent in this language, the Contractor shall make competent interpreters available during all working hours in a number that the Engineer considers to be sufficient for those persons to properly perform their delegated powers, function, and/or authority."</p>
<p>Sub-Clause 4.4.1 Preparation and Review</p>	<p>In the first paragraph, delete the word "and" at the end of sub-paragraph (c), at the end of sub-paragraph (d) replace "." with "; and" and add sub-paragraph(e) as follows:</p> <p>"(e) described in Sub-Clause 4.4.4 [Site-Specific Health and Safety Management Plan] and Sub-Clause 4.4.5 [Site-Specific Environment Management Plan]; and"</p>
<p>Sub-Clause 4.4.4 Site-Specific Health and Safety Management Plan</p>	<p>Add the following Sub-Clause:</p> <p>"The Contractor shall prepare, and keep up-to-date, the Site-Specific Health and Safety Management Plan (SSHSMP) as per Sub-Clause 4.8 [Health and Safety Obligations] showing how the Contractor will manage the health and safety risks related to the Works.</p>

Clause/Sub-Clause	
	<p>The initial SSHSMP shall be submitted to the Engineer for Review, and no physical Works shall commence on Site until the Engineer has given (or is deemed to have given) a Notice of No-objection under sub-paragraph (i) of Sub-Clause 4.4.1 [Preparation and Review].</p> <p>Thereafter, the Contractor shall update the SSHSMP at the request of the Engineer but at not less than 6- month intervals to ensure that it contains measures appropriate to the Works. The updated SSHSMP shall be submitted to the Engineer for Review as per the process outlined in Sub-Clause 4.4.1 [Preparation and Review].”</p>
<p>Sub-Clause 4.4.5 Site-Specific Environment Management Plan</p>	<p>Add the following Sub-Clause:</p> <p>“The Contractor shall prepare, and keep up-to-date, the Site-Specific Environment Management Plan (SSEMP) as per Sub-Clause 4.18 [Protection of the Environment] showing how the Contractor will manage the environment risks and impacts related to the Works (e.g., excavation, earth works, bridge and structure works, stream and road diversions, quarrying or extraction of materials, concrete batching, and asphalt manufacture).</p> <p>The initial SSEMP shall be submitted to the Engineer for Review, and no works shall commence on Site until the Engineer has given (or is deemed to have given) a Notice of No-objection under sub-paragraph (i) of Sub-Clause 4.4.1 [Preparation and Review].</p> <p>Thereafter, the Contractor shall update the SSEMP at the request of the Engineer to ensure that it contains measures appropriate to the Works. The updated SSEMP shall be submitted to the Engineer for Review as per the process outlined in Sub-Clause 4.4.1 [Preparation and Review].”</p>
<p>Sub-Clause 4.6 Co-operation</p>	<p>On the penultimate line of the first paragraph before “Contractor’s,” add “of the.”</p> <p>The following is added after the first paragraph:</p> <p>“The Contractor shall also, as stated in the Specification or as instructed by the Engineer, cooperate with and allow appropriate opportunities for the Employer’s Personnel to conduct any environmental and social assessment.”</p>
<p>Sub-Clause 4.7 Setting out</p>	<p>In the second bullet-point of sub-paragraph (b) of Sub-Clause 4.7.3:</p> <p>Before “if the items of reference”, the following is added: “when examining the items of reference within the period stated in sub-paragraph (a) of Sub-Clause 4.7.2,”.</p> <p>On the second and third lines, the following is deleted “and the contractor’s Notice is given after the period stated in sub-paragraph (a) of Sub-Clause 4.7.2”.</p>
<p>Sub-Clause 4.8 Health and Safety Obligations</p>	<p>The following is included after deleting “and” at the end of (f) and replacing “.” with “;” at the end of (g):</p>

Clause/Sub-Clause	
	<p>(h) “provide health and safety induction training of Contractor’s Personnel as appropriate and maintain training records;</p> <p>(i) actively engage the Contractor’s Personnel in promoting understanding, and methods for, the implementation of health and safety requirements, as well as in providing information to the Contractor’s Personnel, and provision of personal protective equipment (including helmets and fluorescent vests) without expense to the Contractor’s Personnel;</p> <p>(j) put in place workplace processes for Contractor’s Personnel to report work situations that they believe are not safe or healthy, and to remove themselves from a work situation that they have reasonable justification to believe presents an imminent and serious danger to their life or health;</p> <p>(k) ensure that Contractor’s Personnel who remove themselves from such work situations shall not be required to return to work until necessary remedial action to correct the situation has been taken and Contractor’s Personnel shall not be retaliated against or otherwise subject to reprisal or negative action for such reporting or removal;</p> <p>(l) subject to Sub-Clause 4.6 [Co-Operation], collaborate with the entities and Personnel under paragraph (a), (b), and (c) of Sub-Clause 4.6 [Co-Operation], in applying the health and safety requirements without prejudice to the responsibility of the relevant entities for the health and safety of their own personnel;</p> <p>(m) establish and implement a system for regular (not less than every 6th month) review of health and safety performance and the working environment and related reporting on incidents and accidents as per Sub-Clause 4.20 [Progress Reports];</p> <p>(n) establish preventive and emergency preparedness and response measures to avoid, and where avoidance is not possible, to minimize, adverse impacts and risks of the construction site work to the health and safety of local communities; and</p> <p>(o) conduct an awareness program concerning the risk of sexually transmitted infections (STIs) and sexually transmitted diseases (STDs) including HIV/AIDS via an approved service provider, and shall undertake such other measures as are specified in this Contract to reduce the risk of the transfer of HIV between and among the Contractor’s Personnel and the local community, to promote early diagnosis and to assist affected individuals.</p> <p>Delete all the paragraphs after the first paragraph and replace with the following:</p> <p>Prior to commencing work on the Site the Contractor shall submit to the Engineer for Review a detailed SSHSMP showing how the Contractor intends to comply with health and safety requirements prescribed in the Contract. The SSHSMP shall include measures the Contractor proposes to manage the health and safety risks and impacts related to the Works, provide site workers with safe and healthy working conditions and establish an operating system to prevent accidents, injuries, and disease. . At a minimum, it shall be consistent with the Environment, Health, and Safety Management Plan (EHSMP) and Environment, Health, and Safety (EHS) Code of Conduct for Contractor’s Personnel submitted as part of the Contractor’s Tender and agreed as part of the Contract, and address requirements in the Environmental Management Plan (EMP) of the project.</p>

Clause/Sub-Clause	
	<p>The procedures for Review of the SSHSMP and its updates shall be as described in Sub-Clause 4.4.1 [Preparation and Review].</p> <p>The Contractor shall, as stated in the Specification and as the Engineer may reasonably require, maintain records and make reports (in compliance with the applicable health and safety regulations and Laws) concerning the health and safety of persons and any damage to property.</p>
<p>Sub-Clause 4.13 Rights of Way and Facilities</p>	<p>Add the following at the end of the second paragraph:</p> <p>“For any such additional facilities that the Contractor may need to obtain, the Contractor shall comply with any corrective or preventive actions set out in (i) safeguards monitoring reports or (ii) subsequently agreed between ADB and the Employer.</p> <p>The Accepted Contract Amount is deemed to include all expenses to ensure compliance with these measures, requirements, and actions.</p>
<p>Sub-Clause 4.15 Access Route</p>	<p>The following is added at the end of Sub-Clause 4.15:</p> <p>The Contractor shall take all necessary safety measures to avoid the occurrence of incidents and injuries to any third party, associated with the use of, if any, the Contractor’s Equipment on access routes and other public roads or other infrastructure.</p> <p>The Contractor shall monitor road safety incidents and accidents to identify safety issues and establish and implement necessary measures to resolve them.</p> <p>The Contractor shall adequately record the condition of roads, agricultural land adjacent to the Site and to access routes and other infrastructure that might be impacted by its construction activities prior to the start of construction or transporting Goods.</p> <p>The Contractor shall be liable for the reinstatement of all such access routes, agricultural land, and other public roads and infrastructure to the extent any such damages were caused by the Contractor.</p>
<p>Sub-Clause 4.18 Protection of the Environment</p>	<p>Sub-Clause 4.18 [Protection of the Environment] is replaced with:</p> <p>“The Contractor shall take all necessary measures to fulfill the following obligations under the Contract to protect the environment, including (but not limited to):</p> <ul style="list-style-type: none"> (a) protect the environment (both on and off the Site); and (b) limit damage and nuisance to people, property, and protected areas and habitat of threatened species (if any) resulting from pollution, noise, and other results of the Contractor’s operations and/or activities. <p>The Contractor shall ensure that emissions, surface discharges, effluent, and any other pollutants from the Contractor’s activities shall exceed neither the values indicated in the Specification, nor those prescribed by applicable Laws.</p> <p>In the event of damage to the environment, property, and/or nuisance to people, on or off Site as a result of the Contractor’s operations, the Contractor shall agree with the Engineer the appropriate actions and time scale to remedy, as practicable, the damaged environment to its former condition. The Contractor shall implement such remedies at its cost to the satisfaction of the Engineer.</p>

Clause/Sub-Clause	
	<p>Prior to commencing work on the Site, the Contractor shall submit to the Engineer for Review a detailed Site-Specific Environment Management Plan (SSEMP) which has been specifically prepared for the Works, the Site and other places (if any) where the Contractor intends to execute the Works.</p> <p>The SSEMP shall include measures the Contractor proposes to manage the environmental risks and impacts of the Works. At a minimum, it shall be based on the EMP of the project.</p> <p>The SSEMP shall be in addition to any other similar document required under applicable environmental regulations and Laws, and shall set out all the requirements for the protection of the environment that:</p> <ul style="list-style-type: none"> (i) are stated in the Specification; and (ii) comply with all the Contractor's environmental obligations under the Contract. <p>The procedures for Review of the SSEMP shall be as described in Sub-Clause 4.4.1 [Preparation and Review].</p>
<p>Sub-Clause 4.20 Progress Reports</p>	<p>Replace 4.20 (g) with: "the Environmental, Health and Safety (EHS) Metrics for Progress Reports set out in Particular Conditions - Part D"</p> <p>The following is added at the end of the Sub-Clause:</p> <p>"In addition to the reporting requirement of this sub-paragraph (g) of Sub-Clause 4.20 [Progress Reports] upon becoming aware of its occurrence, the Contractor shall inform the Engineer within 24 hours of any allegation, incident or accident, which has or is likely to have a significant adverse effect on the environment, the affected communities, the public, Employer's Personnel or Contractor's Personnel. This includes, but is not limited to, any incident or accident-causing fatality or serious injury; significant adverse effects or damage to private property or to the natural environment, including protected areas and habitat of threatened species.</p> <p>The Contractor, upon becoming aware of the incident or accident, shall also inform the Engineer within 24 hours of any such incident or accident on the Subcontractors' or suppliers' premises relating to the Works that has or is likely to have a significant adverse effect on the environment, the affected communities, the public, Employer's Personnel or Contractor's, its Subcontractors' and suppliers' personnel.</p> <p>The notification shall provide sufficient detail regarding such incidents or accidents. The Contractor shall provide full details of such incidents or accidents to the Engineer within the timeframe outlined in the SSEMP and SSHSMP or as agreed with the Engineer.</p> <p>The Contractor shall require its Subcontractors and suppliers to notify the Contractor of any incidents or accidents referred to in this Sub-Clause within the timeframe outlined in the SSEMP and SSHSMP or as agreed with the Engineer."</p>
<p>Sub-Clause 4.21</p>	<p>At the end of Sub-Clause 4.21 the following paragraphs are added:</p>

Clause/Sub-Clause	
Security of the Site	<p>“If required in the Specification, further to conducting a site security risk assessment, the Contractor shall submit for the Engineer’s No-objection a security management plan that sets out the security arrangements for the Site.</p> <p>The Contractor shall (i) conduct appropriate background checks on any personnel retained to provide security; (ii) train the security personnel adequately (or determine that they are properly trained) in the use of force (and where applicable, firearms), and appropriate conduct towards Contractor’s Personnel, Employer’s Personnel and affected communities; and (iii) require the security personnel to act within the applicable Laws and any requirements set out in the Specification.</p> <p>The Contractor shall not permit any use of force by security personnel in providing security except when used for preventive and defensive purposes in proportion to the nature and extent of the threat.</p> <p>In making security arrangements, the Contractor shall also comply with any additional requirements stated in the Specification.”</p>
Sub-Clause 4.22 Contractor’s Operations on Site	<p>On the third line of the second paragraph before “4.17”, “Sub- Clause” is added.</p>
Sub-Clause 4.23 Archaeological and Geological Findings	<p>The first paragraph is replaced with the following:</p> <p>“All fossils, coins, articles of value or antiquity, structures, groups of structures, and other remains or items of geological, archaeological, paleontological, historical, architectural, or religious interest found on the Site shall be placed under the care and custody of the Employer. The Contractor shall:</p> <ol style="list-style-type: none"> a. take all reasonable precautions, including fencing-off the area or site of the finding, to avoid further disturbance and prevent Contractor’s Personnel or other persons from removing or damaging any of these findings; b. train relevant Contractor’s Personnel on appropriate actions to be taken in the event of such findings; and c. implement any other action consistent with the requirements of the Specification and relevant Laws.”
Sub-Clause 4.24 Environment, Health, and Safety Code of Conduct	<p>New Sub-Clause 4.24 is added as following:</p> <p>“The Contractor shall adhere to the EHS Code of Conduct for the Contractor’s Personnel submitted as part of the Contractor’s Tender.</p> <p>The Contractor shall take all necessary measures to ensure that each Contractor’s Personnel is made aware of the of EHS Code of Conduct including specific behaviors that are prohibited and understands the consequences of engaging in such prohibited behaviors.</p> <p>These measures include providing instructions and documentation that can be understood by the Contractor’s Personnel and seeking to obtain, as part of the site induction training, that person’s signature acknowledging receipt of such</p>

Clause/Sub-Clause	
	<p>instructions and/or documentation, as appropriate. The Contractor shall keep record of such acknowledgement of receipt.</p> <p>The Contractor shall also ensure that the EHS Code of Conduct is visibly displayed in multiple locations on the Site and any other place where the Works will be carried out, as well as in areas outside the Site accessible to the local community and project affected people. The posted EHS Code of Conduct shall be provided in languages comprehensible to Contractor’s Personnel, Employer’s Personnel, and the local community.</p> <p>The Contractor’s SSEMP (as per Sub-Clause 4.8 [Health and Safety Obligations]) and SSHSMP (as per Sub-Clause 4.18 [Protection of the Environment]) shall include appropriate processes for the Contractor to verify compliance with these obligations.”</p>
<p>Sub-Clause 4.25 Milestones</p>	<p>Add new Sub-Clause 4.25 Milestones</p> <p>The Contractor shall complete the works of each Milestone (including all work which is stated in the Contract Data as being required for the Milestone to be considered complete) within the time for completion of the Milestone, as stated in the Contract Data, calculated from the Commencement Date.</p> <p>The Contractor shall include, in the initial programme and each revised programme, under sub-paragraph (a) of Sub-Clause 8.3 [Programme], the time for completion for each Milestone.</p> <p>Sub-paragraph (d) of Sub-Clause 8.4 [Advance Warning] and Sub-Clause 8.5 [Extension of the Time for Completion] shall apply to each Milestone, such that “Time for Completion” under Sub-Clause 8.5 shall be read as the time for completion of a Milestone under this Sub-Clause.</p> <p>The Contractor may apply, by Notice to the Engineer, for a Milestone Certificate not earlier than 14 days before the works of a Milestone will, in the Contractor’s opinion, be complete. The Engineer shall, within 28 days after receiving the Contractor’s Notice:</p> <p>(a) issue the Milestone Certificate to the Contractor, stating the date on which the works of the Milestone were completed in accordance with the Contract, except for any minor outstanding work and defects (as shall be listed in the Milestone Certificate); or</p> <p>(b) reject the application, giving reasons and specifying the work required to be done and defects required to be remedied by the Contractor to enable the Milestone Certificate to be issued.</p> <p>The Contractor shall then complete the work referred to in sub-paragraph (b) of this Sub-Clause before issuing a further Notice of application under this Sub-Clause.</p> <p>If the Engineer fails either to issue the Milestone Certificate or to reject the Contractor’s application within the above period of 28 days, and if the works of a Milestone are complete in accordance with the Contract, the Milestone Certificate shall be deemed to have been issued on the date which is 14 days after the date stated in the Contractor’s Notice of application.</p> <p>If Delay Damages for a Milestone are stated in the Contract Data, and if the Contractor fails to complete the works of the Milestone within the time for completion of the Milestone (with any extension under this Sub-Clause):</p> <p>(i) the Contractor shall, subject to Sub-Clause 20.1 [Claims], pay Delay Damages to the Employer for this default;</p>

Clause/Sub-Clause	
	<p>(ii) such Delay Damages shall be the amount stated in the Contract Data, for every day which shall elapse between the time for completion for the Milestone (with any extension under this Sub-Clause) and the date stated in the Milestone Certificate;</p> <p>(iii) these Delay Damages shall be the only damages due from the Contractor for such default; and</p> <p>(iii) the total amount of Delay Damages for all Milestones shall not exceed the maximum amount stated in the Contract Data (this shall not limit the Contractor's liability for Delay Damages in any case of fraud, gross negligence, deliberate default or reckless misconduct by the Contractor)."</p>
<p>Sub-Clause 5.1 Subcontractors</p>	<p>The following is added at the end of the third paragraph of Sub-Clause 5.1:</p> <p>"When requesting such a prior consent, the Contractor shall submit, in addition to any other required document, an undertaking from each proposed Subcontractor to confirm that they have read, understand and shall comply with the EHS obligations set out in Sub-Clause 4.24 and EHS Code of Conduct."</p> <p>The following is added at the end of the last paragraph of Sub-Clause 5.1:</p> <p>"The Contractor shall ensure that the requirements imposed on the Contractor by Sub-Clause 1.12 [Confidentiality] apply equally to each Subcontractor.</p> <p>Where practicable, the Contractor shall give fair and reasonable opportunity for contractors from the Country to be appointed as Subcontractors.</p> <p>All subcontracts relating to the Works shall include provisions which entitle the Employer to require the subcontract to be assigned to the Employer under sub-paragraph (a) of Sub-Clause 15.2.3 [After Termination]."</p>
<p>Sub-Clause 5.2.2 Objection to Nomination</p>	<p>In sub-paragraph (a), on the first line before "Subcontractor", "nominated" is added.</p> <p>In sub-paragraph (c):</p> <p>"and" is deleted from the end of (i);</p> <p> "." at the end of (ii) is replaced with: ", and".</p> <p>The following is then added as (iii):</p> <p>"(iii) be paid only if and when the Contractor has received from the Employer payments for sums due under the Subcontract referred to under Sub-Clause 5.2.3 [Payment to nominated Subcontractors]."</p>
<p>Sub-Clause 6.1 Engagement of Staff and Labor</p>	<p>The following paragraphs are added at the end of the Sub-Clause:</p> <p>"The Contractor shall provide the Contractor's Personnel information and documentation that are clear and understandable regarding their terms and conditions of employment. The information and documentation shall set out their rights under relevant labor Laws applicable to the Contractor's Personnel (which</p>

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	<p>will include any applicable collective agreements), including their rights related to hours of work, wages, overtime, compensation and benefits, as well as those arising from any requirements in the Specification. The Contractor's Personnel shall be informed when any material changes to their terms or conditions of employment occur.</p> <p>The Contractor is encouraged, to the extent practicable and reasonable, to employ staff and labor with appropriate qualifications and experience from sources within the Country. Furthermore, the Contractor shall ensure that at least 30% of unskilled construction workers are hired locally, including local herders and poor and vulnerable groups."</p>
<p>Sub-Clause 6.2 Rates of Wages and Conditions of Labor</p>	<p>The following paragraphs are added:</p> <p>"The Contractor shall inform the Contractor's Personnel about their liability to pay personal income taxes in the Country in respect of such of their salaries, wages, allowances, and any benefits as are subject to tax under the Laws of the Country for the time being in force, and the Contractor shall perform such duties in regard to such deductions thereof as may be imposed on him by such Laws.</p> <p>The Contractor shall have paid its staff and labor all due wages and entitlements on or before the end of their engagement or employment."</p>
<p>Sub-Clause 6.5 Working Hours</p>	<p>The following is inserted at the end of the Sub-Clause:</p> <p>"The Contractor shall provide the Contractor's Personnel annual holiday and sick, maternity, and family leave, as required by applicable Laws or as stated in the Specification."</p>
<p>Sub-Clause 6.6 Facilities for Staff and Labor</p>	<p>The following is added as the last paragraph:</p> <p>"If stated in the Specification, the Contractor shall give access to or provide services that accommodate the physical, social, and cultural needs of the Contractor's Personnel. The Contractor shall also provide similar facilities for the Employer's Personnel as stated in the Specification."</p>
<p>Sub-Clause 6.7 Health and Safety of Personnel</p>	<p>In the second paragraph, "The Contractor" is replaced with:</p> <p>"Except as otherwise stated in the Specification, the Contractor..."</p> <p>The following is added after the third paragraph:</p> <p>HIV/AIDS Prevention. The Contractor shall conduct an HIV/AIDS awareness program via an approved service provider and shall undertake such other measures as are specified in this Contract to reduce the risk of the transfer of the virus between and among the Contractor's Personnel and the local community, to promote early diagnosis and to assist affected individuals.</p> <p>The Contractor shall conduct health and safety programs for workers employed under the project and shall include information on the trafficking of workers and the risk of sexually transmitted diseases, including HIV/AIDS, in such programs.</p>

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	<p>The Contractor shall, throughout the contract (including the Defects Notification Period): (i) conduct information, education, and communication (IEC) campaigns, at least every other month, addressed to all the Site staff and labor (including all the Contractor's employees, all Subcontractors, and any other Contractor's or Employer's personnel, and all truck drivers and crew making deliveries to the Site for construction activities) and to the immediate local communities, concerning the risks, dangers and impact, and appropriate avoidance behavior with respect to, sexually transmitted diseases (STDs) or sexually transmitted infections (STIs) in general and HIV/AIDS in particular; (ii) provide male or female condoms for all Site staff and labor as appropriate; and (iii) provide for STIs and HIV/AIDS screening, diagnosis, counselling, and referral to a dedicated national STIs and HIV/AIDS program, (unless otherwise agreed) of all Site staff and labor.</p> <p>The Contractor shall include in the program to be submitted for the execution of the Works under Sub-Clause 8.3 an alleviation program for Site staff and labor and their families in respect of STIs and STDs including HIV/AIDS. The STIs, STDs, and HIV/AIDS alleviation program shall indicate when, how, and at what cost the Contractor plans to satisfy the requirements of this Sub-Clause and the related specification. For each component, the program shall detail the resources to be provided or utilized and any related subcontracting proposed. The program shall also include provision of a detailed cost estimate with supporting documentation. Payment to the Contractor for preparation and implementation this program shall not exceed the Provisional Sum dedicated for this purpose.</p>
<p>Sub-Clause 6.9 Contractor's Personnel</p>	<p>The Sub-Clause is replaced with:</p> <p>"The Contractor's Personnel (including Key Personnel, if any) shall be appropriately qualified, skilled, experienced, and competent in their respective trades or occupations.</p> <p>The Engineer may require the Contractor to remove (or cause to be removed) any person employed on the Site or Works, including the Contractor's Representative and Key Personnel (if any), who:</p> <ul style="list-style-type: none"> a) persists in any misconduct or lack of care; b) carries out duties incompetently or negligently; c) fails to comply with any provision of the Contract; d) persists in any conduct which is prejudicial to safety, health, or the protection of the environment; e) based on reasonable evidence, is determined to have engaged in any of the conducts defined in 2.1 (a) of Particular Conditions Part C (Corrupt and Fraudulent Practices) during the execution of the Works; f) has been recruited from the Employer's Personnel in breach of Sub-Clause 6.3 [Recruitment of Persons]; and g) undertakes behavior that breaches the EHS Code of Conduct for Contractor's Personnel as stated in Sub-Clause 4.24 [EHS Code of Conduct]. <p>If appropriate, the Contractor shall then promptly appoint (or cause to be appointed) a suitable replacement with equivalent skills and experience. In the case of</p>

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	<p>replacement of the Contractor's Representative, Sub-Clause 4.3 [Contractor's Representative] shall apply. In the case of replacement of Key Personnel (if any), Sub-Clause 6.12 [Key Personnel] shall apply.</p> <p>Subject to the requirements in Sub-Clause 4.3 [Contractor's Representative] and 6.12 [Key Personnel], and notwithstanding any requirement from the Engineer to remove or cause to remove any person, the Contractor shall take immediate action as appropriate in response to any violation of (a) through (g) above. Such immediate action shall include removing (or causing to be removed) from the Site or other places where the Works are being carried out, any Contractor's Personnel who engages in (a), (b), (c), (d), (e), or (g) above or has been recruited as stated in (f) above."</p>
<p>Sub-Clause 6.12 Key Personnel</p>	<p>The following is inserted at the end of the last paragraph: "If any of the Key Personnel are not fluent in this language, the Contractor shall make competent interpreters available during all working hours in a number deemed sufficient by the Engineer."</p>
<p>The following Sub-Clauses 6.13 to 6.28 are added after Sub-Clause 6.12</p>	
<p>Sub-Clause 6.13 Foreign Personnel</p>	<p>The Contractor may bring into the Country any foreign personnel who are necessary for the execution of the Works to the extent allowed by the applicable Laws. The Contractor shall ensure that these personnel are provided with the required residence visas and work permits. The Employer will, if requested by the Contractor, use its best endeavors in a timely and expeditious manner to assist the Contractor in obtaining any local, state, national, or government permission required for bringing in the Contractor's personnel.</p> <p>The Contractor shall be responsible for the return of these personnel to the place where they were recruited or to their domicile. In the event of the death in the Country of any of these personnel or members of their families, the Contractor shall similarly be responsible for making the appropriate arrangements for their return or burial.</p>
<p>Sub-Clause 6.14 Supply of Foodstuffs</p>	<p>The Contractor shall arrange for the provision of a sufficient supply of suitable food as may be stated in the Specification at reasonable prices for the Contractor's Personnel for the purposes of or in connection with the Contract.</p>
<p>Sub-Clause 6.15 Supply of Water</p>	<p>The Contractor shall, having regard to local conditions, provide on the Site an adequate supply of drinking and other water for the use of the Contractor's Personnel.</p>
<p>Sub-Clause 6.16 Measures against Insect and Pest Nuisance</p>	<p>The Contractor shall, at all times, take the necessary precautions to protect the Contractor's Personnel employed on the Site from insect and pest nuisance, and to reduce the danger to their health. The Contractor shall comply with all the regulations of the local health authorities, including on the use of appropriate insecticide.</p>
<p>Sub-Clause 6.17 Alcoholic Liquor or Drugs</p>	<p>The Contractor shall not, otherwise in accordance with the Laws of the Country, import, sell, give, barter, or dispose of any alcoholic liquor or drugs, or permit or allow importation, sale, gift, barter, or disposal thereto by the Contractor's Personnel.</p>
<p>Sub-Clause 6.18 Arms and Ammunition</p>	<p>The Contractor shall not give, barter, or dispose of, to any person, any arms or ammunition of any kind, or allow the Contractor's Personnel to do so.</p>

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Sub-Clause 6.19 Festivals and Religious Customs	The Contractor shall respect the Country's recognized festivals, days of rest, and religious or other customs including those practiced by communities adjacent to the Site.
Sub-Clause 6.20 Funeral Arrangements	The Contractor shall be responsible, to the extent required by local regulations, for making any funeral arrangements for any of its local employees who may die while engaged upon the Works.
Sub-Clause 6.21 Forced Labor	<p>The Contractor shall not employ or engage forced labor. Forced labor means all work or services not voluntarily performed, that is, extracted from individuals under threat of force or penalty.</p> <p>The Contractor shall not employ persons who have been subject to trafficking. Trafficking in persons is defined as the recruitment, transportation, transfer, harboring, or receipt of persons by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power, or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purposes of exploitation.</p> <p>The Contractor shall ensure that its Subcontractors and suppliers comply with all the obligations under this Sub-Clause.</p>
Sub-Clause 6.22 Child Labor	<p>The Contractor shall not employ or engage a child whose age is below the Country's statutory minimum age of employment or a child in contravention of International Labour Organization, Convention no. 138 (Minimum Age Convention). The Contractor shall not employ or engage a child between the minimum age and the age of 18 in a manner that is likely to be hazardous, or to interfere with, the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development.</p> <p>The Contractor shall only employ or engage children between the minimum age and the age of 18 after an appropriate risk assessment has been conducted by the Contractor with the Engineer's consent. The Contractor shall be subject to regular monitoring by the Engineer that includes monitoring of health, working conditions, and hours of work.</p> <p>Work considered hazardous for children is work that, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety, or morals of children. Such work activities prohibited for children include work</p> <ul style="list-style-type: none"> (a) with exposure to physical, psychological, or sexual abuse; (b) underground, underwater, or working at heights or in confined spaces; (c) with dangerous machinery, equipment, or tools, or involving handling or transport of heavy loads; (d) in unhealthy environments exposing them to hazardous substances, agents, or processes, or to temperatures, noise, or vibration damaging to their health; or

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	<p>(e) under difficult conditions such as working for long hours, during the night, or in confinement on the premises of the employer.</p> <p>The Contractor shall ensure that its Subcontractors and suppliers comply with all the obligations under this Sub-Clause.</p>
<p>Sub-Clause 6.23 Employment Records of Workers</p>	<p>The Contractor shall keep complete and accurate records of the employment of labor at the Site. The records shall include the names, ages, genders, hours worked, and wages paid to all workers. These records shall be summarized on a monthly basis and submitted to the Engineer. These records shall be included in the details to be submitted by the Contractor under Sub-Clause 6.10 [Contractor's Records].</p>
<p>Sub-Clause 6.24 Workers' Organizations</p>	<p>In countries where the relevant labor laws recognize workers' rights to form and join workers' organizations of their choosing and to bargain collectively without interference, the Contractor shall comply with such laws. In such circumstances, the role of legally established workers' organizations and legitimate workers' representatives will be respected, and they will be provided with information needed for meaningful negotiation in a timely manner. Where the relevant labor laws substantially restrict workers' organizations, the Contractor shall enable alternative means for the Contractor's Personnel to express their grievances and protect their rights regarding working conditions and terms of employment. The Contractor shall not seek to influence or control these alternative means. The Contractor shall not discriminate or retaliate against the Contractor's Personnel who participate, or seek to participate, in such organizations and collective bargaining or alternative mechanisms. Workers' organizations are expected to fairly represent the workers in the workforce.</p>
<p>Sub-Clause 6.25 Non-Discrimination and Equal Opportunity</p>	<p>The Contractor shall not make decisions relating to the employment or treatment of Contractor's Personnel on the basis of personal characteristics unrelated to inherent job requirements. The Contractor shall base the employment of the Contractor's Personnel on the principle of equal opportunity and fair treatment and shall not discriminate with respect to any aspects of the employment relationship, including recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, job assignment, promotion, termination of employment or retirement, and disciplinary practices.</p> <p>Special measures of protection or assistance to remedy past discrimination or selection for a particular job based on the inherent requirements of the job shall not be deemed discrimination.</p> <p>The Contractor shall provide protection and assistance as necessary to ensure non-discrimination and equal opportunity, including for specific groups such as women, people with disabilities, indigenous peoples and/or ethnic minorities, migrant workers and children (of working age in accordance with Sub-Clause 6.22).</p>
<p>Sub-Clause 6.26 Contractor's Personnel Grievance Mechanism</p>	<p>The Contractor shall have a grievance mechanism for Contractor's Personnel, and where relevant, the workers' organizations stated in Sub-Clause 6.24 [Workers' Organizations], to raise workplace concerns. The grievance mechanism shall be proportionate to the nature, scale, risks, and impacts of the Contract. The mechanism shall address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned in a language they understand, without any retribution, and shall operate in an independent and objective manner.</p>

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	<p>The Contractor's Personnel shall be informed of the grievance mechanism at the time of engagement for the Contract, and the measures put in place to protect them against any reprisal for its use. Measures will be put in place to make the grievance mechanism easily accessible to all Contractor's Personnel.</p> <p>The grievance mechanism shall not impede access to other judicial or administrative remedies that might be available or substitute for grievance mechanisms provided through collective agreements.</p> <p>The grievance mechanism may utilize existing grievance mechanisms, providing that they are properly designed and implemented, address concerns promptly, and are readily accessible to Contractor's Personnel. Existing grievance mechanisms may be supplemented as needed with Contract-specific arrangements.</p>
<p>Sub-Clause 6.27 Training of Contractor's Personnel</p>	<p>The Contractor shall provide appropriate training to relevant Contractor's Personnel on obligations set out in Sub-Clause 4.8 [Health and Safety Obligations], 4.18 [Protection of the Environment] and Sub-Clause 6.28 [Respectful Work Environment] respectively.</p>
<p>Sub-Clause 6.28 Respectful Work Environment</p>	<p>The following sentence shall apply:</p> <p>The Contractor shall ensure that its employees and Subcontractors observe the highest ethical standards and refrain from any form of bullying, discrimination, misconduct and harassment, including sexual harassment; and shall, at all times, behave in a manner that creates an environment free of unethical behavior, bullying, misconduct, and harassment, including sexual harassment. The Contractor shall take appropriate action against any employees or subcontractors, including suspension or termination of employment or subcontract, if any form of unethical or inappropriate behavior is identified.</p> <p>The Contractor shall conduct training programs for its employees and Subcontractors to raise awareness on and prevent any form of bullying, discrimination, misconduct, and harassment including sexual harassment, and to promote a respectful work environment. The Contractor shall keep an up-to-date record of its employees and Subcontractors who have attended and completed such training programs and provide such records to the Employer or the Engineer at their first written request.</p>
<p>Sub-Clause 7.7 Ownership of Plant and Materials</p>	<p>The following is added before the first paragraph:</p> <p>"Except as otherwise provided in the Contract,"</p>
<p>Sub-Clause 8.1 Commencement of Work</p>	<p>The first paragraph is replaced with the following:</p> <p>"The Engineer shall give a Notice to the Contractor stating the Commencement Date, not less than 14 days before the Commencement Date. This Notice shall be issued promptly after the Engineer determines the fulfillment of the following conditions:</p>

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	<p>(a) signature of the Contract Agreement by both Parties, and if required, approval of the Contract by relevant authorities of the Country;</p> <p>(b) delivery to the Contractor of reasonable evidence of the Employer's financial arrangements (under Sub-Clause 2.4 [Employer's Financial Arrangements];</p> <p>(c) except if otherwise specified in Sub-Clause 2.1 in the Contract Data, effective access to and possession of the Site given to the Contractor together with such permission(s) under (a) of Sub-Clause 1.13 [Compliance with Laws] as required for the commencement of the Works;</p> <p>(d) receipt by the Contractor of the Advance Payment under Sub-Clause 14.2 [Advance Payment] provided that the conditions set out under Sub-Clause 14.2.2(a) and (b) have been fulfilled by the Contractor within 28 days from the receipt of the Letter of Acceptance. Otherwise, this sub-paragraph (d) shall not apply.</p>
<p>Sub-Clause 8.3 Programme</p>	<p>Add the following at the end of sub-paragraph (b):</p> <p>“, it being understood that the sequence of construction activities should take into account, to the extent possible, the constraints due to land acquisition as set out in the resettlement plan.”</p>
<p>Sub-Clause 13.3.1 Variation by Instruction</p>	<p>Sub-paragraph 13.3.1 (a) is replaced with: “a description of the varied work performed or to be performed, including details of the resources and methods adopted or to be adopted by the Contractor, and sufficient information to enable an evaluation of environment, health, and safety risks and impacts;”</p>
<p>Sub-Clause 13.4 Provisional Sums</p>	<p>The following is inserted as the penultimate paragraph:</p> <p>“A specific Provisional Sum for the work of the DAAB shall be used to cover the Employer's share of the DAAB members' fees and expenses, in accordance with Clause 21 [Dispute and Arbitration]. Notwithstanding the foregoing, no prior instruction of the Engineer shall be required for use of this specific Provisional Sum. The Contractor shall submit the DAAB members' invoices and satisfactory evidence of having paid 100% of such invoices as part of supporting documents of those Statements submitted under Sub-Clause 14.3 [Application for Interim Payment]. No overhead and profit shall be paid to the Contractor in respect of the Provisional Sum”.</p> <p>The following is added at the end of the first paragraph:</p> <p>If the Bill of Quantities includes Provisional Sums for contingencies, it shall be used, in whole or part, at the discretion, and in accordance with the instructions, of the Engineer, to meet any of the Employer's payment obligations in connection with or arising out of the Contract.</p>
<p>Sub-Clause 13.6 Adjustments for Changes in Laws</p>	<p>The following paragraph is added at the end of the Sub-Clause:</p> <p>“Notwithstanding the foregoing, the Contractor shall not be entitled to an extension of time if the relevant delay has already been taken into account in the determination of a previous extension of time and such Cost shall not be separately</p>

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	paid if the same shall already have been taken into account in the indexing of any inputs to the Table of Adjustment Data in accordance with the provisions of Sub-Clause 13.7 [Adjustments for Changes in Cost].”
Sub-Clause 14.1 The Contract Price	<p>The following paragraph is added at the end of the Sub-Clause:</p> <p>“Notwithstanding the provisions of sub-paragraph (b), exemption on payment of taxes will be granted as follows:</p> <ul style="list-style-type: none"> - Exemption from payment of Value Added Tax (VAT) shall be granted for VAT payable on importation of construction materials for incorporation into the permanent works and VAT payable on local purchase of construction materials for incorporation into the permanent works - Exemption from payment of Customs Import Duty on importation of materials for incorporation into the permanent works. <p>In order to be eligible for tax exemptions with regard to importation of project related Materials, the Contractor shall obtain prior written approval from the Employer and all such items shall be imported in the name of the Employer. If the Employer is satisfied that such items are related to the Project, the Employer shall endorse the necessary exemption documents allowing the Contractor to proceed with the customs clearance.</p>
Sub-Clause 14.2.1 Advance Payment Guarantee	<p>The first paragraph is replaced with:</p> <p>“The Contractor shall obtain (at the Contractor’s cost) an Advance Payment Guarantee in amounts and currencies equal to the advance payment and shall submit it to the Employer with a copy to the Engineer. This guarantee shall be issued by reputable bank or financial institution selected by the Contractor and shall be based on the sample form annexed to the Particular Conditions or in another form agreed by the Employer (but such agreement shall not relieve the Contractor from any obligation under this Sub-Clause).”</p>
Sub-Clause 14.3 Application for Interim Payment	<p>Sub-paragraph (vi) is replaced with the following;</p> <p>“(vi) any other additions and/or deductions that have become due under the Contract or otherwise, including those under Sub-Clause 3.7 [Agreement or Determination], any amount due to the Contractor under Sub-Clause 21.4.3 (i) and any reimbursement due to the Contractor under Sub-Clause 9.5 of the General Conditions of the DAAB Agreement.”</p>
Sub-Clause 14.9 Release of Retention Money	<p>The following is added at the end of Sub-Clause 14.9:</p> <p>“Unless otherwise stated in the Contract, when the Taking-Over Certificate has been issued for the Works and the first half of the Retention Money has been certified for payment by the Engineer, the Contractor shall be entitled to substitute a guarantee, in the form annexed to the Particular Conditions or in another form approved by the Employer and issued by a reputable bank or financial institution selected by the Contractor, for the second half of the Retention Money. The Contractor shall ensure that the guarantee is in the amounts and currencies of the second half of the Retention Money and is valid and enforceable until the Contractor has executed and completed the Works and remedied any defects, as specified for the Performance Security under Sub-Clause 4.2. On receipt by the Employer of the required guarantee, the Engineer shall certify and pay the second half of the Retention Money. The release of the second half of the Retention Money</p>

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	<p>against a guarantee shall then be in lieu of the release after the latest of the expiry dates of the Defects Notification Periods. The Employer shall return the guarantee to the Contractor within 21 days after receiving a copy of the Performance Certificate.</p> <p>If the Performance Security required under Sub-Clause 4.2 is in the form of a demand guarantee, and the amount guaranteed under it when the Taking-Over Certificate is issued is more than half of the Retention Money, then the Retention Money guarantee will not be required. If the amount guaranteed under the Performance Security, when the Taking-Over Certificate is issued is less than half of the Retention Money, the Retention Money guarantee will only be required for the difference between half of the Retention Money and the amount guaranteed under the Performance Security.”</p>
Sub-Clause 14.12 Discharge	On the seventh line of the first paragraph, “Sub-Clause 21.6 [Arbitration]” is replaced with: “Clause 21 [Disputes and Arbitration]”
Sub-Clause 14.15 Currencies of Payment	<p>Throughout Sub-Clause 14.15, “Contract Data” is replaced with:</p> <p>“Schedule of Payment Currencies or the Bill of Quantities (in case the use of various currencies is stated in the Bill of Quantities itself), as applicable”.</p>
Sub-Clause 15.1 Notice to Correct	<p>“and” is deleted at the end of (b) and “.” is replaced by: “; and” in (c).</p> <p>The following is then added as (d):</p> <p>“(d) specify the time within which the Contractor shall respond to the Notice to Correct.”</p> <p>In the third paragraph, “shall immediately respond” is replaced with: “shall respond within the time specified in (d)”.</p> <p>Further, at the end of the third paragraph, “to comply with the time specified in the Notice to Correct.” is replaced with: “to comply with the time specified in (c).”</p>
Sub-Clause 15.2.1 Notice	Sub-paragraph (h) is replaced with: “is found, based on reasonable evidence, to have engaged in Corrupt and Fraudulent Practices as defined in Paragraph 2.1 (a) of Part C of the Particular Conditions [Corrupt and Fraudulent Practices], in competing for or in executing the Contract.”
Sub-Clause 15.8 Fraud and Corruption	<p>The following new Sub-Clause is added:</p> <p>“15.8.1 The Bank requires compliance with the Bank’s Anticorruption Policy and Integrity Principles and Guidelines (both as amended from time to time), as set forth in Particular Conditions - Part C- Corrupt and Fraudulent Practices.</p> <p>15.8.2 The Employer requires the Contractor to disclose any commissions, gratuities, or fees that may have been paid or are intended to be paid to agents or any other party with respect to the bidding 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.”</p>

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Sub-Clause 16.2.1 Notice	<p>At the end of sub-paragraph (i): “; or” is replaced with: “.”</p> <p>sub-paragraph (f) is replaced with: “(f) the Contractor does not receive a Notice of the Commencement Date under Sub-Clause 8.1 [Commencement of Works] within 182 days after receiving the Letter of Acceptance, for reasons not attributable to the Contractor;”</p> <p>Sub-paragraph (j) is replaced with: “the Employer is found, based on reasonable evidence, in accordance with the Bank’s Anticorruption Policy and Integrity Principles and Guidelines (both as amended from time to time) to have incurred in integrity violations, such as those defined in Part C [Corrupt and Fraudulent Practices] of the Particular Conditions of Contract at any time in relation to work or the Contract.”</p>
Sub-Clause 16.2.2 Termination	<p>The following is added at the end of Sub-Clause 16.2.2:</p> <p>“In the event the Bank suspends the loan or grant from which part or whole of the payments to the Contractor are being made, if the Contractor has not received the sums due to him by the expiry of 14 days after the relevant time period referred to in Sub-Clause 14.7 [Payment], issuance of the Interim Payment Certificates to which they relate, the Contractor may, without prejudice to the Contractor’s entitlement to financing charges under Sub-Clause 14.8 [Delayed Payment], take one of the following actions: (i) suspend work or reduce the rate of work under Sub-Clause 16.1 above, or (ii) terminate the Contract by giving Notice to the Employer, with a copy to the Engineer, such termination to take effect 14 days after giving the Notice.”</p>
Sub-Clause 17.1 Responsibility for Care of the Works	<p>On the fourth and fifth lines of the first paragraph, replace “Date of Completion of the Works” with “issue of the Taking-Over Certificate for the Works”.</p>
Sub-Clause 17.3 Intellectual and Industrial Property Rights	<p>On the first line of the second paragraph, replace “notice” with “a Notice”.</p>
Sub-Clause 17.7 Use of Employer’s Accommodation/Facilities	<p>The following Sub-Clause is added as 17.7:</p> <p>“The Contractor shall take full responsibility for the care of the Employer-provided accommodation and facilities, if any, as detailed in the Specification, from the respective dates of hand over to the Contractor until cessation of occupation (where hand over or cessation of occupation may take place after the date stated in the Taking-Over Certificate for the Works).</p> <p>If any loss or damage happens to any of the above items while the Contractor is responsible for their care arising from any cause whatsoever other than those for which the Employer is liable, the Contractor shall, at its own cost, rectify the loss or damage to the satisfaction of the Engineer.”</p>
Sub-Clause 18.1 Exceptional Events	<p>“Sub-paragraph (c) is substituted with</p>

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	(c) riot, commotion, disorder, or sabotage by persons other than the Contractor's Personnel and other employees of the Contractor and Subcontractors;"
Sub-Clause 18.4 Consequences of an Exceptional Event	The following is added at the end of sub-paragraph (b) after deleting the ".": ", including the costs of rectifying or replacing the Works and/or Goods damaged or destroyed by Exceptional Events, to the extent they are not indemnified through the insurance policy referred to in Sub-Clause 19.2 [Insurance to be provided by the Contractor]."
Sub-Clause 18.5 Optional Termination	In sub-paragraph (c), "and necessarily" is inserted after "was reasonably".
Sub-Clause 19.1 General Requirements	The following paragraphs are added after the first paragraph: "Wherever the Employer is the insuring Party, each insurance shall be effected with insurers and in terms acceptable to the Contractor. These terms shall be consistent with terms (if any) agreed by both Parties before the date of the Letter of Acceptance. This agreement of terms shall take precedence over the provisions of this Clause.
Sub-Clause 19.2 insurance to be provided by the Contractor	The following is inserted as the first sentence in Sub-Clause 19.2: "The Contractor shall be entitled to place all insurances relating to the Contract (including, but not limited to the insurance referred to in Clause 19) with insurers from the List of Eligible Countries as stated in Sub-Clause 1.5."
Sub-Clause 19.2.1 The Works	On the last line of the second paragraph, "Clause 12 [Tests after completion]" is deleted.
Sub-Clause 19.2.5 Injury to employees	The second paragraph is replaced with: "The Employer and the Engineer shall also be indemnified under the policy of insurance, against liability for claims, damages, losses, and expenses (including legal fees and expenses) arising from injury, sickness, disease, or death of any person employed by the Contractor or any other of the Contractor's Personnel, except that this insurance may exclude losses and claims to the extent that they arise from any act or neglect of the Employer or of the Employer's Personnel."
Sub-Clause 20.1 Claims	In a): "any additional payment" is replaced with "any payment".
Sub-Clause 20.2 Claims for Payment and/or EOT	The first paragraph is replaced with: "If either Party considers that it is entitled to claim under Sub-Clause 20.1 (a) or (b), the following claim procedure shall apply:"
Sub-Clause 20.2.7 General requirements	In the first paragraph, replace "until" with "after" and delete "reasonably".
Sub-Clause 21.1 Constitution of the DAAB	First paragraph: the second sentence is replaced with: "The Parties shall jointly appoint the member(s) of the DAAB within 28 days after the Commencement Date, unless stated otherwise in the Contract Data."

Clause/Sub-Clause	
	<p>In the second paragraph, at the end of the first sentence after deleting: “.”, the following is added: “, each of whom shall meet the criteria set forth in Sub-Clause 3.3 of Appendix- General Conditions of Dispute Avoidance/ Adjudication Agreement.”</p> <p>After the second paragraph insert the following paragraph: “If the Contract is with a foreign Contractor, the DAAB members shall not have the same nationality as the Employer or the Contractor.”</p>
<p>Sub-Clause 21.4.3 The DAAB’s decision</p>	<p>Item (i) of penultimate paragraph is deleted and replaced as follows:</p> <p>subject to sub-paragraph (ii) below, this amount shall be due and payable in the next Payment Certificate, for which the Engineer is obliged to certify, and the Employer is obliged to make payment; and</p>
<p>Sub-Clause 21.6 Arbitration</p>	<p>In the first paragraph, delete starting from: “international arbitration” up to the end of (c), and replace with the following:</p> <p>“arbitration. Arbitration shall be conducted as follows:</p> <p>(a) If the Contractor, or if the leader of the Joint Venture in case the Contractor is a Joint Venture, is from outside the Country, unless otherwise specified in the Contract Data:</p> <p>(i) the Dispute shall be finally settled under the Rules of Arbitration of the Singapore International Arbitration Centre (SIAC), with proceedings administered by SIAC;</p> <p>(ii) the Dispute shall be settled by one or three arbitrators appointed in accordance with these Rules; and</p> <p>(iii) the place of arbitration shall be Singapore or any other neutral place mutually agree by both the Employer and the Contractor.</p> <p>The arbitration shall be conducted in the ruling language defined in Sub-Clause 1.4 [Law and Language].</p> <p>(b) If the Contract is with domestic contractors, arbitration with proceedings conducted in accordance with the laws of the Employer’s country.”</p>
<p align="center">APPENDIX- GENERAL CONDITIONS OF DISPUTE AVOIDANCE/ADJUDICATION AGREEMENT</p>	
<p>Title</p>	<p>General Conditions of Dispute Avoidance/Adjudication Agreement” is replaced with “General Conditions of DAAB Agreement”.</p>
<p>1. Definitions</p>	<p>Sub-Clause 1.2: In both the first and third lines, “DAA Agreement” is replaced with “DAAB Agreement”.</p> <p>Sub-Clause 1.3: -In the first line, “Dispute Avoidance/Adjudication Agreement” or “DAA Agreement” means” is replaced with:</p> <p>“DAAB Agreement” is as defined under the Contract and is”.</p>

Clause/Sub-Clause	
	<p>- In the first line of sub-paragraph (c), "DAA Agreement" is replaced with "DAAB Agreement".</p> <p>- In sub-paragraph (c)(ii), "chairman" is replaced with "chairperson".</p> <p>Sub-Clause 1.7 to 12: Replace all instances of "DAA Agreement" with "DAAB Agreement".</p> <p>In Sub-Clause 1.8 a(i): "authorized representative of the Contractor or of the Employer" is replaced with: "Contractor's Representative or authorized representative of the Employer".</p>
2. General Provisions	Sub-Clause 2.2 is deleted in its entirety.
7. Confidentiality	<p>In Sub-Clause 7.3: "or" is deleted from the end of sub-paragraph (b); "." at the end of sub-paragraph (c) is replaced with: ", or".</p> <p>The following is then added as (d): "(d) is required by the Bank."</p>
10. Resignation and Termination	In Sub-Clause 10.3: "the DAA Agreement" is replaced with: "a DAAB member's DAAB Agreement".
11. Challenge	<p>In Sub-Clause 11.1: on the second line, delete the text: ", or in the case of a three-member DAAB the Other Members jointly,".</p>
Annex- DAAB Procedural Rules	
Rule 4.2	On the fourth line, "chairman" is replaced with "chairperson".
Rules 8.3	On the sixth line, "chairman" is replaced with "chairperson".
Form of Dispute Avoidance/Adjudication Agreement	
<p>All instances of "DAA Agreement" are replaced with: "DAAB Agreement".</p> <p>In C (b): "chairman" is replaced with "chairperson".</p>	

Part C – Corrupt and Fraudulent Practices

1. Purpose

1.1 ADB's Anticorruption Policy and Integrity Principles and Guidelines (both as amended from time to time) and this annex apply with respect to procurement under ADB-financed activities.

2. Requirements

2.1 ADB requires Borrowers (including beneficiaries of ADB-financed activities) and their personnel, as well as firms and individuals participating in an ADB-financed activity, including but not limited to, Bidders, Suppliers and Contractors, agents, subcontractors, subconsultants, service providers, subsuppliers, manufacturers (including their respective officers, directors, employees and personnel) under ADB-financed contracts to observe the highest standard of ethics during the procurement and execution of such contracts in accordance with ADB's Anticorruption Policy (1998, as amended from time to time). In pursuance of this policy, ADB

(a) defines, for the purposes of this provision, the terms set forth below as follows:

- (i) "corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
- (ii) "fraudulent practice" means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
- (iii) "coercive practice" means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- (iv) "collusive practice" means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;
- (v) "abuse" means theft, waste, or improper use of assets related to ADB-related activity, either committed intentionally or through reckless disregard;
- (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) "integrity violation" means any act, as defined under ADB's Integrity Principles and Guidelines (2015, as amended from time to time), which violates ADB's Anticorruption Policy, including (i) to (vi) above and the following: obstructive practice, violations of ADB sanctions, retaliation against whistleblowers or witnesses, and other violations of ADB's Anticorruption Policy, including failure to adhere to the highest ethical standards.

(b) will reject a proposal for award if it determines that the Bidder recommended for award or any of its officers, directors, employees, personnel, subconsultants, subcontractors, service providers, suppliers or manufacturers has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations in competing for the Contract;

- (c) will cancel the portion of the financing allocated to a contract if it determines at any time that representatives of the Borrower or of a beneficiary of ADB financing engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations during the procurement or the execution of that contract, without the Borrower having taken timely and appropriate action satisfactory to ADB to remedy the situation, including by failing to inform ADB in a timely manner at the time they knew of the integrity violations;
- (d) will impose remedial actions on a firm or an individual at any time, in accordance with ADB's Anticorruption Policy and Integrity Principles and Guidelines, including declaring ineligible, either indefinitely or for a stated period of time, to participate⁸ in activities financed, administered, or supported by ADB or to benefit from a contract financed, administered, or supported by ADB or otherwise, if it, at any time, determines that the firm or individual has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations; and
- (e) will have the right to require that a provision be included in bidding documents and in contracts financed, administered, or supported by ADB, requiring Bidders, suppliers, contractors, consultants, manufacturers, service providers and other third parties engaged or involved in ADB-related activities, and their respective officers, directors, employees and personnel, to permit ADB or its representative to inspect the site and their assets, accounts and records and other documents relating to the bid submission and contract performance and to have them audited by auditors appointed by ADB.

2.2 All Bidders, consultants, contractors, suppliers, manufacturers, service providers, and other third parties engaged or involved in ADB-related activities and their respective officers, directors, employees and personnel, are required to cooperate fully in any investigation when requested by ADB to do so. As determined on a case-by-case basis by ADB, such cooperation is set out in detail in the Integrity Principles and Guidelines.

2.3 All Bidders, consultants, contractors and suppliers shall require their officers, directors, employees, personnel, agents to ensure that in its contracts with its subconsultants, Subcontractors, and other third parties engaged or involved in ADB-related activities, such subconsultants, Subcontractors, and other third parties similarly are required to cooperate fully in any investigation when requested by ADB to do so.

2.4 The Contractor undertakes that no fees, gratuities, rebates, gifts, commissions or other payments, other than those shown in the bid, have been given or received in connection with the procurement process or in the contract execution.⁹

⁸ Whether as a Contractor, Subcontractor, Consultant, Manufacturer or Supplier, or Service Provider; or in any other capacity (different names are used depending on the particular Bidding Document).

⁹ The undertaking also applies during the period of performance of the contract.

Part D- Environmental, Health and Safety (EHS)

Metrics for Progress Reports

Metrics for regular reporting:

a. Incidents for Non-Conformance

- (i) Environmental incidents or non-conformance with contract requirements, including contamination, pollution, or damage to ground or water supplies
- (ii) Health and safety incidents, accidents, injuries that require treatment, and all fatalities
- (iii) Interactions with regulators: identify agency, dates, subjects, outcomes (report the negative if none)

b. Status of All Permits and Agreements:

- (i) Work permits: number required, number received, and actions taken for those not received
- (ii) Status of permits and consents:
 - List areas and facilities with permits required (quarries, asphalt, and batch plants), dates of application, dates issued (actions to follow up if not issued), dates submitted to resident engineer (or equivalent), and status of area (waiting for permits, working, abandoned without reclamation, decommissioning plan being implemented, etc.).
 - List areas with landowner agreements required (borrow and spoil areas, camp sites), dates of agreements, and dates submitted to resident engineer (or equivalent).
 - Identify and highlight major activities and environment, health, and safety activities undertaken in each area in the reporting period (land clearing, boundary marking, topsoil salvage, traffic management, decommissioning planning, decommissioning implementation).
 - For quarries: indicate status of relocation and compensation (completed, or details of activities and current status in the reporting period).
 - List parts of the Site for which Notice to commence work and confirmation by the Employer as per Sub-Clause 2.1 was received by the Contractor and the other parts of the Site for which such Notice is pending.

c. Compliance¹⁰

- (i) Compliance status for conditions of all relevant consents and permits for the Work, including quarries, etc.: statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance
- (ii) Compliance status of SSHSMP (as per Sub-Clause 4.8 [*Health and Safety Obligations*]) and SSEMP (as per Sub-Clause 4.18 [*Protection of the Environment*]): statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance
- (iii) Other unresolved issues from previous reporting periods related to environmental and social: continued violations, continued failure of equipment, continued lack of vehicle covers, spills not dealt with, continued compensation or blasting issues, etc.; cross-reference other sections as needed

¹⁰ For projects categorized as Category C for environment for which no EMP has been prepared, the item (ii) should be deleted.

d. Supervision

(i) Environmental Supervision

- (a) Environmental specialist: number of days worked, areas inspected, number of inspections of each (road section, work camp, accommodations, quarries, borrow areas, spoil areas, swamps, forest crossings, etc.), highlights of activities and findings (including violations of environmental requirements/best practices, actions taken), and reports to environmental specialist, construction, and site management
- (b) Community liaison person(s): number of days worked (hours community center open), number of people met, highlights of activities (issues raised, etc.), and reports to specialist, construction, and site management

Health and Safety Supervision

- (a) Health and Safety specialist: number of days worked, number of full and partial inspections, and reports to construction and project management
- (b) Number of workers, work hours, metric of personal protection equipment (PPE) use (percentage of workers with full PPE, partial, etc.), worker violations observed (by type of violation, PPE or otherwise), warnings given, repeat warnings given, and follow-up actions taken (if any)
- (c) Number of partial and full site inspections (by area: road section, work camp, accommodations, quarries, borrow areas, spoil areas, work site, clinic, HIV/AIDS center, community centers, etc.), highlights of activities (including violations of environmental, health and safety requirements observed, actions taken), and reports to health and safety specialist/construction/site management

e. Worker Accommodations:

- (i) Number of expats housed in accommodations and number of locals
- (ii) Date of last inspection and highlights of inspection including status of accommodations' compliance with national and local laws and good practice, including sanitation, space, etc.
- (iii) Actions taken to recommend or require improved conditions, or to improve conditions

f. Training:

- (i) Number of new workers, number receiving induction training, and dates of induction training
- (ii) Number and dates of toolbox talks, number of workers receiving training related to Environment, Health and Safety (EHS)
- (iii) Number and dates of communicable diseases (including sexually transmitted diseases [STDs]) sensitization and/or training, number of workers receiving training (in the reporting period and in the past), and same questions for gender sensitization and flag person training
- (iv) Number and date of EHS-related prevention sensitization and/or training events, including number of workers receiving training on EHS Code of Conduct for Contractor's Personnel (in the reporting period and in the past), etc.

g. Grievances:

List of EHS-related grievances: grievances from affected communities and Worker grievances as recorded in the Contractor's grievance redress mechanism; traffic, road safety, and vehicles/equipment (health and safety or safeguard or environmental specialist needs to provide these requirements),

- (i) Traffic and road safety incidents and accidents involving project vehicles and equipment: provide date, location, damage, cause, follow-up
- (ii) Traffic and road safety incidents and accidents involving non-project vehicles or property (also reported under immediate metrics): provide date, location, damage, cause, and follow-up
- (iii) Overall condition of vehicles or equipment (subjective judgment by environmentalist); non-routine repairs and maintenance needed to improve safety and/or environmental performance (to control smoke, etc.).

h.-Mitigations and Issues (what has been done):

- (i) *Environmental Mitigations*
 - a. Dust: number of working bowsters, number of watering per day, number of complaints, warnings given by environmentalist, actions taken to resolve; highlights of quarry dust control (covers, sprays, operational status); percentage of rock and spoil lorries with covers, and actions taken for uncovered vehicles
 - b. Erosion control: controls implemented by location, status of water crossings, environmentalist inspections and results, actions taken to resolve issues, and emergency repairs needed to control erosion or sedimentation
 - c. Quarries, borrow areas, spoil areas, asphalt plants, batch plants: identify major activities undertaken in the reporting period at each, and highlights of environmental protection—land clearing, boundary marking, topsoil salvage, traffic management, decommissioning planning, and decommissioning implementation
 - d. Blasting: number of blasts (and locations), status of implementation of blasting plan (including notices, evacuations, etc.), and incidents of off-site damage or complaints (cross-reference other sections as needed)
 - e. Spill clean-ups, if any: material spilled, location, amount, actions taken, and disposal (report all spills that result in water or soil contamination)
 - f. Waste management: types and quantities generated and managed, including amount taken off-site (and by whom) or reused, recycled, or disposed on-site
 - g. Details of tree plantings and other mitigations required undertaken in the reporting period
 - h. Details of water and swamp protection mitigations required undertaken in the reporting period
 - i. The Contractor shall identify and report on any special or temporary right of way and any additional facility that have temporary and/or permanent impacts on affected persons' assets, access to assets and/or livelihoods (income sources). It shall put in place corresponding mitigation measures, and implement them.
- (ii) *Health and Safety Mitigations*
 - (a) Details of hazard prevention and control mitigations required undertaken in the reporting period.

Annex to the Particular Conditions

Form of Performance Security

Form of Advance Payment Bank Guarantee

Form of Retention Money Guarantee

(Note: See corresponding forms in Section 9 of bidding documents)

Section 9: Contract Forms

This section contains forms which, once completed, will form part of the Contract. The forms for Performance Security, Advance Payment Guarantee and Retention Money Security, when required, shall only be completed by the successful Bidder after contract award.

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Letter of Acceptance

[on letterhead of Employer]

[date]

To: [Name and address of the contractor]

Subject: Contract No. [please specify]

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

You are requested to furnish the Performance Security within 28 days in accordance with the Conditions of Contract and any additional security required as a result of the evaluation of your bid, using for that purpose the Performance Security Form included in Section 9 (Contract Forms) of the Bidding Document.

Authorized Signature:

Name and Title of Signatory:

Name of Agency:

Attachment: Contract Agreement

Contract Agreement

THIS CONTRACT AGREEMENT made the [date] day of [month], [year], between [name of the Employer] (hereinafter “the Employer”), of the one part, and [name of the contractor] (hereinafter “the Contractor”), of the other part:

WHEREAS the Employer desires that the Works known as [name of the contract] should be executed by the Contractor, and has accepted a Bid by the Contractor for the execution and completion of these Works and the remedying of any defects therein.

The Employer and the Contractor agree as follows:

1. In this Contract Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Contract Agreement. This Contract Agreement shall prevail over all other Contract documents.
 - (a) the Contract Agreement
 - (b) Letter of Acceptance,
 - (c) Letter of Bid,
 - (d) the Particular Conditions – Part A – Contract Data,
 - (e) the Particular Conditions – Part B – Special Provisions,
 - (f) the Particular Conditions – Part C – Corrupt and Fraudulent Practices,
 - (g) the Particular Conditions – Part D – Environmental, Health and Safety (EHS) Metrics for Progress Reports,
 - (h) List of Eligible Countries as defined by the Bank,
 - (i) General Conditions of Contract,
 - (j) the Specifications,
 - (k) the Drawings,
 - (l) completed Schedules including Bill of Quantities,
 - (m) Environment, Health and Safety Code of Conduct for Contractor’s Personnel,
 - (n) Environment, Health and Safety Management Plan (EHSMP),
 - (o) the Joint Venture Undertaking (If Contract is a Joint Venture), and
 - (p) any other documents shall be added here.¹¹
3. In consideration of the payments to be made by the Employer to the Contractor as indicated in this Contract Agreement, the Contractor hereby covenants with the Employer to execute the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract.

¹¹ Tables of Adjustment Data may be added if the contract provides for price adjustment (see GCC 13.7).

4. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Contract Agreement to be executed in accordance with the laws of [name of the borrowing country] on the day, month and year indicated above.

Signed by
for and on behalf of the Employer

Signed by
for and on behalf the Contractor

in the presence of

in the presence of

Witness, Name, Signature, Address, Date

Witness, Name, Signature, Address, Date

Performance Security

[Bank's name, and address of issuing branch or office]¹²

Beneficiary: [Name and address of the Employer]

Date:

Performance Guarantee No.:

We have been informed that [name of the contractor] (hereinafter called "the Contractor") has entered into Contract No. [reference number of the contract] dated [date] with you, for the execution of [name of contract and brief description of works] (hereinafter called "the Contract").

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

At the request of the Contractor, we [name of the bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [name of the currency and amount in words]¹³ [amount in figures] such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation(s) under the Contract, without your needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire, no later than the [date] day of [month], [year],¹⁴ and any demand for payment under it must be received by us at this office on or before that date.

The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed 1 year, in response to the Employer's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.

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

.....
[Signature(s) and seal of bank (where appropriate)]

NOTE TO THE BIDDER

If the bank issuing performance security is located outside the Employer's country, it shall be counter-guaranteed or encashable by a bank in the Employer's country.

¹² All italicized text is for guidance on how to prepare this demand guarantee and shall be deleted from the final document.

¹³ The guarantor shall insert an amount representing the percentage of the accepted contract amount specified in the contract and denominated either in the currency(ies) of the contract or in any freely convertible currency acceptable to the Employer.

¹⁴ Insert the date 28 days after the expected expiry of defect notification period. The Employer should note that in the event of an extension of the time for completion of the contract, the Employer would need to request an extension of this guarantee from the guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [6 months] [1 year], in response to the Employer's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

¹⁵ Or the employer may use "Uniform Rules for Demand Guarantees (URDG), ICC Publication No. 458, except that sub-paragraph (ii) of Sub-article 20(a) is hereby excluded" as appropriate.

Advance Payment Guarantee

[Bank's name, and address of issuing branch or office]¹⁶

Beneficiary: [Name and address of the Employer]

Date:

Advance Payment Guarantee No.:

We have been informed that [name of the contractor] (hereinafter called "the Contractor") has entered into Contract No. [reference number of the contract] dated [date] with you, for the execution of [name of contract and brief description of works] (hereinafter called "the Contract").

Furthermore, we understand that, according to the Conditions of the Contract, an advance payment in the sum [name of the currency and amount in words]¹⁷ [amount in figures] is to be made against an advance payment guarantee.

At the request of the Contractor, we [name of the bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [name of the currency and amount in words]¹⁸ [amount in figures] upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation under the Contract because the Contractor:

- (a) used the advance payment for purposes other than the costs of mobilization and cash flow support in respect of the Works; or
- (b) has failed to repay the advance payment when it has become due and payable in accordance with the conditions of the Contract, specifying the amount payable by the Contractor.

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 Contractor on its account number [Contractor's 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 Contractor as indicated in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that ninety percent (90%) of the Contract Price has been certified for payment, or on the [date] day of [month], [year],¹⁹ whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

¹⁶ All italicized text is for guidance on how to prepare this demand guarantee and shall be deleted from the final document.

¹⁷ The guarantor shall insert an amount representing the amount of the advance payment denominated either in the currency(ies) of the advance payment as specified in the Contract, or in any freely convertible currency acceptable to the Employer.

¹⁸ Footnote 1.

¹⁹ Insert the expected expiration date of the time for completion. The Employer should note that in the event of an extension of the time for completion of the contract, the Employer would need to request an extension of this guarantee from the guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [6 months] [1 year], in response to the Employer's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.²⁰

.....
[Signature(s) and seal of bank (where appropriate)]

NOTE TO THE BIDDER

If the bank issuing advance payment guarantee is located outside the Employer's country, it shall be counter-guaranteed or encashable by a bank in the Employer's country.

²⁰ Or the employer may use "Uniform Rules for Demand Guarantees (URDG), ICC Publication No. 458, except that sub-paragraph (ii) of Sub-article 20(a) is hereby excluded" as appropriate.

Retention Money Security

[Bank's name, and address of issuing branch or office]²¹

Beneficiary: [Name and address of the Employer]

Date:

Retention Money Guarantee No.:

We have been informed that [name of the contractor] (hereinafter called "the Contractor") has entered into Contract No. [reference number of the contract] dated [date] with you, for the execution of [name of contract and brief description of works] (hereinafter called "the Contract").

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

At the request of the Contractor, we [name of the bank] as Guarantor hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [name of the currency and amount in words]²² [amount in figures] such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation(s) under the Contract, without your needing to prove or to show grounds for your demand or the sum specified therein.

It is a condition for any claim and payment under this Guarantee to be made that the second half of the Retention Money referred above must have been received by the Contractor on its account number [Contractor's account number] at [name and address of the bank].

This Guarantee shall expire, no later than the [date] day of [month], [year],²³ and any demand for payment under it must be received by us at this office on or before that date.

²¹ All italicized text is for guidance on how to prepare this demand guarantee and shall be deleted from the final document.

²² The Guarantor shall insert an amount representing the amount of the second half of the Retention Money or if the amount guaranteed under the Performance Guarantee when the Taking-Over Certificate is issued is less than half of the Retention Money, the difference between half of the Retention Money and the amount guaranteed under the Performance Security and denominated either in the currency(ies) of the second half of the Retention Money as specified in the Contract, or in a freely convertible currency acceptable to the Beneficiary.

²³ Insert the date 28 days after the expected latest of the expiry dates of Defect Notification Periods. The Employer should note that in the event of an extension of the Time for Completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [6 months] [1 year], in response to the Employer's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.²⁴

.....
[Signature(s) and seal of bank (where appropriate)]

NOTE TO THE BIDDER

If the bank issuing retention money security is located outside the Employer's country, it shall be counter-guaranteed or encashable by a bank in the Employer's country.

²⁴ Or the employer may use "Uniform Rules for Demand Guarantees (URDG), ICC Publication No. 458, except that sub-paragraph (ii) of Sub-article 20(a) is hereby excluded" as appropriate.