USER’S GUIDE ON THE SELECTION OF CONSULTING SERVICES FOR BORROWERS
STANDARD REQUEST FOR PROPOSALS
MARCH 2022

ASIAN DEVELOPMENT BANK
The views expressed in this publication are those of the authors and do not necessarily reflect the views and policies of the Asian Development Bank (ADB) or its Board of Governors or the governments they represent.

ADB does not guarantee the accuracy of the data included in this publication and accepts no responsibility for any consequence of their use. The mention of specific companies or products of manufacturers does not imply that they are endorsed or recommended by ADB in preference to others of a similar nature that are not mentioned.

By making any designation of or reference to a particular territory or geographic area, or by using the term “country” in this document, ADB does not intend to make any judgments as to the legal or other status of any territory or area.

This work is available under the Creative Commons Attribution-NonCommercial-NoDerivs 3.0 IGO license (CC BY-NC-ND 3.0 IGO) http://creativecommons.org/licenses/by-nc-nd/3.0/igo/. By using the content of this publication, you agree to be bound by the terms of this license. For attribution and permissions, please read the provisions and terms of use at https://www.adb.org/terms-use#openaccess.

This CC license does not apply to non-ADB copyright materials in this publication. If the material is attributed to another source, please contact the copyright owner or publisher of that source for permission to reproduce it. ADB cannot be held liable for any claims that arise as a result of your use of the material.

Please contact pubsmarketing@adb.org if you have questions or comments with respect to content, or if you wish to obtain copyright permission for your intended use that does not fall within these terms, or for permission to use the ADB logo.

Corrigenda to ADB publications may be found at http://www.adb.org/publications/corrigenda.

Note:
In this publication, “$” refers to United States dollars.

Contents

Abbreviations ........................................................................................................................................................................ iv

Introduction ............................................................................................................................................................................. 1

The Recruitment Process ....................................................................................................................................................... 3

Flowchart: Executing Agency-Administered Consulting Firm Recruitment, with Prior Review by ADB .......... 7

Preparing the Request for Proposal (RFP) ......................................................................................................................... 8

Preliminaries ........................................................................................................................................................................... 9

Section 1: Letter of Invitation .................................................................................................................................................. 19
This section is a template of a letter from the Client addressed to a shortlisted consulting firm inviting it to submit a proposal for a consulting assignment. The Letter of Invitation (LOI) includes a list of all shortlisted firms to whom similar letters of invitation are sent, and a reference to the selection method and applicable guidelines or policies of the financing institution that govern the selection and award process.

Section 2: Instructions to Consultants and Data Sheet ........................................................................................................ 26
This section consists of two parts: “Instructions to Consultants” and “Data Sheet”. “Instructions to Consultants” contains provisions that are to be used without modifications. “Data Sheet” contains information specific to each selection and corresponds to the clauses in “Instructions to Consultants” that call for selection-specific information to be added. This Section provides information to help shortlisted consultants prepare their proposals. Information is also provided on the submission, opening, and evaluation of proposals, contract negotiation and award of contract. Information in the Data Sheet indicates whether a Full Technical Proposal, Simplified Technical Proposal, or Biodata Technical Proposal shall be used. Summary and Personnel Evaluation Forms and Grounds for Disqualification of the Experts are attached to the Data Sheet.

Quick Guide to the Instructions to Consultants, Data Sheet, and Selection Methods ......................... 88

Section 3: Technical Proposal—Standard Forms ................................................................................................................ 95
This section includes the forms for Full Technical Proposal, Simplified Technical Proposal, or Biodata Technical Proposal that are to be completed by the shortlisted consultants and submitted in accordance with the requirements of Section 2.

Section 4: Financial Proposal—Standard Forms ............................................................................................................. 111
This section includes the financial forms that are to be completed by the shortlisted consultants, including the consultant's costing of its technical proposal, which are to be submitted in accordance with the requirements of Section 2.

Section 5: Eligible Countries .................................................................................................................................................. 121
This section contains information regarding eligible countries.

Section 6: Anticorruption Policy ............................................................................................................................................. 123
This section provides shortlisted consultants with the reference to ADB's policy in regard to corrupt and fraudulent practices, and the conduct of all parties involved in the selection process and the execution of the contract. This Section is also incorporated in the standard forms of contract (Section 8) as Attachment 1.
Section 7: Terms of Reference (TOR) ................................................................................................. 126
This section describes the scope of services, objectives, goals, specific tasks required to implement the assignment, and relevant background information; provides details on the required qualifications of the key experts; and lists the expected deliverables. This section shall not be used to overwrite provisions in Section 2.

Section 8: Conditions of Contract and Contract Forms ........................................................................... 128
This section includes two types of standard contract forms for large or complex assignments: a Time-Based Contract and a Lump Sum Contract. Each type includes General Conditions of Contract that shall not be modified, and Special Conditions of Contract. The Special Conditions of Contract include clauses specific to each contract to supplement the General Conditions.

Each standard form of contract incorporates ADB’s Anticorruption Policy; Standards of Conduct (Section 6) in a form of Attachment 1.

Harmonized Standard Form of Contract: Consultant’s Services—Time-Based ................................. 129
Harmonized Standard Form of Contract: Consultant’s Services—Lump Sum ................................. 190

Special Topics ........................................................................................................................................ 243
Executing Agency (EA)—Administered Loan/Grant Selections Delegated to ADB ......................... 243
Summary of Tax Provisions in the Request for Proposals (RFP) ....................................................... 244
Abbreviations

ADB ................. Asian Development Bank
BTP ................. biodata technical proposal
CMS ................ consultant management system
CQS ................. consultants’ qualification selection
CSC ................ consultant selection committee
CSRN .............. consulting services recruitment notice
CV .................... curriculum vitae
EA .................... executing agency
EOI .................. expression of interest
ETP .................. evaluated total price
FBS .................. fixed-budget selection
FTP .................. full technical proposal
ICS .................. individual consultant selection
ITC .................. Instructions to Consultants
LCS ................ least-cost selection
MDB ............... multilateral development bank
OAI ................ Office of Anticorruption and Integrity
OCB ................ open competitive bidding
PES ................ personnel evaluation sheet
QBS ................ quality-based selection
QCBS ............... quality- and cost-based selection
REOI ............... request for expression of interest
RFP ................ request for proposals
SES ................ summary evaluation sheet
SRFP............... standard request for proposal
SSS ............... single-source selection or direct contracting
STP ............... simplified technical proposal
TOR ............... terms of reference
UN ................. United Nations
Introduction


This user’s guide has been prepared by ADB for borrowers to use in the procurement of consulting services using the SRFP. The procedures and practices presented in the SRFP have been developed based on international experience and on the Master Procurement Document for Selection of Consultants (Master Document) prepared by multilateral development banks (MDBs) and other public international financial institutions. They are structured according to and contain the provisions of the Master Document, except where ADB-specific considerations have required a change.

The SRFP must be used for the procurement of consulting services for loans, grants, and delegated technical assistance (TA) financed in whole or in part by ADB or by ADB-administered funds unless ADB agrees to the use of other acceptable requests for proposals (RFP).

The text that is shown in italics and within note boxes guides the user in preparing a request for proposals (RFP) and should be deleted from the RFP when it is issued to shortlisted consultants.2

This user’s guide covers the different selection methods described in the Consulting Guidelines and the Procurement Regulations, including:

1. Quality- and Cost-Based Selection (QCBS),
2. Quality-Based Selection (QBS),
3. Fixed-Budget Selection (FBS),
4. Least-Cost Selection (LCS),
5. Consultants Qualifications Selection (CQS); and
6. Direct Contracting, also referred to as Single-Source Selection (SSS).

The use of the SRFP is not required for selections conducted under commercial practices, selection of individual consultants, and TA selections through ADB’s online Consultant Management System (CMS).

For loan and grant selections delegated to ADB, a short write-up including the basis for delegation, and additional references have been included under the Special Topics section below.

---

1 TA may be delegated through a memorandum of understanding with the recipient government to the Executing Agency for the recruitment and supervision of TA consultants.

2 Shortlisted consultant means a legally established entity providing consulting services that has been invited by the borrower to submit a proposal.
Before preparing an RFP for a specific assignment, the user must be familiar with the Policy, the Procurement Regulations for ADB Borrowers, and must have chosen an appropriate selection method and the appropriate contract form. Note that for specific issues, the executing agency (through the ADB User Unit) should consult the assigned ADB PPFD Procurement Specialist.

The SRFP includes two standard forms of contract: one for time-based assignments and the other for lump sum assignments. Section 8 of the RFP (Conditions of Contract and Contract Forms), which precedes the two contracts, indicates the circumstances in which their use is most appropriate.

Use of a single RFP for multiple selections resulting in multiple contract awards is not permissible.

During the evaluation of Expressions of Interest (EOI) stage, users are advised to reconfirm the identity and eligibility of the consultants submitting proposals to ensure:

1. that there had been no transfer of invitation to another party;
2. that if selected, the consultants have the legal capacity to enter into binding and enforceable contracts; and
3. compliance with ADB’s Integrity Principles and Guidelines³ (2015, as amended from time to time), which prohibits the participation of debarred entities (including consultants, sub-consultants, joint venture partners, and experts) in all ADB related activities.

Users are also advised to follow ADB’s Guidance Note on Financial Proposal Evaluation.⁴

An important feature of the SRFP is that it can be used with minimum changes, as it does not contain explanations, footnotes, or examples that should not form part of the RFP.

ADB welcomes any feedback or experiences from both borrowers and bidders on the use of its SRFP. For information on procurement under ADB-financed and Borrower-Administered selections, contact:

PPFD Procurement Specialist
Loan Consulting Unit (LCU)
Procurement, Portfolio, and Financial Management Department (PPFD)
Asian Development Bank
6 ADB Avenue, Mandaluyong City
1550 Metro Manila, Philippines
E-mail: ppfd-lcu@adb.org

The Recruitment Process

The process for recruitment of consultants for loans, grants, and delegated technical assistance (TA) projects financed in whole or in part by ADB, or ADB-administered funds includes six main phases:

1. advertisement and shortlisting,
2. preparing and issuing a request for proposals (RFP),
3. proposal preparation and submission,
4. proposal opening,
5. proposal evaluation, and
6. contract award.

Advertisement and Shortlisting

For open competitive bidding (OCB) assignments, following the Procurement Regulations for ADB Borrowers: Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time) (Procurement Regulations), the request for expression of interest (REOI) must be advertised on ADB’s CMS using a Consulting Services Recruitment Notice (CSRN), and optionally, in a newspaper of national circulation (at least in one English language newspaper/publication, if available) or on an appropriate website in the borrower’s country.

However, when foreign bidders are unlikely to participate and as agreed with ADB in the Procurement Plan, the REOI may be advertised solely in a national press or official gazette or a free and publicly accessible website in the borrower’s country.\(^5\)

Advertisement in CMS using the CSRN is mandatory for internationally advertised assignments and strongly encouraged for national consulting assignments.

The REOI will set out the selection criteria for shortlisting of consultants in accordance with the Consulting Guidelines or the Procurement Regulations, whichever is applicable. The RFP will be issued to shortlisted consultants.

Preparing and Issuing the Request for Proposal

The executing agency, which signs the contract, is referred hereto as the “Client.” The Client is responsible for preparing and issuing the RFP for a specific contract.

The Client shall prepare the RFP using the published version of the SRFP on the ADB website without any modification to Section 2 (Instructions to Consultants), Section 6 (Anticorruption Policy; Standards of Conduct), and Section 8 II (General Conditions of Contract). The Client must provide all information and data particular to each recruitment process in the following sections of the RFP:

• Section 1 Letter of Invitation
• Section 2 Data Sheet (including appendixes)
• Section 3 Technical Proposal—Standard Forms
• Section 4 Financial Proposal—Standard Forms
• Section 5 Eligible Countries
• Section 7 Terms of Reference
• Section 8 III Special Conditions of Contract

The Client should note the following when finalizing the RFP:

• Specific details, such as the name of the Client, address for proposal submissions, name of consulting services assignment, selection method, etc. should be provided in the spaces indicated.

• The italicized notes and highlighted note boxes provide guidance and instructions for the Client within the letter of invitation (Section 1), the data sheet (Section 2), the terms of reference (Section 7), and the special conditions of the contract (Section 8 III). Such italicized notes and highlighted note boxes should be deleted once the RFP is finalized and prior to issuance to the shortlisted consultants.

• Italicized notes and highlighted note boxes specifically meant for shortlisted consultants within the data sheet (Section 2) and the special conditions of contract (Section 8 III) and marked “DO NOT MODIFY” should be retained.

• Italicized notes within technical proposal forms (Section 3) and financial proposal forms (Section 4) should not be deleted from the final RFP document issued.

• Where alternative clauses or text are shown, the Client shall select the most appropriate option for the particular consulting services and discard the unused clauses or text.

The Client shall allow shortlisted consultants sufficient time (depending on the type of proposal required, e.g., full technical proposal (FTP), simplified technical proposal (STP), or biodata technical proposal (BTP) to study the bidding document, prepare a complete and responsive proposal, and submit it on time.
**Proposal Preparation and Submission**

The shortlisted consultant is solely responsible for the preparation and submission of its proposal. During this stage, the Client shall

- promptly respond to requests for clarifications from shortlisted consultants and amend the RFP as needed, following RFP ITC 13.1,6 and ITC 13.1.
- following ITC 13.1.1,7 the executing agency sends a copy of clarifications and amendments to all shortlisted firms, copied to ADB.

**Proposal Opening**

The Client is responsible for the opening of proposals, which is a critical event in the recruitment process. The Client's evaluation committee shall conduct the opening of proposals physically, or virtually, after the deadline of proposals submission in the presence of the shortlisted consultants' representative who chooses to attend. The evaluation committee should ensure that the correct procedures are followed at the opening of proposals. This is because inappropriate procedures are usually irreversible and may require cancellation of the recruitment process, which will result in delays and waste of resources.

The Client, in observance of best practices, shall perform the following checks:

- Conduct the opening of technical proposals strictly following the procedures as specified in the Instructions to Consultants (ITC) not later than the date and time of the proposal submission deadline. The sequence in which proposals are handled, opened, and recorded is crucial.
- Ensure that all proposals that were received on time are accounted for, before opening the proposals since proposals that are not opened and read out during the opening will no longer be considered.
- Reject proposals received after the proposal submission deadline.
- Examine opened proposals in accordance with the provisions of the ITC. The Client should keep a record of the opening of technical proposals with the following information: the name and country of the consultants, the presence or absence of a duly sealed envelope with the financial proposal, any modifications to the proposal submitted prior to the proposal submission deadline, and any other information deemed appropriate or as indicated in the Data Sheet. The envelopes with the financial proposal must remain sealed and securely stored until they are opened in accordance with the ITC.

---

6 RFP ITC 13.1 “...Any request for clarification must be sent in writing, or by standard electronic means, to the Client’s address indicated in the Data Sheet. The Client will respond in writing, or by standard electronic means, and will send written copies of the response (including an explanation of the query but without identifying its source) to all shortlisted consultants.”

7 Following RFP ITC 13.1.1 “At any time before the proposal submission deadline, the Client may change the RFP by issuing an amendment in writing or by standard electronic means. The amendment shall be sent to all shortlisted consultants and will be binding on them. The shortlisted consultants shall acknowledge receipt of all amendments in writing.”
Proposal Evaluation and Contract Award

The Client is responsible for proposal evaluation and contract award. The Client shall appoint experienced staff as members of the committee who will evaluate the technical and financial proposals. Mistakes committed at proposal evaluation may later prompt complaints from shortlisted consultants, requiring the reevaluation of the proposals.

The Client, in observance of best practices, shall

- confirm the absence of actual or potential conflict of interest;
- keep the proposal evaluation process strictly confidential;
- reject any attempts or pressure to distort the outcome of the evaluation, including fraud and corruption;\(^8\)
- strictly apply the evaluation criteria specified in the RFP; and
- ensure that the evaluators of the technical proposals shall have no access to the financial proposals until the technical evaluation is concluded and ADB has issued its “no objection”, if applicable.

---

\(^8\) CSC members must follow RFP Section 2, ITC 3 on Conflict of Interest, ITC 5 on Corrupt and Fraudulent Practices, and Section 6. Bank’s Anticorruption Policy. For every submission for review by ADB, CSC members are also required to submit a signed Statement on Ethical Conduct, template available in the ADB website https://www.adb.org/documents/recruitment-firms-individual-consultants-executing-agencies.
Flowchart: Executing Agency-Administered Consulting Firm Recruitment, with Prior Review by ADB

Legend:

- **ADB Responsible**
- **EA Responsible**

**Legend:**

Preparing the Request for Proposals


The same RFP can be used for selections governed by the 2013 Consulting Guidelines and 2017 Procurement Policy/Regulations.

Summary of changes from the Previous SRFP is also available on the same web page, for reference.

Notes in the guide are color-coded for quick reference.

IMPORTANT:
This user’s guide was prepared for the SRFP template as of December 2021. Future updates to the SRFP may render the help notes in this user guide obsolete.

For suggestions and updates to the User’s Guide, kindly send an e-mail to ppfd-lcu@adb.org.
• Copyright page (page ii)

This document is subject to copyright.
This document may be used and reproduced for non-commercial purposes. Any commercial use, including without limitation reselling, charging to access, redistribute, or for derivative works such as unofficial translations based on these documents is not allowed.

• Abbreviations (page iii)

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADB</td>
<td>Asian Development Bank</td>
</tr>
<tr>
<td>BTP</td>
<td>biodata technical proposal</td>
</tr>
<tr>
<td>CMS</td>
<td>consultant management system</td>
</tr>
<tr>
<td>CQS</td>
<td>consultants’ qualifications selection</td>
</tr>
<tr>
<td>CSC</td>
<td>consultant selection committee</td>
</tr>
<tr>
<td>CSRN</td>
<td>consulting services recruitment notice</td>
</tr>
<tr>
<td>CV</td>
<td>curriculum vitae</td>
</tr>
<tr>
<td>EA</td>
<td>executing agency</td>
</tr>
<tr>
<td>EOI</td>
<td>expression of interest</td>
</tr>
<tr>
<td>ETP</td>
<td>evaluated total price</td>
</tr>
<tr>
<td>FBS</td>
<td>fixed-budget selection</td>
</tr>
<tr>
<td>FTP</td>
<td>full technical proposal</td>
</tr>
<tr>
<td>ICS</td>
<td>individual consultants selection</td>
</tr>
<tr>
<td>LCS</td>
<td>least-cost selection</td>
</tr>
<tr>
<td>MDB</td>
<td>multilateral development bank</td>
</tr>
<tr>
<td>OAI</td>
<td>Office of Anti-corruption and Integrity</td>
</tr>
<tr>
<td>PES</td>
<td>personnel evaluation sheet</td>
</tr>
<tr>
<td>QBS</td>
<td>quality-based selection</td>
</tr>
<tr>
<td>QCBS</td>
<td>quality- and cost-based selection</td>
</tr>
<tr>
<td>RFP</td>
<td>request for proposal</td>
</tr>
<tr>
<td>SES</td>
<td>summary evaluation sheet</td>
</tr>
<tr>
<td>SIFP</td>
<td>standard request for proposal</td>
</tr>
<tr>
<td>SSS</td>
<td>single-source selection or direct contracting</td>
</tr>
<tr>
<td>STP</td>
<td>simplified technical proposal</td>
</tr>
<tr>
<td>TGR</td>
<td>terms of reference</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
</tbody>
</table>
Foreword (pages iv and v)

Foreword

1. This standard request for proposals ("SRFP") has been prepared by the Asian Development Bank ("Bank") and is based on the Master Procurement Document for Selection of Consultants ("Master Document"). The Master Document was prepared by participating multilateral development banks ("MDBs") and reflects what was considered "best practices".

2. This SRFP follows the structure and the provisions of the Master Document, except where specific considerations within the Asian Development Bank have required a change.

3. The italicized notes provide guidance and instructions for the Client within the letter of invitation (Section 1), the data sheet (Section 2), the terms of reference (Section 7) and the special conditions of contract (Section 8 III). Such italicized notes should be deleted once the RFP is finalized and prior to issuance to the shortlisted consultants.

4. Italicized notes specifically meant for shortlisted consultants within the data sheet (Section 2) and the special conditions of contract (Section 8 III) and marked DO NOT MODIFY should be retained. Italicized notes within technical proposal forms (Section 3) and financial proposal forms (Section 4) should not be deleted from the final RFP document issued.

5. This SRFP can be used with different selection methods described in the Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (Consulting Guidelines) or the ADB Procurement Policy 2017 ("Policy") and the Procurement Regulations for ADB Borrowers 2017 ("Procurement Regulations").

6. The use of this SRFP is not required for selections conducted under commercial practice, selection of individual consultants and selection through ADB's online consultant management system (CMS).

7. Before preparing a request for proposals (RFP) for a specific assignment, the user must be familiar with the Consulting Guidelines, the Policy and the Procurement Regulations and must have chosen an appropriate method and the appropriate contract form. The SRFP includes two standard forms of contract: one for time-based assignments and the other for lump sum assignments. Please consult with ADB if the Client wishes to adopt a different form of contract such as Framework Agreement, Section 8 of the RFP (Conditions of Contract and Contract Forms) which precedes the two standard forms of contract indicate the circumstances in which their use is most appropriate.

8. Use of a single RFP for multiple selections resulting in multiple contract awards is not recommended. Please consult with ADB before preparing this type of RFP.


This Master Document has been prepared through the joint efforts of the MDBs, namely: the ADB, African Development Bank (AFDB), Asian Development Bank (ADB), Caribbean Development Bank (CDB), Central American Bank for Economic Integration (CABEI), Inter-American Development Bank (IDB), Islamic Development Bank (IDB), and World Bank Group (WBG). The Master Document reflects what are considered "best practices" and is intended to be used as a model by these organizations for issuing a harmonized Standard Request for Proposals for each individual institution. The Master Document is intended to be followed, insofar as possible, while allowing for institutional and member country considerations.

• Summary Description (pages vi and vii)
Section 6: Anticorruption Policy

This Section provides shortlisted consultants with the reference to the Bank’s policy in regard to corrupt and fraudulent practices, and the conduct of all parties involved in the selection process and the execution of the contract. This Section is also incorporated in the standard forms of contracts (Section 8) as Attachment 1.

Section 7: Terms of Reference (TORs)

This Section describes the scope of services, objectives, goals, specific tasks required to implement the assignment, and relevant background information; provides details on the required qualifications of the key experts; and lists the expected deliverables. This Section shall not be used to over-write provisions in Section 2.

CONDITIONS OF CONTRACT AND CONTRACT FORMS

Section 8: Standard Forms of Contract

This Section includes two types of standard contract forms for large or complex assignments: a Time-Based Contract and a Lump Sum Contract. Each type includes General Conditions of Contract ("GCC") that shall not be modified, and Special Conditions of Contract ("SCC"). The SCC include clauses specific to each contract to supplement the General Conditions.

Each standard form of contract incorporates the Bank’s Anticorruption Policy (Section 6) in a form of Attachment 1.

The first page of the RFP starts on page viii / 1–2.
Front Page / First Page of the RFP

Provide Required Information

SELECTION OF CONSULTANTS

REQUEST FOR PROPOSALS

RFP No.: [insert reference number as per procurement plan]

Selection of Consulting Services for:
[insert assignment title]

Client: ............... [insert implementing agency]
Country: ............... [insert name of country]
Project: ............... [insert project name]

Issued on:
[insert date when sent to shortlisted firms]
For consistency, copy details from the approved Procurement Plan:9

- RFP/Package Number
- Assignment Title
- Client
- Country
- Project Name and Project Number

Insert actual RFP issuance date before sending out the RFP.

- Issuance Date

**Preface**

Provide Required Information

Insert the name of the implementing agency or executing agency that prepared the RFP.

---

**Preface**

This Request for Proposals ("RFP") has been prepared by [insert name of the implementing or executing agency] and is based on the Standard Request for Proposals ("SRFP") issued by the Asian Development Bank ("the Bank"), as amended in December 2021.

The SRFP reflects the structure and the provisions of the Master Procurement Document for Selection of Consultants ("Master Document") prepared by participating Multilateral Development Banks (MDBs), except where specific considerations within the Asian Development Bank have required a change.
Table of Contents

A complete RFP contains all eight sections.

<table>
<thead>
<tr>
<th>Table of Contents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 1 – Letter of Invitation</td>
</tr>
<tr>
<td>Section 2 – Instructions to Consultants and Data Sheet</td>
</tr>
<tr>
<td>Section 3 – Technical Proposal – Standard Forms</td>
</tr>
<tr>
<td>Section 4 – Financial Proposal – Standard Forms</td>
</tr>
<tr>
<td>Section 5 – Eligible Countries</td>
</tr>
<tr>
<td>Section 6 – Bank’s Anticorruption Policy</td>
</tr>
<tr>
<td>Section 7 – Terms of Reference</td>
</tr>
<tr>
<td>Section 8 – Conditions of Contract and Contract Forms</td>
</tr>
</tbody>
</table>
**Table of Clauses**

Revise E. Data Sheet, Form TECH-4, and Section 8

---

### TABLE OF CLAUSES

**Section 1. Letter of Invitation**

**Section 2. Instructions to Consultants and Data Sheet**

**A. General Provisions**
1. Definitions
2. Introduction
3. Conflict of Interest
4. Unfair Competitive Advantage
5. Corrupt and Fraudulent Practices
6. Eligibility

**B. Preparation of Proposals**
7. General Considerations
8. Cost of Preparation of Proposal
9. Language
10. Documents Comprising the Proposal
11. Only One Proposal
12. Proposal Validity
13. Clarification and Amendment of Request for Proposal (RFP)
14. Preparation of Proposals – Specific Considerations
15. Technical Proposal Format and Content
16. Financial Proposal

**C. Submission, Opening and Evaluation**
17. Submission, Sealing, and Marking of Proposals
18. Confidentiality
19. Opening of Technical Proposals
20. Proposals Evaluation
21. Evaluation of Technical Proposals
22. Financial Proposals for Quality-Based Selection (QBS)
23. Public Opening of Financial Proposals for Quality- and Cost-Based Selection (QCBS), Fixed Budget Selection (FBS), and Least-Cost Selection (LCS) methods
24. Correction of Errors
25. Taxes
26. Conversion to Single Currency
27. Combined Quality and Cost Evaluation

**D. Negotiations and Award**
28. Negotiations
29. Conclusion of Negotiations
30. Award of Contract
31. Procurement-Related Complaint
Portions of the second page of the Table of Clauses need to be revised:

- **Section 2. E. Data Sheet** – select the correct appendix and delete the other two.
- **Section 3. Form TECH-4** – select one form and delete the other.
- **Section 8** – select the correct contract form (Time-Based or Lump Sum) and delete the other. There must only be one form of contract attached to the RFP.
Section 1: Letter of Invitation

Addressee, Sender, and six paragraphs need to be edited in the LOI.

**Addressee - EA must use the e-mail address provided by the firm in their EOI when sending the RFP**

<table>
<thead>
<tr>
<th>Section 1. Letter of Invitation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date:</td>
</tr>
<tr>
<td>Loan/Grant No. and Title:</td>
</tr>
<tr>
<td>RFP No:</td>
</tr>
<tr>
<td>Location:</td>
</tr>
<tr>
<td>Deadline for submission:</td>
</tr>
<tr>
<td>Advance Contracting:</td>
</tr>
</tbody>
</table>

(Insert: Name and Address of Consultant (“The Consultant”). In case of a Joint Venture (JV), a full name of the JV and the names of each member as in the submitted Expression of Interest shall be used)

Dear Mr/Ms.:

**Addressee - good practice is to address the LOI separately to each shortlisted firm.**
Sample for loan-funded assignments with the approved loan agreement

1. The **Formal_Name_of_Country** hereinafter called “**Client**” has received financing from the Asian Development Bank (the “Bank”) in the form of a **loan** toward the cost of **Project_Name**. The **Name_of_Executing_Agency**, an executing agency of the **Client**, intends to apply a portion of the proceeds of this **loan** to eligible payments under the contract for which this Request for Proposals is issued. Payments by the Bank will be made only at the request of the **Client** and upon approval by the Bank and will be subject, in all respects, to the terms and conditions of the **loan** agreement. The **loan** agreement prohibits a withdrawal from the **loan** account for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the Bank, is prohibited by a decision of the United Nations Security council taken under Chapter VII of the Charter of the United Nations. No party other than the **Client** shall derive any rights from the **loan** agreement or have any claims to the proceeds of the **loan**.

Sample for grants/donor-funded assignments with approved grant financing

1. The **Formal_Name_of_Country** (the “**Client**”) has been allocated grant funds (the “Grant”) from the **Name_of_Donor_Fund** which are administered by the Asian Development Bank (“the Bank”) and executed by the **Name_of_Executing_Agency**. The **Client** intends to apply the funds to eligible payments under the contract for which this Request for Proposals is issued. Payments by the Bank will be made only at the request of the **Client** and upon approval by the Bank and will be subject, in all respects, to the terms and conditions of the grant agreement. The grant agreement prohibits a withdrawal from the grant account for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the Bank, is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations. 11

No party other than the **Client** shall derive any rights from the grant agreement or have any claims to the proceeds of the grant.

Sample for approved loan- and grant-funded assignments

1. The **Formal_Name_of_Country** hereinafter called “**Client**” has received financing from the Asian Development Bank (the “Bank”) in the form of a loan toward the cost of **Project_Name**. The **Client** has also been allocated grant funds (the “Grant”) from the **Name_of_Donor_Fund** which are administered by the Asian Development Bank (the Bank) and executed by the **Name_of_Executing_Agency**. The **Client** intends to apply a portion of the proceeds of the loan and grant funds to eligible payments under the contract for which this Request for Proposals is issued. Payments by the Bank will be made only at the request of the **Client** and upon approval by the Bank and will be subject, in all respects, to the terms and conditions of the loan and grant agreements. The loan and grant agreements prohibit a withdrawal from the loan and grant accounts for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the Bank, is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations. 12

No party other than the **Client** shall derive any rights from the loan and grant agreements or have any claims to the proceeds of the loan and grant.

Sample for advance contracting assignment

1. The **Formal_Name_of_Country** hereinafter called “**Client**” has applied for financing from the Asian Development Bank (the “Bank”) in the form of a loan toward the cost of **Project_Name**. The **Name_of_Executing_Agency**, an executing agency of the **Client**, intends to apply a portion of the proceeds of this loan to eligible payments under the contract for which this Request for Proposals is issued. Payments by the Bank will be made only at the request of the **Client** and upon approval by the Bank, and will be subject, in all respects, to the terms and conditions of the loan agreement. The loan agreement prohibits a withdrawal from the loan account for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the Bank, is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations. 13

No party other than the **Client** shall derive any rights from the loan agreement or have any claims to the proceeds of the loan.

---

Note that a draft RFP with package name and number that is different from what is mentioned in the Procurement Plan needs to be verified and confirmed by ADB during Submission 1 review.

2. The Client now invites bidders to submit proposals to provide the following consulting services (hereinafter called “Services”): [insert name of consulting services assignment]. More details on the Services are provided in the Terms of Reference (Section 7).

3. This Request for Proposals (RFP) has been addressed to the following shortlisted consultants:

   [Insert the list of shortlisted consultants. If a shortlisted consultant is a Joint Venture (JV), the full name of the JV, as in the Expression of interest, shall be used. In addition, list all members, starting with the name of the lead member. To ensure eligibility, specify country of incorporation for each of the shortlisted consultants, JV partners and Sub-Consultants]

<table>
<thead>
<tr>
<th>No.</th>
<th>Name of Consulting Firm</th>
<th>Country of Incorporation</th>
<th>Nature of Association</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Firm A</td>
<td>USA</td>
<td>Lead Firm</td>
</tr>
<tr>
<td></td>
<td>Firm B</td>
<td>NET</td>
<td>JV Partner</td>
</tr>
<tr>
<td></td>
<td>Firm C</td>
<td>MYA</td>
<td>Sub-Consultant</td>
</tr>
<tr>
<td>2</td>
<td>Firm D</td>
<td>PRC</td>
<td>Lead Firm</td>
</tr>
<tr>
<td></td>
<td>Firm C</td>
<td>MYA</td>
<td>Sub-Consultant</td>
</tr>
<tr>
<td>3</td>
<td>Firm E</td>
<td>INO</td>
<td>Sole Entity</td>
</tr>
</tbody>
</table>
4. It is not permissible to transfer this invitation to any other firm, such as Consultant’s parent companies, subsidiaries, and affiliates. The Client will reject a Proposal if the Consultant drops a joint venture (JV) partner without the Client’s prior consent, which is given only in exceptional circumstances, e.g., when a JV partner is sanctioned or has been declared bankrupt or an occurrence of force majeure.

Sample:

5. A firm will be selected under QCBS procedures using a Full Technical Proposal (FTP) format as described in this RFP, in accordance with the policies of the Bank detailed in the 2017 ADB Procurement Policy and 2017 Procurement Regulations for ADB Borrowers, which can be found at the following websites: https://www.adb.org/documents/adb-procurement-policy, https://www.adb.org/documents/procurement-regulations-adb-borrowers.
Para. 6 – finalize text for Section 3 and Section 8

6. The RFP includes the following documents:

- Section 1 - Letter of Invitation
- Section 2 - Instructions to Consultants, Data Sheet, Summary and Personnel Evaluation Forms, and Grounds for Disqualification of the Experts
- Section 3 - Technical Proposal FTP - Standard Forms
- Section 4 - Financial Proposal - Standard Forms
- Section 5 - Eligible Countries
- Section 6 - Anticorruption Policy
- Section 7 - Terms of Reference
- Section 8 - Standard Forms of Time-Based Contract

Sample:

6. The RFP includes the following documents:

- Section 1 - Letter of Invitation
- Section 2 - Instructions to Consultants, Data Sheet, Summary and Personnel Evaluation Forms, and Grounds for Disqualification of the Experts
- Section 3 - Technical Proposal FTP - Standard Forms
- Section 4 - Financial Proposal - Standard Forms
- Section 5 - Eligible Countries
- Section 6 - Anticorruption Policy
- Section 7 - Terms of Reference
- Section 8 - Standard Forms of Time-Based Contract

Para. 7 – provide EA’s e-mail (or physical address) where the firm can send their confirmation.

7. Please inform the Client by [insert date], in writing at [insert address], by facsimile [insert facsimile number], or by e-mail [insert e-mail address] whether you intend to submit a proposal or not.

7. Please inform the Client by [insert date], in writing at [insert address], or by e-mail [insert e-mail address] whether you intend to submit a proposal or not.
8. Details on the proposal's submission date, time, and address are provided in Clauses 17.7 and 17.9 of the instructions to consultants (ITC).

RFP is normally signed by the Client’s authorized representative e.g., Head of the EA’s Procurement Section.

Yours sincerely,
[Insert: Signature, name, and title of Client’s authorized representative]
Section 2: Instructions to Consultants and Data Sheet

Instructions to Consultants (ITC)

Section 2 - ITC shall not be modified. Any necessary changes, acceptable to the Bank, to address specific country and project issues, to supplement, but not over-write, the provisions of the Instructions to Consultants (ITC), shall be introduced through the Data Sheet only.

A. General Provisions

1. Definitions

(a) “Affiliate(s)” means an individual or an entity that directly or indirectly controls, is controlled by, or is under common control with the consultant.

(b) “Applicable Guidelines” means the guidelines or policies of the Asian Development Bank governing the selection and Contract award process as specified in the Data Sheet.

(c) “Applicable Law” means the laws and any other instruments having the force of law in the Client’s country, or in such other country as may be specified in the Data Sheet, as they may be issued and in force from time to time.

(d) “Bank” means the Asian Development Bank.

(e) “Borrower (or Recipient or Beneficiary)” means the Government, Government agency or other entity that signs the financing (or loan/credit/grant/project) agreement with the Bank.

(f) “Client” means the [implementing or executing agency] that signs the Contract for the Services with the selected consultant.

(g) “Consultant” means a legally-established professional consulting firm or an entity that may provide or provides the Services to the Client under the Contract.

(h) “Contract” means a legally binding written agreement signed between the Client and the Consultant and includes all the attached documents listed in its Clause 1 of the Form of Contract.

(i) “Data Sheet” means an integral part of the Instructions to Consultants in Section 2 used to reflect the specific country and assignment conditions to supplement, but not to over-write, the provisions of the ITC.

(j) “Day” means a calendar day.
(k) “Experts” means, collectively, Key Experts, Non-Key Experts, or any other personnel of the Consultant, Sub-Consultant or Joint Venture member(s) listed in the Data Sheet.

(l) “Government” means the government of the Client’s country.

(m) “Joint Venture (JV)” means an association with or without a legal personality distinct from that of its members, of more than one Consultant where one member has the authority to conduct all business for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally liable to the Client for the performance of the Contract.

(n) “Key Expert(s)” means an individual professional whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose curriculum vitae (CV) is taken into account in the technical evaluation of the Consultant’s proposal.

(o) The “Instructions to Consultants (ITC)” (this Section 2 of the RFP) provides the shortlisted consultants with all the information needed to prepare their Proposals.

(p) The “Letter of Invitation (LOI)” (Section 1 of the RFP) is the letter being sent by the Client to the shortlisted consultants.

(q) “Non-Key Expert(s)” means an individual professional provided by the Consultant or its Sub-Consultant and who is assigned to perform the Services or any part thereof under the Contract and whose CVs are not evaluated individually although the Client retains the prerogative to approve or reject the CV of the Non-Key Expert based on the proposed approach and methodology.


(s) The “Request for Proposals (RFP)” is prepared by the Client for the selection of Consultants, based on the SRFP.

(t) The “Standard Request for Proposals (SRFP)” must be used by the Client as the basis for the preparation of the RFP.

(u) “Services” means the work to be performed by the Consultant pursuant to the Contract.

(v) “Sub-Consultant” means an entity to whom the Consultant intends to subcontract any part of the Services while remaining responsible to the Client during the performance of the Contract.

(w) The “Terms of Reference (TOR)” (Section 7 of the RFP) explain the objectives, scope of work, activities, and tasks to be performed, respective responsibilities of the Client and the
Instructions to Consultants (ITC) – DO NOT MODIFY

2. Introduction

2.1 The Client named in the Data Sheet intends to select a Consultant from those listed in the Letter of Invitation, in accordance with the method of selection specified in the Data Sheet.

2.2 The shortlisted consultants are invited to submit a Technical Proposal and a Financial Proposal, or a Technical Proposal only, as specified in the Data Sheet, for consulting services required for the assignment named in the Data Sheet. The Proposal will be the basis for negotiating and ultimately signing the Contract with the selected Consultant.

2.3 The Consultants should familiarize themselves with the local conditions and take them into account in preparing their Proposals, including attending a pre-proposal conference if one is specified in the Data Sheet. Attending any such pre-proposal conference is optional and is at the Consultants’ expense.

2.4 In a timely manner and at no cost to the Consultants, the Client will provide the inputs, relevant project data, and reports required for the preparation of the Consultant’s Proposal as specified in the Data Sheet.

3. Conflict of Interest

3.1 The Consultant is required to provide professional, objective, and impartial advice, at all times holding the Client’s interests paramount, strictly avoiding conflicts with other assignments or its own corporate interests, and acting without any consideration for future work.

3.2 The Consultant has an obligation to disclose to the Client any situation of actual or potential conflict that impacts its capacity to serve the best interest of its Client. Failure to disclose such situations may lead to the disqualification of the Consultant or the termination of its Contract and/or sanctions by the Bank.

3.3 Without limitation on the generality of the foregoing, the Consultant shall not be hired under the circumstances set forth below:

Conflicting activities

3.3.1 Conflict between consulting activities and procurement of goods, works, or nonconsulting services. A firm that has been engaged by the Client to provide goods, works, or nonconsulting services for a project, or any of its Affiliates, shall be disqualified from providing consulting services resulting from or directly related to those goods, works, or nonconsulting services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, or any of its Affiliates, shall be disqualified from subsequently providing goods or works or nonconsulting services.
services resulting from or directly related to the consulting services for such preparation or implementation.

<table>
<thead>
<tr>
<th>Conflicting assignments</th>
<th>3.3.2 Conflict among consulting assignments. A Consultant (including its Experts and Sub-Consultants) or any of its Affiliates shall not be hired for any assignment that, by its nature, may be in conflict with another assignment of the Consultant for the same or for another Client.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conflicting relationships</td>
<td>3.3.3 Relationship with the Client’s staff. A Consultant (including its Experts and Sub-Consultants) that has a close business or family relationship with a professional staff of the [Borrower or the Client or the Recipient or Beneficiary] or of the [implementing/ executing agency] or of a recipient of a part of the Bank’s financing who are directly or indirectly involved in any part of (i) the preparation of the TOR for the assignment, (ii) the selection process for the Contract, or (iii) the supervision of the Contract, may not be awarded a Contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the Bank throughout the selection process and the execution of the Contract.</td>
</tr>
<tr>
<td>3.3.4 Any other types of conflicting relationships as indicated in the Data Sheet.</td>
<td></td>
</tr>
</tbody>
</table>

4. Unfair Competitive Advantage

4.1 Fairness and transparency in the selection process require that the Consultants or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to the assignment in question. To that end, the Client shall indicate in the Data Sheet and make available to all shortlisted consultants together with this RFP all information that would in that respect give such a Consultant any unfair competitive advantage over competing Consultants.

5. Corrupt and Fraudulent Practices

5.1 The Bank requires compliance with its Anti-corruption Policy as set forth in Section 6.

5.2 In further pursuance of this policy, the Consultant shall permit and shall cause its sub-consultants and subcontractors to permit the Bank or its representatives to inspect their site, assets, accounts, records and other documents relating to the submission of the Proposal and execution of the contract, and to have the accounts and records audited by auditors appointed by the Bank.

6. Eligibility

6.1 The Bank permits consultants (individuals and firms, including JVs and their individual members) from the eligible countries as stated in Section 5 (Eligible Countries) to offer consulting services for Bank-financed projects. In the case of a JV,
(a) all partners shall be jointly and severally liable; and
(b) the JV 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 JV during the bidding process and, in the
event the JV is awarded the Contract, during contract
execution.

6.2 The Consultant, and all parties constituting the Consultant,
should be nationals of an eligible country, in accordance with
Section 5 (Eligible Countries). A Consultant shall be deemed
to have the nationality of a country if the Consultant 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 for any part of the
Contract including related services.

6.2.1 International Experts employed or engaged by an
eligible consulting firm will be considered eligible
regardless of their nationality.

6.2.2 National Experts proposed by the firm must meet
eligibility requirements as defined in Data Sheet 1(k).

6.3 As an exception to Clauses 6.1 and 6.2 above:

Sanctions

6.3.1 A firm or an individual temporarily suspended or debarred
(including cross debarred) by the Bank in accordance with
the above Clause 6.1 or in accordance with the Applicable
Guidelines shall be ineligible to participate in or to be
awarded a Bank-financed, -administered, or -supported
contract, or to benefit from a Bank-financed, -administered,
or -supported contract, financially or otherwise, during such
period of time as the Bank shall determine. A bid from a
temporarily suspended or debarred firm or individual will be
rejected and such bid may be in breach of debarrment
conditions, thereby subject to further ADB’s investigation.
ADB’s Complete Anti-corruption Sanctions List is contained
in the Data Sheet.
<table>
<thead>
<tr>
<th>Prohibitions</th>
<th>6.3.2 Firms and individuals of a country or goods manufactured in a country may be ineligible if so indicated in Section 5 (Eligible Countries) and:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) as a matter of law or official regulations, the Borrower’s/Beneficiary’s country prohibits commercial relations with that country, provided that the Bank is satisfied that such exclusion does not preclude effective competition for the provision of Services required; or</td>
<td></td>
</tr>
<tr>
<td>(b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Borrower’s Country prohibits any import of goods from that country or any payments to any country, person, or entity in respect of goods or services originating in that country, or the Borrower’s Country prohibits payments to particular persons or entities or for particular goods or services by such an act of compliance.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Restrictions for Government-owned Enterprises</th>
<th>6.3.3 Government-owned enterprises or institutions in the Borrower’s country shall be eligible if they can establish that they (i) are legally and financially autonomous, (ii) operate under commercial law, and (iii) that they are not dependent agencies of the Client.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Restrictions for public employees</td>
<td>6.3.4 Government officials and civil servants may only be hired under consulting contracts, as members of a team of a consulting firm, if they (i) are on leave of absence without pay; (ii) are not being hired by the agency they were working for immediately before going on leave; and (iii) their employment would not create a conflict of interest.</td>
</tr>
</tbody>
</table>

### B. Preparation of Proposals

7. General Considerations

7.1 In preparing the Proposal, the Consultant is expected to examine the RFP in detail. Material deficiencies in providing the information requested in the RFP may result in rejection of the Proposal.

8. Cost of Preparation of Proposal

8.1 The Consultant shall bear all costs associated with the preparation and submission of its Proposal, and the Client shall not be responsible or liable for those costs, regardless of the conduct or outcome of the selection process. The Client is not bound to accept any proposal, and reserves the right to annul the selection process at any time prior to...
Contract award, without thereby incurring any liability to the Consultant.

9. Language
9.1 The Proposal, as well as all correspondence and documents relating to the Proposal exchanged between the Consultant and the Client, shall be written in the language(s) specified in the Data Sheet.

10. Documents Comprising the Proposal
10.1 The Proposal shall comprise the documents and forms listed in the Data Sheet.
10.2 The Consultant shall include a statement of an undertaking of the Consultant to observe, in competing for and executing a contract, the Client country’s laws against fraud and corruption (including bribery).
10.3 The Consultant shall furnish information on commissions, gratuities and fees, if any, paid or to be paid to agents or any other party relating to this Proposal and, if awarded, Contract execution, as requested in the Financial Proposal submission form (Section 4).

11. Only One Proposal
11.1 The Consultant (including the individual members of any JV) shall submit only one Proposal, either in its own name or as part of a JV in another Proposal. If a Consultant, including any JV member, submits or participates in more than one proposal, all such proposals shall be disqualified and rejected. This does not, however, preclude a Sub-Consultant, or the Consultant’s staff from participating as Key Experts and Non-Key Experts in more than one Proposal when circumstances justify.

12. Proposal Validity
12.1 The Data Sheet indicates the period during which the Consultant’s Proposal must remain valid after the Proposal submission deadline.
12.2 During this period, the Consultant shall maintain its original Proposal without any change, including the availability of the Key Experts, the proposed rates and the total price.
12.3 If it is established that any Key Expert nominated in the Consultant’s Proposal was not available at the time of Proposal submission or was included in the Proposal without the Key Expert’s confirmation, the Proposal shall be disqualified and rejected for further evaluation, and may be subject to sanctions in accordance with Clause 6 of this ITC.

Extension of Validity Period
12.4 The Client will make its best effort to complete the negotiations within the proposal’s validity period. However, should the need arise, the Client may request, in writing, all Consultants who submitted Proposals prior to the submission deadline to extend the Proposals’ validity.
12.5 If the Consultant agrees to extend the validity of its Proposal, it shall be done without any change in the original Proposal.

12.6 The Consultant has the right to refuse to extend the validity of its Proposal in which case the Proposal will be considered withdrawn.

12.7 If any of the Key Experts become unavailable for the extended validity period, the Consultant shall provide a written adequate justification and evidence satisfactory to the Client together with the substitution request. In this case, a replacement Key Expert shall have equal or better qualifications and experience than those of the originally proposed Key Expert.

12.8 If the Consultant fails to provide a replacement Key Expert with equal or better qualifications, or if the provided reasons for the replacement or justification are unacceptable to the Client, the Proposal will be rejected with the Bank’s prior no objection.

13. Clarification and Amendment of RFP

13.1 The Consultant may request a clarification of any part of the RFP during the period indicated in the Data Sheet before the Proposals’ submission deadline. Any request for clarification must be sent in writing, or by standard electronic means, to the Client’s address indicated in the Data Sheet. The Client will respond in writing, or by standard electronic means, and will send written copies of the response (including an explanation of the query but without identifying its source) to all shortlisted consultants. Should the Client deem it necessary to amend the RFP as a result of a clarification, it shall do so following the procedure described below:

13.1.1 At any time before the proposal submission deadline, the Client may change the RFP by issuing an amendment in writing or by standard electronic means. The amendment shall be sent to all shortlisted consultants and will be binding on them. The shortlisted consultants shall acknowledge receipt of all amendments in writing.

13.1.2 If the amendment is substantial, the Client shall extend the proposal submission deadline to give the shortlisted consultants reasonable time to take an amendment into account in their Proposals.

13.2 The Consultant may submit a modified Proposal or a modification to any part of it at any time prior to the proposal submission deadline. No modifications to the Technical or Financial Proposal shall be accepted after the deadline.
14. Preparation of Proposals – Specific Considerations

14.1 While preparing the Proposal, the Consultant must give particular attention to the following:

14.1.1 If a shortlisted consultant considers that it may enhance its expertise for the assignment by associating with other consultants in the form of a JV or as Sub-Consultants, it may do so with either (a) non-shortlisted consultant(s), or (b) shortlisted consultants if permitted in the Data Sheet. When associating with non-shortlisted firms in the form of a JV or a sub-consultancy, the shortlisted consultant shall be a lead member. If shortlisted consultants associate with each other, any of them can be the lead member.

14.1.2 The Client may indicate in the Data Sheet the estimated Key Experts’ time input (expressed in person-months) and the Client’s estimated total cost of the assignment. This estimate is indicative, and the Proposal shall be based on the Consultant’s own estimates for the same.

14.1.3 If stated in the Data Sheet, the Consultant shall include in its Proposal at least the same time input (in the same unit as indicated in the Data Sheet) of Key Experts, failing which the Financial Proposal will be adjusted for the purpose of comparison of proposals and decision for award in accordance with the procedure in the Data Sheet.

14.1.4 The total available budget, with an indication whether it is inclusive or exclusive of taxes, is given in the Data Sheet, and the Financial Proposal shall not exceed this budget.

15. Technical Proposal Format and Content

15.1 The Technical Proposal shall not include any financial information. A Technical Proposal containing material financial information shall be declared non-responsive.

15.2 Depending on the nature of the assignment, the Consultant is required to submit a full technical proposal (FTP), a biodata technical proposal (BTP) or a simplified technical proposal (STP) as indicated in the Data Sheet and using the Standard Forms provided in Section 3 of the RFP.

16. Financial Proposal

16.1 The Financial Proposal shall be prepared using the Standard Forms provided in Section 4 of the RFP. It shall list all costs associated with the assignment, including (a) remuneration for Key Experts and Non-Key Experts, (b) other expenses, (c) provisional sums when applicable and (d) contingency indicated in the Data Sheet.
Price Adjustment

16.2 For assignments with a duration exceeding 18 months, a price adjustment provision for foreign and/or local inflation for remuneration rates applies if so stated in the Data Sheet.

Taxes

16.3 The Consultant and its Sub-Consultants and Experts are responsible for meeting all tax obligations arising out of the Contract in accordance with the instructions in the Data Sheet.

Currency of Proposal

16.4 The Consultant may express the price for its Services in the currency or currencies as stated in the Data Sheet. If indicated in the Data Sheet, the portion of the price representing local cost shall be stated in the national currency.

Currency of Payment

16.5 Payment under the Contract shall be made in the currency or currencies stated in the Proposal.

C. Submission, Opening and Evaluation

17. Submission, Sealing, and Marking of Proposals

17.1 The Consultant shall submit a signed and complete Proposal comprising the documents and forms in accordance with Clause 10 (Documents Comprising Proposal). The submission can be done by mail or by hand. If specified in the Data Sheet, the Consultant has the option of submitting its Proposal(s) electronically.

17.2 An authorized representative of the Consultant shall sign the original submission letters in the required format for both the Technical Proposal and, if applicable, the Financial Proposals and shall initial all pages of both. The authorization shall be in the form of a written power of attorney attached to the Technical Proposal.

17.2.1 A Proposal submitted by a JV shall be signed by all members so as to be legally binding on all members, or by an authorized representative who has a written power of attorney signed by each member’s authorized representative.

17.3 Any modifications, revisions, interlinearations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Proposal.

17.4 The signed Proposal shall be marked “Original,” and its copies marked “Copy” as appropriate. The number of copies required is indicated in the Data Sheet. All copies shall be made from the signed original. If there are discrepancies
between the original and the copies, the original shall prevail. If there are discrepancies in the delivery time of the original or copies, the time of delivery of the original shall prevail.

17.5 The original and all the copies of the Technical Proposal shall be placed inside a sealed envelope clearly marked “TECHNICAL PROPOSAL,” “[Insert Name of the Assignment],” reference number, name and address of the Consultant, and with a warning “DO NOT OPEN UNTIL [INSERT THE DATE AND THE TIME OF THE TECHNICAL PROPOSAL SUBMISSION DEADLINE].”

17.6 Similarly, the original Financial Proposal (if required for the applicable selection method) shall be placed inside a sealed envelope clearly marked “FINANCIAL PROPOSAL” followed by the name of the assignment, reference number, name and address of the Consultant, and with a warning “DO NOT OPEN WITH THE TECHNICAL PROPOSAL.”

17.7 The sealed envelopes containing the Technical and Financial Proposals shall be placed into one outer envelope and sealed. This outer envelope shall bear the submission address, RFP reference number, the name of the assignment, the Consultant’s name and the address, and shall be clearly marked “DO NOT OPEN BEFORE [insert the time and date of the submission deadline indicated in the Data Sheet].”

17.8 If the envelopes and packages with the Proposal are not sealed and marked as required, the Client will assume no responsibility for the misplacement, loss, or premature opening of the Proposal. For QCBS, FES and LCS, if the Technical and Financial Proposals are not submitted in separate sealed envelopes as required, the Client shall reject the Proposal.

17.9 The Proposal or its modifications must be sent to the address indicated in the Data Sheet and received by the Client no later than the deadline indicated in the Data Sheet, or any extension to this deadline. Any Proposal or its modification received by the Client after the deadline shall be declared late and rejected, and promptly returned unopened.

18. Confidentiality

18.1 From the time the Proposals are opened to the time the Contract is awarded, the Consultant should not contact the Client on any matter related to its Technical and/or Financial Proposal. Information relating to the evaluation of Proposals and award recommendations shall not be disclosed to the Consultants who submitted the Proposals or to any other party not officially concerned with the process, until the publication of the Contract award information.

18.2 Any attempt by shortlisted consultants or anyone on behalf of the Consultant to improperly influence the Client in the
evaluation of the Proposals or Contract award decisions may result in the rejection of its Proposal, and may be subject to the application of the Bank’s prevailing sanctions procedures.

18.3 Notwithstanding the above provisions, from the time of the Proposals’ opening to the time of Contract award publication, if a Consultant wishes to contact the Client or the Bank on any matter related to the selection process, it should do so only in writing.

19. Opening of Technical Proposals

19.1 The Client’s evaluation committee shall conduct the opening of the Technical Proposals in the presence of the shortlisted consultants’ authorized representatives who choose to attend (in person, or online if this option is offered in the Data Sheet). The opening date, time and the address are stated in the Data Sheet. The envelopes with the Financial Proposal shall remain sealed and shall be securely stored until they are opened in accordance with Clause 23 of the ITC.

19.2 At the opening of the Technical Proposals the following shall be read out: (i) the name and the country of the Consultant or, in case of a JV, the name of the JV, the name of the lead member and the names and the countries of all members; (ii) the presence or absence of a duly sealed envelope with the Financial Proposal; (iii) any modifications to the Proposal submitted prior to the proposal submission deadline; and (iv) any other information deemed appropriate or as indicated in the Data Sheet.

20. Proposals Evaluation

20.1 Subject to the provision of Clause 15.1 of the ITC, the evaluators of the Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is concluded and the Bank issues its “no objection”, if applicable.

20.2 The Consultant is not permitted to alter or modify its Proposal in any way after the proposal submission deadline except as permitted under Clause 12.7 of this ITC. While evaluating the Proposals, the Client will conduct the evaluation in accordance with the process specified in the Data Sheet and solely on the basis of the submitted Technical and Financial Proposals.

20.3 From the time the proposals are received by the Client to the time that the Contract is awarded, the Client shall not request the Consultant to provide clarification on any matter related to the Consultant’s Technical or Financial Proposal. In exceptional cases and with prior approval of the Bank, the Client may request clarifications relating to minor clarifications or corrections of obvious errors or
21. Evaluation of Technical Proposals

21.1 The Client’s evaluation committee shall assess the Technical Proposals on the basis of their responsiveness to the TOR and the RFP, applying the evaluation criteria, sub-criteria, and point system specified in the RFP. Each responsive Proposal will be given a technical score. A Proposal shall be rejected if it fails to achieve the minimum technical score indicated in the Data Sheet.

22. Financial Proposals for Quality-Based Selection

22.1 Following the ranking of the Technical Proposals, when the selection is based on quality only (QBS), the top-ranked Consultant is invited to negotiate the Contract.

22.2 If Financial Proposals were invited together with the Technical Proposals, only the Financial Proposal of the technically top-ranked Consultant is opened by the Client’s evaluation committee. All other Financial Proposals are returned unopened after the Contract negotiations are successfully concluded and the Contract is signed.

23. Public Opening of Financial Proposals for Quality- and Cost-Based Selection (QCBS), Fixed Budget Selection (FBS), and Least-Cost Selection (LCS) methods

23.1 After the technical evaluation is completed and the Bank has issued its no objection (if applicable), the Client shall notify those Consultants whose Proposals were considered non-responsive to the RFP and TOR or did not meet the minimum qualifying technical score (and shall provide information relating to the Consultant’s overall technical score) that their Financial Proposals will be returned unopened after completing the selection process and Contract signing. The Client shall simultaneously notify in writing the Consultants that have achieved the minimum overall technical score and inform them of the date, time and location of the opening of the Financial Proposals. The opening date should allow the Consultants sufficient time to make arrangements for attending the opening. The Consultant’s attendance at the opening of the Financial Proposals (in person, or online if such option is indicated in the Data Sheet) is optional and is at the Consultant’s discretion.

23.2 The Financial Proposals shall be opened by the Client’s evaluation committee in the presence of the representatives of the Consultants whose proposals have passed the minimum technical score. At the opening, the names of the Consultants, and the overall technical scores, shall be read aloud. The Financial Proposals will then be inspected to confirm that they have remained sealed and unopened. These Financial Proposals shall then be opened, and the total prices read aloud and recorded. Copies of the Record
of Opening of Financial Proposals shall be sent to all Consultants who submitted Proposals.

24. Correction of Errors

24.1 Activities and items described in the Technical Proposal but not priced in the Financial Proposal, shall be assumed to be included in the prices of other activities or items, and no correction is made to the Financial Proposal.

24.2 In accordance with 16.1 above, the Consultant is required to submit a detailed price proposal. The Client’s evaluation committee will (a) correct any computational or arithmetical errors, and (b) adjust the prices if they fail to reflect all inputs included for the respective activities or items in the Technical Proposal. If there is a discrepancy between (i) a partial amount (sub-total) and the total amount, or (ii) between the amount derived by multiplication of a unit price with the quantity and the total price, or (iii) between words and figures, the former will prevail. In case there is a discrepancy between the Technical and Financial Proposals in indicating quantities of input, the Technical Proposal prevails and the Client’s evaluation committee shall correct the quantity indicated in the Financial Proposal so as to make it consistent with that indicated in the Technical Proposal, apply the relevant unit price included in the Financial Proposal to the corrected quantity, and correct the total Proposal cost.

25. Taxes

Except as set out in the Data Sheet, all taxes are deemed included in the Consultant’s Financial Proposal, and, therefore, included in the evaluation.

26. Conversion to Single Currency

26.1 For evaluation purposes, prices shall be converted to a single currency using the selling rates of exchange, source and date indicated in the Data Sheet.

27. Combined Quality and Cost Evaluation

Quality- and Cost-Based Selection (QCBS)

27.1 In the case of QCBS, the total score is calculated by weighting the technical and financial scores and adding them as per the formula and instructions in the Data Sheet. The Consultant that will achieve the highest combined technical and financial score will be invited for negotiations.

If only a fixed-price proposal is required by the Client (i.e., without any breakdown of costs), the Consultant is deemed to have included all prices in the Financial Proposal, so neither arithmetical corrections nor price adjustments shall be made.
Instructions to Consultants (ITC) – DO NOT MODIFY

2.2 In the case of FBS, those Proposals that exceed the budget indicated in Clause 14.1.4 of the Data Sheet shall be rejected.

2.3 The Client will select the Consultant that submitted the Technical Proposal with the highest score that does not exceed the budget indicated in the RFP, and invite the Consultant to negotiate the Contract.

2.4 In the case of LCS, the Client will select the Consultant with the lowest evaluated total price among the consultants that achieved the minimum technical score, and invite the Consultant to negotiate the Contract.

D. Negotiations and Award

28.1 The negotiations will be held at the date and address indicated in the Data Sheet with the Consultant’s representative(s). The representative must have a written power of attorney to negotiate and sign a Contract on behalf of the Consultant.

28.2 The Client shall prepare the minutes of negotiations, which will be signed by the Client and the Consultant’s authorized representative.

28.3 The invited Consultant shall confirm the availability of all Key Experts included in the Proposal as a prerequisite to the negotiations, or, if applicable, a replacement in accordance with Clause 12 of the ITC. Failure to confirm the Key Experts’ availability may result in the rejection of the Consultant’s Proposal and the Client proceeding to negotiate with the next-ranked Consultant.

28.4 Notwithstanding this, the substitution of Key Experts at the negotiations may be considered if it is due solely to circumstances outside the reasonable control of and not foreseeable by the Consultant, including but not limited to death or medical incapacity. In this case, the Consultant shall offer a substitute Key Expert within the period of time specified in the letter of invitation to negotiate the Contract. The substitute shall have equivalent or better qualifications and experience than the original Key Expert.

28.5 The negotiations include discussions of the TOR, the proposed methodology, the Client’s inputs, the special conditions of the Contract, and finalizing the “Description of Services” part of the Contract. These discussions shall not substantially alter the original scope of services under the TOR or the terms of the contract, lest the quality of the final product, its price, or the relevance of the initial evaluation be affected.
<table>
<thead>
<tr>
<th>Financial negotiations</th>
<th>28.6 The negotiations include the clarification of the Consultant’s tax liability in the Client’s country and how it should be reflected in the Contract.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>28.7 If the selection method included cost as a factor in the evaluation, the total price stated in the Financial Proposal for a Lump Sum contract, subject always to adjustment pursuant to 24.2 above, shall not be negotiated.</td>
</tr>
<tr>
<td>29. Conclusion of Negotiations</td>
<td>29.1 The negotiations are concluded with a review of the finalized draft Contract, which shall then be initiated by the Client and the Consultant’s authorized representative.</td>
</tr>
<tr>
<td></td>
<td>29.2 If the negotiations fail, the Client shall inform the Consultant in writing of all pending issues and disagreements and provide a final opportunity to the Consultant to respond. If the disagreement persists, the Client shall terminate the negotiations informing the Consultant of the reasons for doing so in writing. After having obtained the Bank’s no objection, the Client will invite the next-ranked Consultant to negotiate a Contract. Once the Client commences negotiations with the next-ranked Consultant, the Client shall not reopen the earlier negotiations.</td>
</tr>
<tr>
<td>30. Award of Contract</td>
<td>30.1 After completing the negotiations the Client shall obtain the Bank’s no objection to the negotiated draft Contract, if applicable; sign the Contract; publish the award information as per the instructions in the Data Sheet; and promptly notify the other shortlisted consultants.</td>
</tr>
<tr>
<td></td>
<td>30.2 The Consultant is expected to commence the assignment on the date and at the location specified in the Data Sheet.</td>
</tr>
<tr>
<td>31. Procurement-Related Complaint</td>
<td>31.1 The procedures for making a procurement-related complaint are as specified in the Data Sheet.</td>
</tr>
</tbody>
</table>
## Data Sheet (DS)

ITC column is placed beside DS for easy reference. Only the data sheet column should be modified.

<table>
<thead>
<tr>
<th>Clause</th>
<th>Instructions to Consultants (ITC)</th>
<th>Data Sheet (DS)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A. General Provisions</strong></td>
<td><strong>DO NOT MODIFY</strong></td>
<td></td>
</tr>
<tr>
<td>1. Definitions</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1(a)</td>
<td>“Affiliate(s)” means an individual or an entity that directly or indirectly controls, is controlled by, or is under common control with the consultant.</td>
<td></td>
</tr>
</tbody>
</table>
| 1(b) | “Applicable Guidelines” means the guidelines or policies of the Asian Development Bank governing the selection and Contract award process as specified in the Data Sheet. | **DS 1(b) – Note**  
Refer to the loan/grant agreement for the applicable guidelines.  
For advance contracting, check loan/grant negotiated agreement for the applicable policy. 2017 Procurement Policy and Procurement Regulations apply to all projects with concept notes approved on or after 1 July 2017). ITC placed beside the Data Sheet.  
**Sample:**  
**Applicable Guidelines**  
ADB Procurement Policy 2017 (Policy) and Procurement Regulations for ADB Borrowers 2017 (as amended from time to time) (Procurement Regulations)  
[https://www.adb.org/documents/adb-procurement-policy](https://www.adb.org/documents/adb-procurement-policy)  
| 1(c) | “Applicable Law” means the laws and any other instruments having the force of law in the Client’s country, or in such other country as may be specified in the Data Sheet, as they may be issued and in force from time to time. | **DS 1(c) – Note**  
Country of Applicable Law should be the same as specified in the contract form SCC 1.1(c).  
**Sample:**  
**Country of Applicable Law**  
Republic of the Philippines | |
<p>| 1(d) | “Bank” means the Asian Development Bank. | |</p>
<table>
<thead>
<tr>
<th>Clause</th>
<th>Instructions to Consultants (ITC) DO NOT MODIFY</th>
<th>Data Sheet (DS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1(e)</td>
<td>“Borrower [or Recipient or Beneficiary]” means the Government, Government agency, or other entity that signs the financing [or loan/credit/grant/project] agreement with the Bank.</td>
<td></td>
</tr>
<tr>
<td>1(f)</td>
<td>“Client” means the [implementing or executing agency] that signs the Contract for the Services with the selected consultant.</td>
<td></td>
</tr>
<tr>
<td>1(g)</td>
<td>“Consultant” means a legally-established professional consulting firm or an entity that may provide or provides the Services to the Client under the Contract.</td>
<td></td>
</tr>
<tr>
<td>1(h)</td>
<td>“Contract” means a legally binding written agreement signed between the Client and the Consultant and includes all the attached documents listed in its Clause 1 of the Form of Contract.</td>
<td></td>
</tr>
<tr>
<td>1(i)</td>
<td>“Data Sheet” means an integral part of the Instructions to Consultants in Section 2 used to reflect the specific country and assignment conditions to supplement, but not to over-write, the provisions of the ITC.</td>
<td></td>
</tr>
<tr>
<td>1(j)</td>
<td>“Day” means a calendar day.</td>
<td></td>
</tr>
<tr>
<td>Clause</td>
<td>Instructions to Consultants (ITC) DO NOT MODIFY</td>
<td>Data Sheet (DS)</td>
</tr>
<tr>
<td>--------</td>
<td>---------------------------------------------------------------------------------------------------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>1(k)</td>
<td>“Experts” means, collectively, Key Experts, Non-Key Experts, or any other personnel of the Consultant, Sub-Consultant, or Joint Venture member(s) listed in the Data Sheet.</td>
<td>DS 1(k)⁶ – DO NOT MODIFY.</td>
</tr>
<tr>
<td></td>
<td><strong>Experts</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>ADB differentiates between International and National Experts.</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>International Experts</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>An International Expert means an expert who has the qualification and experience required for an international position.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Note that per ITC 6.2.1, International Experts employed or engaged by an eligible consulting firm will be considered eligible regardless of their nationality.</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>National Experts</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Nationals of the Client’s country who possess the appropriate international experience may be considered for assignments that require international expertise in the national’s own country.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Individuals of ADB member countries who have appropriate authorization to legally reside and work in the country of the assignment but do not hold the nationality of that country may also be considered as national consultants.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Footnote:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>⁶ Citizenship is determined from the passport the expert holds or other legal document in the case of national experts in certain countries who do not have passports.</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Notes:</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>RFP ITC 6.2.1 and 6.2.2 also define eligibility of proposed Experts. Required experience of experts is defined in the TOR.</td>
<td></td>
</tr>
<tr>
<td>1(l)</td>
<td>“Government” means the government of the Client’s country.</td>
<td></td>
</tr>
<tr>
<td>Clause</td>
<td>Instructions to Consultants (ITC)</td>
<td>Data Sheet (DS)</td>
</tr>
<tr>
<td>--------</td>
<td>----------------------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>1(m)</td>
<td>“Joint Venture (JV)” means an association with or without a legal personality distinct from that of its members, of more than one Consultant where one member has the authority to conduct all business for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally liable to the Client for the performance of the Contract.</td>
<td></td>
</tr>
<tr>
<td>1(n)</td>
<td>“Key Expert(s)” means an individual professional whose skills, qualifications, knowledge, and experience are critical to the performance of the Services under the Contract and whose curriculum vitae (CV) is taken into account in the technical evaluation of the Consultant’s proposal.</td>
<td></td>
</tr>
<tr>
<td>1(o)</td>
<td>The “Instructions to Consultants (ITC)” (this Section 2 of the RFP) provides the shortlisted consultants with all the information needed to prepare their Proposals.</td>
<td></td>
</tr>
<tr>
<td>1(p)</td>
<td>The “Letter of Invitation (LOI)” (Section 1 of the RFP) is the letter being sent by the Client to the shortlisted consultants.</td>
<td></td>
</tr>
<tr>
<td>1(q)</td>
<td>“Non-Key Expert(s)” means an individual professional provided by the Consultant or its Sub-Consultant and who is assigned to perform the Services or any part thereof under the Contract and whose CVs are not evaluated individually although the Client retains the prerogative to approve or reject the CV of the Non-Key Expert based on the proposed approach and methodology.</td>
<td></td>
</tr>
<tr>
<td>1(s)</td>
<td>The “Request for Proposals (RFP)” is prepared by the Client for the selection of Consultants, based on the SRFP.</td>
<td></td>
</tr>
<tr>
<td>1(t)</td>
<td>The “Standard Request for Proposals (SRFP)” must be used by the Client as the basis for the preparation of the RFP.</td>
<td></td>
</tr>
</tbody>
</table>
### Clause 1

**Instructions to Consultants (ITC) DO NOT MODIFY**

<table>
<thead>
<tr>
<th>Clause</th>
<th>Data Sheet (DS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1(u)</td>
<td>“Services” means the work to be performed by the Consultant pursuant to the Contract.</td>
</tr>
<tr>
<td>1(v)</td>
<td>“Sub-Consultant” means an entity to whom the Consultant intends to subcontract any part of the Services while remaining responsible to the Client during the performance of the Contract.</td>
</tr>
<tr>
<td>1(w)</td>
<td>The “Terms of Reference (TOR)” (Section 7 of the RFP) explain the objectives, scope of work, activities, and tasks to be performed, respective responsibilities of the Client and the Consultant, and expected results and deliverables of the assignment.</td>
</tr>
</tbody>
</table>

### 2. Introduction

**Sample:**

**Method of Selection**

Name of the Client: 
*Department of Public Works and Highways*

Method of selection: 
*Quality- and Cost-Based Selection (QCBS)* in accordance with 1 b.

<table>
<thead>
<tr>
<th>Clause</th>
<th>Instructions to Consultants (ITC) DO NOT MODIFY</th>
<th>Data Sheet (DS)</th>
</tr>
</thead>
</table>
| 2.2      | The shortlisted consultants are invited to submit a Technical Proposal and a Financial Proposal, or a Technical Proposal only, as specified in the Data Sheet, for consulting services required for the assignment named in the Data Sheet. The Proposal will be the basis for negotiating and ultimately signing the Contract with the selected Consultant. | **DS 2.2 - Note**  
Submission of Financial Proposals:  
- QCBS, FBS and LCS – “Yes” required (see ITC 17.8). Noncompliance may result in rejection of proposal.  
- CQS and Direct Contracting (SWS) – Yes, financial proposals must also be submitted and evaluated.  
- QBS – Yes, also recommended. But there is an option to request financial proposals later. See ITC 22.2.  
Name of assignment – copy name and package number from approved procurement plan.  
**Sample:**  
**Submission of Proposals**  
Financial Proposal to be submitted together with Technical Proposal: Yes  
The name of the assignment is:  
*Construction Supervision for Highway 101* |
<table>
<thead>
<tr>
<th>Clause</th>
<th>Instructions to Consultants (ITC) DO NOT MODIFY</th>
<th>Data Sheet (DS)</th>
</tr>
</thead>
</table>
| 2.3    | The Consultants should familiarize themselves with the local conditions and take them into account in preparing their Proposals, including attending a pre-proposal conference if one is specified in the **Data Sheet**. Attending any such pre-proposal conference is optional and is at the Consultants’ expense. | **DS 2.3 - Note**<br>Client is advised to hold a pre-proposal meeting for complex or high value assignments. The minutes of this meeting must include all questions raised by shortlisted consultants without identifying the source of the questions and the Clients response to each of the questions, and must be circulated to all shortlisted consultants after the meeting.  

**Sample:**  

**Pre-proposal Conference**  
A pre-proposal conference will be held:  
Yes  

Date of pre-proposal conference:  
14 March 2021  

Time:  
9 a.m. Manila time  

Address:  
Conference Venue, City  

Telephone:  
+63 2 8632 4444  

E-mail:  
conferencecoordinator@dept.gov.ph  

Conference coordinator:  
John de la Cruz  
Conference Coordinator |
<table>
<thead>
<tr>
<th>Clause</th>
<th>Instructions to Consultants (ITC) DO NOT MODIFY</th>
<th>Data Sheet (DS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.4</td>
<td>In a timely manner and at no cost to the Consultants, the Client will provide the inputs, relevant project data, and reports required for the preparation of the Consultant’s Proposal as specified in the Data Sheet.</td>
<td>DS 2.4 – Note: All available information for the preparation of the proposal (e.g., Transaction TA (TRTA) Report, Feasibility Studies, drawings) must be included in Section 7 (TOR) as an itemized list with download links.</td>
</tr>
<tr>
<td>3.1</td>
<td>The Consultant is required to provide professional, objective, and impartial advice, at all times holding the Client’s interests paramount, strictly avoiding conflicts with other assignments or its own corporate interests, and acting without any consideration for future work.</td>
<td>Default Text: Information for Proposal Preparation The Client will provide the following inputs, project data, reports, etc. to facilitate the preparation of the Proposals: Refer to Section 7, TOR.</td>
</tr>
<tr>
<td>3.2</td>
<td>The Consultant has an obligation to disclose to the Client any situation of actual or potential conflict that impacts its capacity to serve the best interest of its Client. Failure to disclose such situations may lead to the disqualification of the Consultant or the termination of its Contract and/or sanctions by the Bank.</td>
<td>ITC 3.2 Note: EA should document and report actual and potential COI to ADB, for confirmation or clearance.</td>
</tr>
<tr>
<td>3.3</td>
<td>Without limitation on the generality of the foregoing, the Consultant shall not be hired under the circumstances set forth below:</td>
<td></td>
</tr>
<tr>
<td>Clause</td>
<td>Instructions to Consultants (ITC) DO NOT MODIFY</td>
<td>Data Sheet (DS)</td>
</tr>
<tr>
<td>--------------------------------</td>
<td>-----------------------------------------------</td>
<td>----------------</td>
</tr>
<tr>
<td>3.3.1 Conflicting Activities</td>
<td><strong>Conflict between consulting activities and procurement of goods, works, or nonconsulting services.</strong> A firm that has been engaged by the Client to provide goods, works, or nonconsulting services for a project, or any of its Affiliates, shall be disqualified from providing consulting services resulting from or directly related to those goods, works, or nonconsulting services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, or any of its Affiliates, shall be disqualified from subsequently providing goods or works or nonconsulting services resulting from or directly related to the consulting services for such preparation or implementation.</td>
<td></td>
</tr>
<tr>
<td>3.3.2 Conflicting assignments</td>
<td><strong>Conflict among consulting assignments.</strong> A Consultant (including its Experts and Sub-Consultants) or any of its Affiliates shall not be hired for any assignment that, by its nature, may be in conflict with another assignment of the Consultant for the same or for another Client.</td>
<td></td>
</tr>
<tr>
<td>3.3.3 Conflicting relationships</td>
<td><strong>Relationship with the Client’s staff.</strong> A Consultant (including its Experts and Sub-consultants) that has a close business or family relationship with a professional staff of the [Borrower or the Client or the Recipient or Beneficiary] or of the [implementing/executing agency] or of a recipient of a part of the Bank’s financing who are directly or indirectly involved in any part of (i) the preparation of the TOR for the assignment, (ii) the selection process for the Contract, or (iii) the supervision of the Contract, may not be awarded a Contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the Bank throughout the selection process and the execution of the Contract.</td>
<td></td>
</tr>
<tr>
<td>Clause</td>
<td>Instructions to Consultants (ITC) DO NOT MODIFY</td>
<td>Data Sheet (DS)</td>
</tr>
<tr>
<td>--------</td>
<td>-----------------------------------------------</td>
<td>-----------------</td>
</tr>
</tbody>
</table>
| 3.3.4  | Any other types of conflicting relationships as indicated in the Data Sheet. | **DS 3.3.4 – Note**<br>Insert types of conflicting relationships not specifically covered under ITC 3.3.1, 3.3.2, or 3.3.3.  
**Sample:**  
**Conflicting Relationships**
Not Applicable |

4. Unfair Competitive Advantage

| 4.1    | Fairness and transparency in the selection process require that the Consultants or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to the assignment in question.  
To that end, the Client shall indicate in the Data Sheet and make available to all shortlisted consultants together with this RFP all information that would in that respect give such a Consultant any unfair competitive advantage over competing Consultants. | **DS 4.1 – Note**
- If “Unfair Competitive Advantage” applies to the selection, describe how it is mitigated. For example, where a shortlisted consultant has prepared the Feasibility Study related to this assignment (but is not deemed conflicted), the Client must make all relevant information regarding the Feasibility Study available to all shortlisted consultants either through hard copy or by providing specific URL links to the soft copies.  
- If “Unfair Competitive Advantage” does not apply to this selection, insert “Not Applicable”.  
**Sample:**  
**Unfair Competitive Advantage**
Not Applicable |

5. Corrupt and Fraudulent Practices

<p>| 5.1    | The Bank requires compliance with its Anticorruption Policy as set forth in Section 6. |  |
| 5.2    | In further pursuance of this policy, the Consultant shall permit and shall cause its sub-consultants and sub-contractors to permit the Bank or its representatives to inspect their site, assets, accounts, records, and other documents relating to the submission of the Proposal and execution of the contract, and to have the accounts and records audited by auditors appointed by the Bank. |  |</p>
<table>
<thead>
<tr>
<th>Clause</th>
<th>Instructions to Consultants (ITC)</th>
<th>Data Sheet (DS)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>6. Eligibility</strong></td>
<td><strong>DO NOT MODIFY</strong></td>
<td></td>
</tr>
<tr>
<td><strong>6.1</strong></td>
<td>The Bank permits consultants (individuals and firms, including JVs and their individual members) from the eligible countries as stated in Section 5 (Eligible Countries) to offer consulting services for Bank-financed projects. In the case of a JV, (a) all partners shall be jointly and severally liable; and (b) the JV 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 JV during the bidding process and, in the event the JV is awarded the Contract, during contract execution.</td>
<td></td>
</tr>
<tr>
<td><strong>6.2</strong></td>
<td>The Consultant, and all parties constituting the Consultant, should be nationals of an eligible country, in accordance with Section 5 (Eligible Countries). A Consultant shall be deemed to have the nationality of a country if the Consultant 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 for any part of the Contract including related services.</td>
<td></td>
</tr>
<tr>
<td><strong>6.2.1</strong></td>
<td>International Experts employed or engaged by an eligible consulting firm will be considered eligible regardless of their nationality.</td>
<td></td>
</tr>
<tr>
<td><strong>6.2.2</strong></td>
<td>National Experts proposed by the firm must meet eligibility requirements as defined in Data Sheet 1(k).</td>
<td></td>
</tr>
<tr>
<td><strong>6.3</strong></td>
<td>As an exception to Clauses 6.1 and 6.2 above:</td>
<td></td>
</tr>
<tr>
<td>Clause</td>
<td>Instructions to Consultants (ITC) DO NOT MODIFY</td>
<td>Data Sheet (DS)</td>
</tr>
<tr>
<td>-------------</td>
<td>----------------------------------------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| 6.3.1 Sanctions | A firm or an individual temporarily suspended or debarred (including cross debarred) by the Bank in accordance with the above Clause 5.1 or in accordance with the Applicable Guidelines shall be ineligible to participate in or to be awarded a Bank-financed, -administered, or -supported contract, or to benefit from a Bank-financed, -administered, or -supported contract, financially or otherwise, during such period of time as the Bank shall determine. A bid from a temporarily suspended or debarred firm or individual will be rejected and such bid may be in breach of debarment conditions, thereby subject to further ADB’s investigation. ADB’s Complete Anticorruption Sanctions List is contained in the Data Sheet. | **DS 6.3.1 - DO NOT MODIFY.**  
**ADB’s Sanctions List**  
A published list of debarred firms and individuals is available at the Bank’s external website.  
https://www.adb.org/site/integrity/sanctions.  
**DS 6.3.1 – Requesting Access to ADB OAI’s Complete Sanctions List**  
It is the obligation of the Client to confirm an entity’s eligibility by checking ADB’s Complete Anticorruption Sanctions List (for all bidders) at all stages of bidding process including contract award. ADB has the right to monitor the Client’s compliance with this obligation. Client should request access to ADB’s complete sanctions list through  
or  
<table>
<thead>
<tr>
<th>Clause</th>
<th>Instructions to Consultants (ITC) DO NOT MODIFY</th>
<th>Data Sheet (DS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.3.2 Prohibitions</td>
<td>Firms and individuals of a country or goods manufactured in a country may be ineligible if so indicated in Section 5 (Eligible Countries) and:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) as a matter of law or official regulations, the Borrower’s/Beneficiary’s country prohibits commercial relations with that country, provided that the Bank is satisfied that such exclusion does not preclude effective competition for the provision of Services required;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>or</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Borrower’s Country prohibits any import of goods from that country or any payments to any country, person, or entity in respect of goods or services originating in that country, or the Borrower’s Country prohibits payments to particular persons or entities or for particular goods or services by such an act of compliance.</td>
<td></td>
</tr>
<tr>
<td>6.3.3 Restrictions for Government-owned Enterprises</td>
<td>Government-owned enterprises or institutions in the Borrower’s country shall be eligible if they can establish that they</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(i) are legally and financially autonomous, (ii) operate under commercial law, and (iii) that they are not dependent agencies of the Client.</td>
<td></td>
</tr>
<tr>
<td>6.3.4 Restrictions for public employees</td>
<td>Government officials and civil servants may only be hired under consulting contracts, as members of a team of a consulting firm, if they</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(i) are on leave of absence without pay, (ii) are not being hired by the agency they were working for immediately before going on leave, and (iii) their employment would not create a conflict of interest).</td>
<td></td>
</tr>
</tbody>
</table>
## B. Preparation of Proposals

### 7. General Considerations

<table>
<thead>
<tr>
<th>Clause</th>
<th>Instructions to Consultants (ITC)</th>
</tr>
</thead>
<tbody>
<tr>
<td>7.1</td>
<td>In preparing the Proposal, the Consultant is expected to examine the RFP in detail. Material deficiencies in providing the information requested in the RFP may result in rejection of the Proposal.</td>
</tr>
</tbody>
</table>

### 8. Cost of Preparation of Proposal

<table>
<thead>
<tr>
<th>Clause</th>
<th>Instructions to Consultants (ITC)</th>
</tr>
</thead>
<tbody>
<tr>
<td>8.1</td>
<td>The Consultant shall bear all costs associated with the preparation and submission of its Proposal, and the Client shall not be responsible or liable for those costs, regardless of the conduct or outcome of the selection process. The Client is not bound to accept any proposal and reserves the right to annul the selection process at any time prior to Contract award, without thereby incurring any liability to the Consultant.</td>
</tr>
</tbody>
</table>

### 9. Language

<table>
<thead>
<tr>
<th>Clause</th>
<th>Instructions to Consultants (ITC)</th>
</tr>
</thead>
<tbody>
<tr>
<td>9.1</td>
<td>The Proposal, as well as all correspondence and documents relating to the Proposal exchanged between the Consultant and the Client, shall be written in the language(s) specified in the Data Sheet.</td>
</tr>
</tbody>
</table>

**DS 9.1 – Note**

Unless otherwise approved by ADB, the RFP and other relevant documents and communication should be in the English language. Translations are normally optional.

**Sample:**

**Language**

This RFP has been issued in the English language. Proposals shall be submitted in the English language. All correspondence shall be in the English language.
<table>
<thead>
<tr>
<th>Clause</th>
<th>Instructions to Consultants (ITC)</th>
<th>Data Sheet (DS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>10.1</td>
<td>The Proposal shall comprise the documents and forms listed in the <strong>Data Sheet</strong>.</td>
<td><strong>Sample for FTP:</strong></td>
</tr>
</tbody>
</table>

**Documents Comprising the Proposal**

The Proposal shall comprise the following:

**For FULL TECHNICAL PROPOSAL (FTP):**
- Power of Attorney to sign the Proposal
- Proof of Legal Status and Eligibility
- TECH-1
- TECH-2
- TECH-3
- TECH-4
- TECH-5
- TECH-6

**AND**

**2nd Inner Envelope with the Financial Proposal:**
- FIN-1
- FIN-2
- FIN-3
- FIN-4

Proof of legal status establish Consultant's legal capacity to enter into binding and enforceable contracts and shall be supported by the following or its equivalent as deemed acceptable by the Bank:
- Certificate of incorporation in an ADB member country;
- Partnerships duly organized in an ADB member country; and
- Universities, institutions, public sector organizations, and nongovernment organizations that are not legally incorporated shall provide other documentation that establishes their legal capacity to enter into binding and enforceable contracts with the Client (such as charter, statute, etc.).
<table>
<thead>
<tr>
<th>Clause</th>
<th>Instructions to Consultants (ITC)</th>
<th>Data Sheet (DS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>10.2</td>
<td>The Consultant shall include a statement of an undertaking of the Consultant to observe, in competing for and executing a contract, the Client country’s laws against fraud and corruption (including bribery). <strong>ITC 10.2 – Note</strong> The Statement of Undertaking is already included in Form TECH-1.</td>
<td></td>
</tr>
<tr>
<td>10.3</td>
<td>The Consultant shall furnish information on commissions, gratuities, and fees, if any, paid or to be paid to agents or any other party relating to this Proposal and, if awarded, Contract execution, as requested in the Financial Proposal submission form (Section 4).</td>
<td></td>
</tr>
<tr>
<td>11. Only One Proposal</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11.1</td>
<td>The Consultant (including the individual members of any JV) shall submit only one Proposal, either in its own name or as part of a JV in another Proposal. If a Consultant, including any JV member, submits or participates in more than one proposal, all such proposals shall be disqualified and rejected. This does not, however, preclude a Sub-Consultant, or the Consultant’s staff from participating as Key Experts and Non-Key Experts in more than one Proposal when circumstances justify.</td>
<td></td>
</tr>
<tr>
<td>Clause</td>
<td>Instructions to Consultants (ITC)</td>
<td>Data Sheet (DS)</td>
</tr>
<tr>
<td>--------</td>
<td>-----------------------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>12.1</td>
<td>The <strong>Data Sheet</strong> indicates the period during which the Consultant’s Proposal must remain valid after the Proposal submission deadline.</td>
<td><strong>DS 12.1 – Note</strong>&lt;br&gt;Duration of validity of the proposals should be enough to complete evaluation of the proposals, receive all necessary Government and ADB endorsements and negotiate the contract.&lt;br&gt;&lt;br&gt;Normally, proposal validity period is between 120 and 180 days.&lt;br&gt;• Any period shorter than 120 days may be inadequate for complete proposal evaluation and required endorsements.&lt;br&gt;• Any period longer than 180 days increases the risk of the proposed experts no longer being available.&lt;br&gt;&lt;br&gt;<strong>Sample:</strong>&lt;br&gt;&lt;br&gt;<strong>Proposal Validity</strong>&lt;br&gt;Proposals must remain valid for 180 calendar days after the proposal submission deadline.</td>
</tr>
<tr>
<td>12.2</td>
<td>During this period, the Consultant shall maintain its original Proposal without any change, including the availability of the Key Experts, the proposed rates, and the total price.</td>
<td><strong>Sample:</strong>&lt;br&gt;&lt;br&gt;<strong>DS 12.1 – Note</strong>&lt;br&gt;Duration of validity of the proposals should be enough to complete evaluation of the proposals, receive all necessary Government and ADB endorsements and negotiate the contract.&lt;br&gt;&lt;br&gt;Normally, proposal validity period is between 120 and 180 days.&lt;br&gt;• Any period shorter than 120 days may be inadequate for complete proposal evaluation and required endorsements.&lt;br&gt;• Any period longer than 180 days increases the risk of the proposed experts no longer being available.&lt;br&gt;&lt;br&gt;<strong>Sample:</strong>&lt;br&gt;&lt;br&gt;<strong>Proposal Validity</strong>&lt;br&gt;Proposals must remain valid for 180 calendar days after the proposal submission deadline.</td>
</tr>
<tr>
<td>12.3</td>
<td>If it is established that any Key Expert nominated in the Consultant’s Proposal was not available at the time of Proposal submission or was included in the Proposal without the Key Expert’s confirmation, the Proposal shall be disqualified and rejected for further evaluation, and may be subject to sanctions in accordance with Clause 6 of this ITC.</td>
<td><strong>Sample:</strong>&lt;br&gt;&lt;br&gt;<strong>DS 12.1 – Note</strong>&lt;br&gt;Duration of validity of the proposals should be enough to complete evaluation of the proposals, receive all necessary Government and ADB endorsements and negotiate the contract.&lt;br&gt;&lt;br&gt;Normally, proposal validity period is between 120 and 180 days.&lt;br&gt;• Any period shorter than 120 days may be inadequate for complete proposal evaluation and required endorsements.&lt;br&gt;• Any period longer than 180 days increases the risk of the proposed experts no longer being available.&lt;br&gt;&lt;br&gt;<strong>Sample:</strong>&lt;br&gt;&lt;br&gt;<strong>Proposal Validity</strong>&lt;br&gt;Proposals must remain valid for 180 calendar days after the proposal submission deadline.</td>
</tr>
<tr>
<td>Clause</td>
<td>Instructions to Consultants (ITC)</td>
<td>Data Sheet (DS)</td>
</tr>
<tr>
<td>--------</td>
<td>----------------------------------</td>
<td>----------------</td>
</tr>
<tr>
<td></td>
<td><strong>Extension of Validity Period</strong></td>
<td></td>
</tr>
<tr>
<td>12.4</td>
<td>The Client will make its best effort to complete the negotiations within the proposal's validity period. However, should the need arise, the Client may request, in writing, all Consultants who submitted Proposals prior to the submission deadline to extend the Proposals' validity.</td>
<td></td>
</tr>
<tr>
<td>12.5</td>
<td>If the Consultant agrees to extend the validity of its Proposal, it shall be done without any change in the original Proposal.</td>
<td></td>
</tr>
<tr>
<td>12.6</td>
<td>The Consultant has the right to refuse to extend the validity of its Proposal in which case the Proposal will be considered withdrawn.</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Substitution of Key Experts at Validity Extension</strong></td>
<td></td>
</tr>
<tr>
<td>12.7</td>
<td>If any of the Key Experts become unavailable for the extended validity period, the Consultant shall provide a written adequate justification and evidence satisfactory to the Client together with the substitution request. In this case, a replacement Key Expert shall have equal or better qualifications and experience than those of the originally proposed Key Expert.</td>
<td></td>
</tr>
<tr>
<td>12.8</td>
<td>If the Consultant fails to provide a replacement Key Expert with equal or better qualifications, or if the provided reasons for the replacement or justification are unacceptable to the Client, the Proposal will be rejected with the Bank's prior no objection.</td>
<td></td>
</tr>
<tr>
<td>12.9</td>
<td><strong>Sub-Contracting</strong></td>
<td>The Consultant shall not subcontract the whole of the Services.</td>
</tr>
<tr>
<td>Clause</td>
<td>Instructions to Consultants (ITC)</td>
<td>Data Sheet (DS)</td>
</tr>
<tr>
<td>--------</td>
<td>----------------------------------</td>
<td>----------------</td>
</tr>
</tbody>
</table>
| 13.1   | The Consultant may request a clarification of any part of the RFP during the period indicated in the Data Sheet before the Proposals’ submission deadline. Any request for clarification must be sent in writing, or by standard electronic means, to the Client’s address indicated in the Data Sheet. The Client will respond in writing, or by standard electronic means, and will send written copies of the response (including an explanation of the query but without identifying its source) to all shortlisted consultants. Should the Client deem it necessary to amend the RFP as a result of a clarification, it shall do so following the procedure described below: | DS 13.1 – Note  
• The recommended deadline is at least 10 to 15 days before proposal submission deadline.  
• The Client may also consult with ADB on any request for clarification that may be received from shortlisted consultants.  
• Any fundamental and substantial change may require an amendment to the RFP.  
• Amendments and clarifications should be transmitted to all shortlisted consultants with acknowledgment receipts. 

Sample:  
**Clarification of Request for Proposal**  
Clarifications may be requested no later than 10 days prior to the submission deadline. 

The contact information for requesting clarifications is:  
**John de la Cruz**  
**Director, Department**  
E-mail: clarifications@dept.gov.ph |
| 13.1.1 | At any time before the proposal submission deadline, the Client may change the RFP by issuing an amendment in writing or by standard electronic means. The amendment shall be sent to all shortlisted consultants and will be binding on them. The shortlisted consultants shall acknowledge receipt of all amendments in writing. |
| 13.1.2 | If the amendment is substantial, the Client shall extend the proposal submission deadline to give the shortlisted consultants reasonable time to take an amendment into account in their Proposals. |
| 13.2   | The Consultant may submit a modified Proposal or a modification to any part of it at any time prior to the proposal submission deadline. No modifications to the Technical or Financial Proposal shall be accepted after the deadline. |
### 14. Preparation of Proposals – Specific Considerations

<table>
<thead>
<tr>
<th>Clause</th>
<th>Instructions to Consultants (ITC)</th>
<th>Data Sheet (DS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>14.1</td>
<td>While preparing the Proposal, the Consultant must give particular attention to the following:</td>
<td><strong>DS 14.1.1 – Default Text</strong>&lt;br&gt;Default for (a) Yes&lt;br&gt;Default for (b) No&lt;br&gt;Default provisions for (a) and (b) as stipulated are recommended to allow shortlisted firms to enhance its expertise with non-shortlisted firms and at the same time, prevent shortlisted firms from merging.&lt;br&gt;Any deviation will require prior approval from ADB.</td>
</tr>
<tr>
<td>14.1.1</td>
<td>If a shortlisted consultant considers that it may enhance its expertise for the assignment by associating with other consultants in the form of a JV or as Sub-Consultants, it may do so with either (a) non-shortlisted consultants(s), or (b) shortlisted consultants if permitted in the Data Sheet. When associating with non-shortlisted firms in the form of a JV or a sub-consultancy, the shortlisted consultant shall be a lead member. If shortlisted consultants associate with each other, any of them can be the lead member.</td>
<td><strong>Default Text</strong>&lt;br&gt;&lt;br&gt;<strong>Preparation of Proposals – Specific Considerations</strong>&lt;br&gt;(Association with Shortlisted Consultants)&lt;br&gt;Shortlisted Consultants may associate with&lt;br&gt;&lt;br&gt;(a) non-shortlisted consultant(s): Yes&lt;br&gt;(b) other shortlisted consultants (lead firms and JV partners): No</td>
</tr>
<tr>
<td>Clause</td>
<td>Instructions to Consultants (ITC) DO NOT MODIFY</td>
<td>Data Sheet (DS)</td>
</tr>
<tr>
<td>--------</td>
<td>------------------------------------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>14.1.2</td>
<td>The Client may indicate in the <strong>Data Sheet</strong> the estimated Key Experts’ time-input (expressed in person-months) and the Client’s estimated total cost of the assignment. This estimate is indicative, and the Proposal shall be based on the Consultant’s own estimates for the same.</td>
<td><strong>DS 14.1.2 – Note for Time-Based Contract</strong> Specify minimum Person-Month (PM) inputs in DS 14.1.3 and indicate the estimated or the maximum value of the contract inclusive of contingency and provisional sums in DS 14.1.2.</td>
</tr>
</tbody>
</table>

**DS 14.1.2 – Notes to Client**
For QCBS with estimated inputs, the Client is advised to use Estimated total cost instead of maximum budget.

For small value assignments with lump sum contracts with well-defined output-based TOR and professional standards, stating maximum budget without estimated inputs may suffice.

Estimated Cost and Estimated Inputs are Not Applicable for FBS Selections, where (i) the TOR is precisely defined with no changes expected during implementation; (ii) the time and personnel inputs can be assessed accurately; and (iii) the budget is fixed and cannot be exceeded.

Sample for Time-Based Contract:

**Preparation of Proposals – Specific Considerations**

Estimated time-input of international Key Experts: Not Applicable

Estimated time-input of national Key Experts: Not Applicable

Maximum total cost of the assignment: $1 million including provisional sums and contingency, inclusive of all taxes except for local taxes defined in DS 25.

Indicated budget is normally inclusive of taxes, per ITC 25.

All tax information (exemption, reference, evaluation, and negotiation) should be discussed in DS 16.3 and 25.

For additional guidance, refer to section on Summary of Tax Provisions in the RFP.
<table>
<thead>
<tr>
<th>Clause</th>
<th>Instructions to Consultants (ITC) DO NOT MODIFY</th>
<th>Data Sheet (DS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>14.1.2</td>
<td>The Client may indicate in the <strong>Data Sheet</strong> the estimated Key Experts’ time-input (expressed in person-months) and the Client’s estimated total cost of the assignment. This estimate is indicative, and the Proposal shall be based on the Consultant’s own estimates for the same.</td>
<td><strong>DS 14.1.2 – Note for Lump Sum Contract</strong> Indicate estimated time-input for required Key Experts. Note ITC 24.2 no adjustment on the financial proposal for lump sum contracts. Typically, cost-related variation is <strong>not</strong> allowed after the contract is signed, for lump sum contracts. <strong>Lump sum contracts normally do not include</strong> provisional sums nor contingency. <strong>Sample for Lump Sum Contract:</strong> <strong>Preparation of Proposals – Specific Considerations</strong> Estimated time-input of international Key Experts: 100 person-months Estimated time-input of national Key Experts: 100 person-months Estimated total cost of the assignment: $1 million, including all taxes, except for local taxes defined in DS 25. <strong>Indicated budget is normally inclusive</strong> of taxes, per ITC 25. <strong>All tax information</strong> (exemption, reference, evaluation, and negotiation) should be discussed in DS 16.3 and 25. For additional guidance, refer to section on Summary of Tax Provisions in the RFP.</td>
</tr>
</tbody>
</table>

**DS 14.1.2 – Notes to Client**
For QCBS with estimated inputs, the Client is advised to use Estimated total cost instead of maximum budget.

For small value assignments with lump sum contracts with well-defined output-based TOR and professional standards, stating maximum budget without estimated inputs may suffice.

Estimated Cost and Estimated Inputs are Not Applicable for FBS Selections, where (i) the TOR is precisely defined with no changes expected during implementation; (ii) the time and personnel inputs can be assessed accurately; and (iii) the budget is fixed and cannot be exceeded.
<table>
<thead>
<tr>
<th>Clause</th>
<th>Instructions to Consultants (ITC) DO NOT MODIFY</th>
<th>Data Sheet (DS)</th>
</tr>
</thead>
</table>
| 14.1.3  | If stated in the Data Sheet, the Consultant shall include in its Proposal at least the same time-input (in the same unit as indicated in the Data Sheet) of Key Experts, failing which the Financial Proposal will be adjusted for the purpose of comparison of proposals and decision for award in accordance with the procedure in the Data Sheet. | **DS 14.1.3 – Note**  
Minimum total person-month input for the Key Experts (International and National) must be consistent with the details in the TOR.  

**Sample for Time-Based Contract:**  

**Preparation of Proposals – Specific Considerations**  
*(Minimum Time and Cost Inputs for Time-Based Contracts)*  

Minimum time-input of international Key Experts is:  
100 person-months  
Minimum time-input of national Key Experts is:  
100 person-months  
For the evaluation and comparison of Proposals only: if a Proposal includes less than the required minimum time-input, the Client will adjust the proposal price following the Guidance Note for Financial Evaluation. ADB. 2021. Guidance Note on Financial Proposal Evaluation (Loans/Grants). Manila.  
Proposals that are quoted higher than the required minimum of time-input will not be adjusted.  

**DS 14.1.3 – for Lump Sum Contract**  
Indicate “Not Applicable” |
<table>
<thead>
<tr>
<th>Clause</th>
<th>Instructions to Consultants (ITC) DO NOT MODIFY</th>
<th>Data Sheet (DS)</th>
</tr>
</thead>
</table>
| 14.1.4 | The total available budget, with an indication whether it is inclusive or exclusive of taxes, is given in the Data Sheet, and the Financial Proposal shall not exceed this budget. | **Sample:**  
**Only for QCBS with Maximum Budget**  
Maximum budget for the assignment: $1 million, including provisional sums, contingency, inclusive of all taxes, except for local taxes defined in DS 25.  
The Client shall disqualify the technical and financial proposal if an evaluated FP (Adjusted Total Price) exceeds the maximum budget.  
Client must choose from the 3 options below:  
**Option 1:** (text in sample)  
**Option 2:**  
If an evaluated FP (Adjusted Total Price) exceeds the maximum budget, such proposal will be held nonresponsive and be given a zero score.  
If negotiations fail, the Client can seek approval from ADB to negotiate with the next-ranked firm.  
Note: In such cases, if the firm submitting a Financial Proposal exceeding the maximum budget still obtains the highest combined score in final ranking, this winning firm will be required, as a condition of contract negotiations, to reduce the Financial Proposal to the maximum budget without compromising the TOR for the assignment (and without modification of proposed unit rates).  
**Option 3:**  
If an evaluated FP (Adjusted Total Price) exceeds the maximum budget, the EA will consider the financial proposal, providing a score in the financial evaluation, using the formula in DS 27.1. |

**DS 14.1.4 – Note for QCBS with Maximum Budget**  
For QCBS, the Client is advised to consider the following when using the maximum budget:  
- For high-value contracts with a long contract period and are complex in nature (e.g., civil works supervision dependent on the progress of work), it is difficult to set an accurate budget;  
- Given the uncertainty above, if the Client underestimates the maximum budget, it may risk disqualification of a technically well-qualified Consultant; and  
- QCBS with the maximum budget risks disqualification of FPs during financial evaluation if the proposed price is too close to the maximum budget. If further price adjustments are required, it may potentially invite complaints from the Consultants.  
For all other selection methods, indicate “Not Applicable” in DS14.1.4. Maximum budget can be set in DS 14.1.2 for other selection methods.
<table>
<thead>
<tr>
<th>Clause</th>
<th>Instructions to Consultants (ITC) DO NOT MODIFY</th>
<th>Data Sheet (DS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>DS 14.1.4 and 27.2 for FBS</td>
<td>DS 14.1.4 and 27.2 –</td>
<td>Sample:</td>
</tr>
<tr>
<td></td>
<td>Difference between Fixed-Budget Selection (FBS) and Fixed-Price Proposal (ITC 24.2 Footnote):</td>
<td><strong>Only for FBS</strong></td>
</tr>
<tr>
<td></td>
<td>• Fixed-Budget Selection (FBS) –The firm with the best technical proposal within the budget is selected. EA will reject a proposal if the firm’s price exceeds the budget.</td>
<td>The total available budget for this Fixed-Budget assignment is: $1 million including provisional sums and contingency, inclusive of all taxes except for local taxes defined in DS 25.</td>
</tr>
<tr>
<td></td>
<td>• Fixed-Price Proposal – EA only requires FIN-1 to be submitted by firms.</td>
<td>Proposals exceeding the total available budget will be rejected.</td>
</tr>
<tr>
<td></td>
<td>• FBS with Fixed-Price Proposal – EA will reject a proposal if the FIN-1 price exceeds the budget. See ITC 24.2 footnote for instructions.</td>
<td>Only for Fixed-Price Proposal (See footnote 5 of ITC 24.2): The Proposal refers to the proposed price in Form FIN-1.</td>
</tr>
<tr>
<td></td>
<td>• FBS with Detailed Price Proposal – follow ITC 24.2 to calculate the Adjusted Total Price (ATP), and reject the proposal if ATP exceeds the budget.</td>
<td>Indicated budget is normally inclusive of taxes, per ITC 25.</td>
</tr>
</tbody>
</table>

All tax information (exemption, reference, evaluation, and negotiation) should be discussed in DS 16.3 and 25.

For additional guidance, refer to section on Summary of Tax Provisions in the RFP.
<table>
<thead>
<tr>
<th>Clause</th>
<th>Instructions to Consultants (ITC) DO NOT MODIFY</th>
<th>Data Sheet (DS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>15.1</td>
<td>The Technical Proposal shall not include any financial information. A Technical Proposal containing material financial information shall be declared nonresponsive.</td>
<td></td>
</tr>
</tbody>
</table>
| 15.2   | Depending on the nature of the assignment, the Consultant is required to submit a full technical proposal (FTP), a biodata technical proposal (BTP), or a simplified technical proposal (STP) as indicated in the Data Sheet and using the Standard Forms provided in Section 3 of the RFP. | **DS 15.2 – Note** Ensure that the type of proposal selected is consistent with the:  
- Procurement Plan  
- LOI para. 5 and para. 6  
- DS 10.1  

**Sample:**  

**Format of Technical Proposal**  
The format of the Technical Proposal to be submitted is: **FTP**  

Please refer to the Checklist of Required Forms in Section 3.  

Submission of the Technical Proposal in incorrect format may lead to the Proposal being deemed nonresponsive to the RFP requirements. |
### Clause 16. Financial Proposal

#### 16.1

The Financial Proposal shall be prepared using the Standard Forms provided in Section 4 of the RFP. It shall list all costs associated with the assignment, including:

- (a) remuneration for Key Experts and Non-Key Experts,
- (b) other expenses,
- (c) provisional sums when applicable, and
- (d) contingency indicated in the Data Sheet.

#### DS 16.1 - Notes

The sample list provided is intended for guidance only. Items that are not applicable should be deleted; others may be added.

If the Client wants to set up maximum ceilings for unit rates of certain type of expenses, such ceilings should be indicated in the Financial Proposal – Standard Form FIN-4.

#### Sample:

**Financial Proposal**

- a per diem allowance, including hotel, for experts for every day of absence from the home office for the purposes of the Services;
- cost of travel by the most appropriate means of transport and the most direct practicable route;
- cost of office accommodation, including overheads and backstop support;
- communications costs;
- cost of purchase or rent or freight of any equipment required to be provided by the Consultants;
- cost of reports production (including printing) and delivering to the Client;
- office support staff;
- insurance specific to the assignment (e.g., travel-related medical, professional liability, motor vehicle, third party, equipment, employer’s liability, and workers compensation unless such insurances are included in the overhead expenses); and
- other allowances, where applicable.

If the Consultant includes Provisional Sums and Contingency that either exceeds the amount specified, or is less than the amount, or is not required, adjustments will be made by the Client during evaluation. If adjustments are applied, the adjusted Provisional Sum and Contingency amounts shall be noted and discussed during negotiations. **Please note that the Provisional Sum and Contingency amounts is at the Client’s final discretion and the Client reserve the rights to apply the provisional sum and contingency amount as specified in the RFP in the final contract.**
<table>
<thead>
<tr>
<th>Clause</th>
<th>Instructions to Consultants (ITC) DO NOT MODIFY</th>
<th>Data Sheet (DS)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td><strong>DS 16.1 – Sample Provisional Sum and Contingency, only for Time-Based Contracts</strong></td>
</tr>
<tr>
<td>Sample:</td>
<td></td>
<td><strong>Sample:</strong></td>
</tr>
<tr>
<td></td>
<td>Provisional sums: $75,000, broken down as follows:</td>
<td>→ Workshops/Seminars/Conferences: $25,000</td>
</tr>
<tr>
<td></td>
<td>→ Surveys: $25,000</td>
<td>→ Equipment: $25,000</td>
</tr>
<tr>
<td></td>
<td>→ Contingency: $100,000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>If the Consultant includes Provisional Sums and Contingency that either exceeds the amount specified, or is less than the amount, or is not required, adjustments will be made by the Client during evaluation. If adjustments are applied, the adjusted Provisional Sum and Contingency amounts shall be noted and discussed during negotiations. <strong>Please note that the Provisional Sum and Contingency amounts is at the Client’s final discretion and the Client reserve the rights to apply the provisional sum and contingency amount as specified in the RFP in the final contract.</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Contingency</strong> is normally 5% to 10% of the base cost (remuneration, OPE, provisional sums). Amount should be consistent with the detailed budget breakdown. Contingency &gt; 10% needs to be thoroughly explained by the EA.</td>
<td></td>
</tr>
<tr>
<td>Clause</td>
<td>Instructions to Consultants (ITC) DO NOT MODIFY</td>
<td>Data Sheet (DS)</td>
</tr>
<tr>
<td>--------</td>
<td>-----------------------------------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>16.2</td>
<td>For assignments with a duration exceeding 18 months, a price adjustment provision for foreign and/or local inflation for remuneration rates applies if so stated in the Data Sheet.</td>
<td>Sample for Time-Based Contract exceeding 18 months:</td>
</tr>
<tr>
<td></td>
<td><strong>Price Adjustment</strong></td>
<td><strong>Price Adjustment</strong></td>
</tr>
<tr>
<td></td>
<td>For assignments with a duration exceeding 18 months, a price adjustment provision for foreign and/or local inflation for remuneration rates applies if so stated in the Data Sheet.</td>
<td>A price adjustment provision applies to remuneration rates:</td>
</tr>
<tr>
<td></td>
<td><strong>Yes</strong></td>
<td><strong>Yes</strong></td>
</tr>
<tr>
<td></td>
<td>Consultants should follow SCC 42.3 and include indices of currency of payments as part of the Financial Proposal. The indices shall not be evaluated but will be considered during negotiations with the 1st ranked firm.</td>
<td>Consultants should follow SCC 42.3 and include indices of currency of payments as part of the Financial Proposal. The indices shall not be evaluated but will be considered during negotiations with the 1st ranked firm.</td>
</tr>
<tr>
<td>DS 16.1 – Notes and Sample, for Time-Based Contract</td>
<td>DS 16.1 – Lump Sum Contracts</td>
<td>DS 16.1 – Lump Sum Contracts</td>
</tr>
<tr>
<td>• Select “Yes” for a time-based contract exceeding 18 months and follow SCC 42.3.</td>
<td>• A lump sum contract does not have an adjustment provision because it is a contract at a set price agreed for the output.</td>
<td>• A lump sum contract does not have an adjustment provision because it is a contract at a set price agreed for the output.</td>
</tr>
<tr>
<td>• Adjustment of remuneration should follow provisions in SCC 42.3 of the RFP. Adjustment applies only on the remuneration because a time-based contract reimburses expenses using actual expenses and/or an agreed unit rate.</td>
<td>• It is considered that a Consultant has incorporated a premium for future inflation in the Proposal; and it does not segregate individual remuneration rates.</td>
<td>• It is considered that a Consultant has incorporated a premium for future inflation in the Proposal; and it does not segregate individual remuneration rates.</td>
</tr>
<tr>
<td></td>
<td>• Please consult ADB for exceptional cases.</td>
<td>• Please consult ADB for exceptional cases.</td>
</tr>
<tr>
<td>Clause</td>
<td>Instructions to Consultants (ITC) DO NOT MODIFY</td>
<td>Data Sheet (DS)</td>
</tr>
<tr>
<td>--------</td>
<td>-------------------------------------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td><strong>16.3 and 25</strong></td>
<td>16.3 The Consultant and its Sub-Consultants and Experts are responsible for meeting all tax obligations arising out of the Contract in accordance with instructions in the Data Sheet.</td>
<td><strong>Sample - No Tax Exemption:</strong></td>
</tr>
</tbody>
</table>
| | **DS 16.3 – Notes**  
- Ensure that the tax provision is consistent with SCC 43.1 and SCC 43.2.  
- Reference and treatment of indirect taxes is discussed in DS 25. | **Taxes - Exemption**  
None. |
| | 25 Except as set out in the Data Sheet, all taxes are deemed included in the Consultant’s Financial proposal, and, therefore, included in the evaluation. | **Taxes - Reference**  
“Information on the Consultant’s tax obligations in the Client’s country can be found at [https://www.bir.gov.ph/index.php/taxinformation.html](https://www.bir.gov.ph/index.php/taxinformation.html).” |
| | For additional guidance, refer to section on Summary of Tax Provisions in the RFP. | **Taxes - Evaluation**  
(ITC 25) Except as set out below, all taxes are deemed included in the Consultant’s Financial proposal, and, therefore, included in the evaluation. The Client does not take into account the following taxes during financial proposal evaluation. Therefore, the Consultant shall not include the following taxes in its Financial Proposal:  
(a) all local identifiable indirect taxes such as sales tax, excise tax, VAT, or similar taxes levied on the contract invoices; and  
(b) all additional local tax on the remuneration of services rendered by non-resident experts of the Consultant in the Client’s country.  
If the Consultant nevertheless includes the above taxes in its Financial Proposal, **no adjustments** will be made by the Client for the purposes of evaluation. |
| | | **Taxes - Negotiation**  
At contract negotiations, the above-described local taxes will be discussed and agreed (using the itemized list as guidance) and added to the contract amount in separate lines, as needed, also indicating which taxes shall be paid by the Consultant and which are withheld and paid by the Client on behalf of the Consultant. |
<table>
<thead>
<tr>
<th>Clause</th>
<th>Instructions to Consultants (ITC) DO NOT MODIFY</th>
<th>Data Sheet (DS)</th>
</tr>
</thead>
</table>
| **16.4 Currency of Proposal** | The Consultant may express the price for its Services in the currency or currencies as stated in the Data Sheet. If indicated in the Data Sheet, the portion of the price representing local cost shall be stated in the national currency. | **Sample:**  
**Currency of Proposal**  
The Financial Proposal shall be stated in the following currencies:  
**Consultant may express the price for their Services in any fully convertible currency, singly or in combination of up to three foreign currencies.**  
Consultant must state local costs in the Client’s country currency (local currency): **Yes**  

**Note to Consultant on Local Expenses:**  
If Client indicated “Yes”, then local expenses indicated by the Consultant and noted by the Client in the Financial Proposal will be paid in the local currency.  

**DS 16.4 – default text** is to allow firm to propose in up to three (3) currencies and state local costs in the local currency.  

**Note to Client:**  
If the law of the Client’s country specifically prohibits payments in a currency other than national currency for transactions within its jurisdiction, please specify in this clause. |
<p>| <strong>16.5 Currency of Payment</strong> | Payment under the Contract shall be made in the currency or currencies stated in the Proposal. |     |</p>
<table>
<thead>
<tr>
<th>Clause</th>
<th>Instructions to Consultants (ITC)</th>
<th>Data Sheet (DS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>17. Submission, Sealing, and Marking of Proposals</td>
<td>The Consultant shall submit a signed and complete Proposal comprising the documents and forms in accordance with Clause 10 (Documents Comprising Proposal). The submission can be done by mail or by hand. If specified in the Data Sheet, the Consultant has the option of submitting its Proposals electronically.</td>
<td>DS 17.1. - Note The Client should seek ADB’s prior approval for any proposed electronic submission/e-procurement system (eGP) to be used for bidding or selection of Consultants. Sample: <strong>Electronic Submission of Proposals</strong> The Consultants shall not have the option of submitting their Proposals electronically.</td>
</tr>
<tr>
<td>17.1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>17.2</td>
<td>An authorized representative of the Consultant shall sign the original submission letters in the required format for both the Technical Proposal and, if applicable, the Financial Proposals and shall initial all pages of both. The authorization shall be in the form of a written power of attorney attached to the Technical Proposal.</td>
<td></td>
</tr>
<tr>
<td>17.2.1</td>
<td>A Proposal submitted by a JV shall be signed by all members so as to be legally binding on all members, or by an authorized representative who has a written power of attorney signed by each member’s authorized representative.</td>
<td></td>
</tr>
<tr>
<td>17.3</td>
<td>Any modifications, revisions, interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Proposal.</td>
<td></td>
</tr>
<tr>
<td>Clause</td>
<td>Instructions to Consultants (ITC) DO NOT MODIFY</td>
<td>Data Sheet (DS)</td>
</tr>
<tr>
<td>--------</td>
<td>-----------------------------------------------</td>
<td>----------------</td>
</tr>
<tr>
<td>17.4</td>
<td>The signed Proposal shall be marked “ORIGINAL”, and its copies marked “COPY” as appropriate. The number of copies required is indicated in the Data Sheet. All copies shall be made from the signed original. If there are discrepancies between the original and the copies, the original shall prevail. If there are discrepancies in the delivery time of the original or copies, the time of delivery of the original shall prevail.</td>
<td>Sample: Submission of Proposals The Consultant must submit: (a) Technical Proposal: i. one (1) original and three (3) copies to the Client; and ii. one (1) softcopy in PDF format to ADB Headquarters, Manila at <a href="mailto:loanconsultingproposals@adb.org">loanconsultingproposals@adb.org</a> and include the following information on the subject line of the e-mail: Client, Country, Project, name of consultant). The FINANCIAL PROPOSAL SHALL NOT BE INCLUDED. (b) Financial Proposal: one (1) original to the Client.</td>
</tr>
<tr>
<td></td>
<td>DS 17.4 – Note The EA is requested to inform firms to provide ADB a soft copy of the Technical Proposals Only.</td>
<td>DS 17.4 – For QBS If Financial Proposals will not be invited together with the Technical Proposals pursuant to ITC 22.2, delete item (b).</td>
</tr>
<tr>
<td>17.5</td>
<td>The original and all the copies of the Technical Proposal shall be placed inside a sealed envelope clearly marked “TECHNICAL PROPOSAL”, “[insert Name of the Assignment],” reference number, name and address of the Consultant, and with a warning “DO NOT OPEN UNTIL [INSERT THE DATE AND THE TIME OF THE TECHNICAL PROPOSAL SUBMISSION DEADLINE].”</td>
<td></td>
</tr>
<tr>
<td>17.6</td>
<td>Similarly, the original Financial Proposal (if required for the applicable selection method) shall be placed inside a sealed envelope clearly marked “FINANCIAL PROPOSAL” followed by the name of the assignment, reference number, name and address of the Consultant, and with a warning “DO NOT OPEN WITH THE TECHNICAL PROPOSAL.”</td>
<td></td>
</tr>
<tr>
<td>Clause</td>
<td>Instructions to Consultants (ITC) DO NOT MODIFY</td>
<td>Data Sheet (DS)</td>
</tr>
<tr>
<td>--------</td>
<td>------------------------------------------------</td>
<td>-----------------</td>
</tr>
</tbody>
</table>
| 17.7   | The sealed envelopes containing the Technical and Financial Proposals shall be placed into one outer envelope and sealed. This outer envelope shall bear the submission address, RFP reference number, the name of the assignment, the Consultant’s name, and the address, and shall be clearly marked “DO NOT OPEN BEFORE [insert the time and date of the submission deadline indicated in the Data Sheet]”.

**DS 17.7 and 17.9 – Notes**
- DS refers to ITC 17.7 and ITC 17.9.
- Proposal submission on or before the deadline shall be recorded by the Client when the Client receives the original proposal that comprises the technical and financial proposals and its copies as indicated in DS 17.4.
- If appropriate, add a translation of the warning marking [“Do not open”] in the national language to the outer sealed envelope.
- The Client should ensure that the dates and time indicated in this section are updated prior to issuance of RFP.

**Sample:**

**Deadline for the Submission of Proposals**
The Proposals must be received at the address below no later than:
31 March 2021

Time:
4 p.m. Manila local time

Mark the outer sealed envelope “DO NOT OPEN”

The Proposal submission address is:
Department, Building, Manila, Philippines

The Consultant is requested to submit copies of the Technical Proposal at the same time to ADB HQ in Manila and ADB Resident Mission: One (1) softcopy in PDF format to

ADB HQ: loanconsultingproposals@adb.org

**ADB RM e-mail address**
Project Unit to provide the EA the e-mail address of ADB Resident Mission for receiving the TP softcopy.

ADB Resident Mission
residentmission@adb.org

<p>| 17.8   | If the envelopes and packages with the Proposal are not sealed and marked as required, the Client will assume no responsibility for the misplacement, loss, or premature opening of the Proposal. For QCBS, FBS and LCS, if the Technical and Financial Proposals are not submitted in separate sealed envelopes as required, the Client shall reject the Proposal. | |</p>
<table>
<thead>
<tr>
<th>Clause</th>
<th>Instructions to Consultants (ITC) DO NOT MODIFY</th>
<th>Data Sheet (DS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>17.9</td>
<td>The Proposal or its modifications must be sent to the address indicated in the <strong>Data Sheet</strong> and received by the Client no later than the deadline indicated in the <strong>Data Sheet</strong>, or any extension to this deadline. Any Proposal or its modification received by the Client after the deadline shall be declared late and rejected, and promptly returned unopened.</td>
<td>Refer to note and sample given under DS 17.7 and 17.9</td>
</tr>
</tbody>
</table>

### 18. Confidentiality

<table>
<thead>
<tr>
<th>Clause</th>
<th>Instructions to Consultants (ITC) DO NOT MODIFY</th>
<th>Data Sheet (DS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>18.1</td>
<td>From the time the Proposals are opened to the time the Contract is awarded, the Consultant should not contact the Client on any matter related to its Technical and/or Financial Proposal. Information relating to the evaluation of Proposals and award recommendations shall not be disclosed to the Consultants who submitted the Proposals or to any other party not officially concerned with the process, until the publication of the Contract award information.</td>
<td></td>
</tr>
<tr>
<td>18.2</td>
<td>Any attempt by shortlisted consultants or anyone on behalf of the Consultant to improperly influence the Client in the evaluation of the Proposals or Contract award decisions may result in the rejection of its Proposal, and may be subject to the application of the Bank's prevailing sanctions procedures.</td>
<td></td>
</tr>
<tr>
<td>18.3</td>
<td>Notwithstanding the above provisions, from the time of the Proposals’ opening to the time of Contract award publication, if a Consultant wishes to contact the Client or the Bank on any matter related to the selection process, it should do so only in writing.</td>
<td></td>
</tr>
<tr>
<td>Clause</td>
<td>Instructions to Consultants (ITC)</td>
<td>Data Sheet (DS)</td>
</tr>
<tr>
<td>--------</td>
<td>----------------------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>19</td>
<td><strong>Opening of Technical Proposals</strong></td>
<td></td>
</tr>
<tr>
<td>19.1</td>
<td>The Client’s evaluation committee shall conduct the opening of the Technical Proposals in the presence of the shortlisted consultants’ authorized representatives who choose to attend (in person, or online if this option is offered in the Data Sheet). The opening date, time, and the address are stated in the Data Sheet. The envelopes with the Financial Proposal shall remain sealed and shall be securely stored until they are opened in accordance with Clause 23 of the ITC.</td>
<td><strong>DS 19.1 – Notes</strong>&lt;br&gt;• Complete the information on Technical Proposal opening by indicating the address, date, and time. The date of opening of the Technical Proposal shall be the same as indicated in Data Sheet 17.7.&lt;br&gt;• Proposal opening time should be immediately after the proposal submission deadline.&lt;br&gt;&lt;br&gt;<strong>Sample:</strong>&lt;br&gt;&lt;br&gt;<strong>Opening of Technical Proposals</strong>&lt;br&gt;An online option for the opening for the Technical Proposals is offered: No&lt;br&gt;&lt;br&gt;The opening shall take place at:&lt;br&gt;Same as the Proposal submission address&lt;br&gt;&lt;br&gt;Date: Same as the submission deadline indicated in 17.7.&lt;br&gt;&lt;br&gt;Time: 4:01p.m. Manila local time</td>
</tr>
</tbody>
</table>
| Clause | Instructions to Consultants (ITC)  
**DO NOT MODIFY** | Data Sheet (DS) |
|--------|-------------------------------------------------|----------------|
| 19.2   | At the opening of the Technical Proposals, the following shall be read out:  
(i) the name and the country of the Consultant or, in case of a JV, the name of the JV, the name of the lead member and the names and the countries of all members;  
(ii) the presence or absence of a duly sealed envelope with the Financial Proposal;  
(iii) any modifications to the Proposal submitted prior to the proposal submission deadline; and  
(iv) any other information deemed appropriate or as indicated in the Data Sheet. | **DS 19.2 – Notes**  
- Include additional information to be read out and recorded in the opening minutes.  
- Note that during the TP opening, the EA reads out the names of the firms, including their additional JV partners and Sub-Consultants, that submitted proposals, per ITC 19.2.  
Sample:  
**Information to be read out and recorded during the opening of the Technical Proposals**  
In addition, the following information will be read aloud at the opening of the Technical Proposals:  
**Confirmation that invitation to submit proposal was not transferred to another party.** |
| 20.1   | Subject to the provision of Clause 15.1 of the ITC, the evaluators of the Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is concluded and the Bank issues its “no objection”, if applicable. |  |
| 20.2   | The Consultant is not permitted to alter or modify its Proposal in any way after the proposal submission deadline except as permitted under Clause 12.7 of this ITC. While evaluating the Proposals, the Client will conduct the evaluation in accordance with the process specified in the Data Sheet and solely on the basis of the submitted Technical and Financial Proposals. | **DS 20.2 – Default Text**  
CSC should use ADB’s Guidance Note on Financial Proposal Evaluation.  
**Default Text:**  
**Financial Proposal Evaluation**  
| 20.3   | From the time the proposals are received by the Client to the time that the Contract is awarded, the Client shall not request the Consultant to provide clarification on any matter related to the Consultant’s Technical or Financial Proposal. |  |
In exceptional cases and with prior approval of the Bank, the Client may request clarifications relating to minor clarifications or corrections of obvious errors or inconsistencies. This request shall be made in writing and copied to the Bank.

20.4 Any request for clarification must be sent and responded to in writing and should be date-stamped.

DS 21.1 – Default Text

- Client must attach the Summary and Personnel Evaluation Sheets (SES/PES) as an Appendix to Section 2 ITC and DS.
- Any deviation to the standard evaluation criteria and sub-criteria should be reflected in the SES and PES that are attached to the Data Sheet and should have prior approval from ADB.

**Default Text:**

**Evaluation Criteria**

The evaluation criteria, sub-criteria, and point system are specified in the Summary and Personnel Evaluation Sheets that are attached to the Data Sheet.

The minimum technical score (St) required to pass is: 750 (maximum 1,000 points).

**22. Financial Proposals for Quality-Based Selection**

22.1 Following the ranking of the Technical Proposals, when the selection is based on quality only (QBS), the top-ranked Consultant is invited to negotiate the Contract.

22.2 If Financial Proposals were invited together with the Technical Proposals, only the Financial Proposal of the technically top-ranked Consultant is opened by the Client's evaluation committee. All other Financial Proposals are returned unopened after the Contract negotiations are successfully concluded and the Contract is signed.
<table>
<thead>
<tr>
<th>Clause</th>
<th>Instructions to Consultants (ITC)</th>
<th>Data Sheet (DS)</th>
</tr>
</thead>
</table>
| 23.1   | After the technical evaluation is completed and the Bank has issued its no objection (if applicable), the Client shall notify those Consultants whose Proposals were considered non-responsive to the RFP and TOR or did not meet the minimum qualifying technical score (and shall provide information relating to the Consultant's overall technical score) that their Financial Proposals will be returned unopened after completing the selection process and Contract signing. The Client shall simultaneously notify in writing the Consultants that have achieved the minimum overall technical score and inform them of the date, time, and location of the opening of the Financial Proposals. The opening date should allow the Consultants sufficient time to make arrangements for attending the opening. The Consultant's attendance at the opening of the Financial Proposals (in person, or online if such option is indicated in the Data Sheet) is optional and is at the Consultant's discretion. | **DS 23.1 – Online Opening**
If yes, insert “The online opening procedure shall be: [describe the procedure for online opening of Financial Proposals, including the allowance for online presence of Consultants that submitted Proposals, if possible]”

**Sample for Online/Virtual Opening Option:**

**Public Opening of Financial Proposals**
(for QCBS, FBS, and LCS selection methods)

An online option of the opening of the Financial Proposals is offered: Yes

The online opening procedure shall be:
- **Consultants can view the technical proposal opening via “Zoom” app**
- Please e-mail tpopening@dept.gov.ph to register and receive the Zoom link

<p>| 23.2   | The Financial Proposals shall be opened by the Client's evaluation committee in the presence of the representatives of the Consultants whose proposals have passed the minimum technical score. At the opening, the names of the Consultants, and the overall technical scores, shall be read aloud. The Financial Proposals will then be inspected to confirm that they have remained sealed and unopened. These Financial Proposals shall then be opened, and the total prices read aloud and recorded. Copies of the Record of Opening of Financial Proposals shall be sent to all Consultants who submitted Proposals. | |
| 24.1   | Activities and items described in the Technical Proposal but not priced in the Financial Proposal shall be assumed to be included in the prices of other activities or items, and no correction is made to the Financial Proposal. | |</p>
<table>
<thead>
<tr>
<th>Clause</th>
<th>Instructions to Consultants (ITC) DO NOT MODIFY</th>
<th>Data Sheet (DS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>24.2</td>
<td>In accordance with 16.1 above, the Consultant is required to submit a detailed price proposal.(^5) The Client’s evaluation committee will (a) correct any computational or arithmetical errors, and (b) adjust the prices if they fail to reflect all inputs included for the respective activities or items in the Technical Proposal. If there is a discrepancy between (i) a partial amount (sub-total) and the total amount, or (ii) between the amount derived by multiplication of a unit price with the quantity and the total price, or (iii) between words and figures, the former will prevail. In case there is a discrepancy between the Technical and Financial Proposals in indicating quantities of input, the Technical Proposal prevails and the Client’s evaluation committee shall correct the quantity indicated in the Financial Proposal so as to make it consistent with that indicated in the Technical Proposal, apply the relevant unit price included in the Financial Proposal to the corrected quantity, and correct the total Proposal cost.</td>
<td></td>
</tr>
<tr>
<td>24.2 Footnote 5</td>
<td>(^5) If only a fixed-price proposal is required by the Client (i.e., without any breakdown of costs), the Consultant is deemed to have included all prices in the Financial Proposal, so neither arithmetical corrections nor price adjustments shall be made.</td>
<td></td>
</tr>
<tr>
<td>25. Taxes</td>
<td>Except as set out in the Data Sheet, all taxes are deemed included in the Consultant’s Financial proposal, and, therefore, included in the evaluation.</td>
<td>Combined with DS 16.3 for easy reference</td>
</tr>
</tbody>
</table>
26. Conversion to Single Currency

26.1 For evaluation purposes, prices shall be converted to a single currency using the selling rates of exchange, source and date indicated in the Data Sheet.

**Sample:**

**Conversion into Single Currency**
The single currency for the conversion of all prices expressed in various currencies into a single one is:

USD

The official source of the selling (exchange) rate is: [http://centralbank.gov.ph/exchangerate/sellingrate](http://centralbank.gov.ph/exchangerate/sellingrate)

The date of the exchange rate is: **15 days before the proposal submission deadline**

---

**DS 26.1 – Note and Sample**
Indicate the local currency or fully convertible foreign currency.
- For ease of comparison, it is preferable to indicate in the currency of the budget stated in Data Sheet 14.1.2 or 14.1.4/27.2 (for FBS).
- The date shall not be earlier than 4 weeks prior to the deadline for submission of Proposals and no later than the date of the original validity of Proposals.
- Recommendation is to use exchange rate available 10–15 days before proposal submission deadline, to avoid delays.
<table>
<thead>
<tr>
<th>Clause</th>
<th>Instructions to Consultants (ITC) DO NOT MODIFY</th>
<th>Data Sheet (DS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>27.1</td>
<td><strong>Quality- and Cost-Based Selection (QCBS)</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>In the case of QCBS, the total score is calculated by weighting the technical and financial scores and adding them as per the formula and instructions in the <strong>Data Sheet</strong>. The Consultant that will achieve the highest combined technical and financial score will be invited for negotiations.</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Sample:</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>QCBS Only</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>The lowest evaluated Financial Proposal (Fm) is given the maximum financial score (Sf) of 1,000.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The formula for determining the financial scores (Sf) of all other Proposals is calculated as follows:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>[ S_f = 1,000 \times \frac{F_m}{F} ] in which “Sf” is the financial score, “Fm” is the lowest ETP Evaluated Total Price (ETP), which is equal to the Adjusted Total Price (ATP) less the Non-competitive Component, i.e., provisional sums and contingency; and “F” is the ETP of the proposal under consideration.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The weights given to the Technical (T) and Financial (P) Proposals are:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>[ T = 90 ] and [ P = 10 ].</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Proposals are ranked according to their combined technical (St) and financial (Sf) scores using the weights (T = the weight given to the Technical Proposal; P = the weight given to the Financial Proposal; T + P = 1) as following: [ S = St \times T% + Sf \times P% ].</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>For other selection methods e.g., QBS:</strong> delete the contents of this clause and indicate “Not Applicable”.</td>
<td></td>
</tr>
<tr>
<td>27.2</td>
<td><strong>Fixed-Budget Selection (FBS)</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>In the case of FBS, those Proposals that exceed the budget indicated in Clause 14.1.4 of the <strong>Data Sheet</strong> shall be rejected.</td>
<td></td>
</tr>
<tr>
<td>27.3</td>
<td>The Client will select the Consultant that submitted the Technical Proposal with the highest score that does not exceed the budget indicated in the RFP, and invite the Consultant to negotiate the Contract.</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>See sample in DS 14.1.4 and 27.2 for FBS.</strong></td>
<td></td>
</tr>
<tr>
<td>Clause</td>
<td>Instructions to Consultants (ITC)</td>
<td>Data Sheet (DS)</td>
</tr>
<tr>
<td>--------</td>
<td>----------------------------------</td>
<td>----------------</td>
</tr>
<tr>
<td>27.4</td>
<td>In the case of LCS, the Client will select the Consultant with the lowest evaluated total price among the consultants that achieved the minimum technical score and invite the Consultant to negotiate the Contract.</td>
<td></td>
</tr>
<tr>
<td>D. Negotiations and Award</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| 28.1   | The negotiations will be held at the date and address indicated in the Data Sheet with the Consultant’s representative(s). The representative must have a written power of attorney to negotiate and sign a Contract on behalf of the Consultant. | DS 28.1 - Note  
Client should ensure that the date and time indicated are updated prior to issuance.  
Sample:  
**Negotiations**  
Expected date and address for contract negotiations:  
*Date: 15 May 2021*  
*Address: Conference Center, Department of Finance, Manila, Philippines* |
| 28.2   | The Client shall prepare the minutes of negotiations, which will be signed by the Client and the Consultant’s authorized representative. | |
| Availability of Key Experts | | |
| 28.3   | The invited Consultant shall confirm the availability of all Key Experts included in the Proposal as a prerequisite to the negotiations, or, if applicable, a replacement in accordance with Clause 12 of the ITC. Failure to confirm the Key Experts’ availability may result in the rejection of the Consultant’s Proposal and the Client proceeding to negotiate the Contract with the next-ranked Consultant. | |
| Clause | Instructions to Consultants (ITC)  
DO NOT MODIFY | Data Sheet (DS) |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>28.4</td>
<td>Notwithstanding this, the substitution of Key Experts at the negotiations may be considered if it is due solely to circumstances outside the reasonable control of and not foreseeable by the Consultant, including but not limited to death or medical incapacity. In this case, the Consultant shall offer a substitute Key Expert within the period of time specified in the letter of invitation to negotiate the Contract. The substitute shall have equivalent or better qualifications and experience than the original Key Expert.</td>
<td></td>
</tr>
<tr>
<td>28.5</td>
<td>The negotiations include discussions of the TOR, the proposed methodology, the Client’s inputs, the special conditions of the Contract, and finalizing the “Description of Services” part of the Contract. These discussions shall not substantially alter the original scope of services under the TOR or the terms of the contract, lest the quality of the final product, its price, or the relevance of the initial evaluation be affected.</td>
<td></td>
</tr>
<tr>
<td>28.6</td>
<td>The negotiations include the clarification of the Consultant’s tax liability in the Client’s country and how it should be reflected in the Contract.</td>
<td></td>
</tr>
<tr>
<td>28.7</td>
<td>If the selection method included cost as a factor in the evaluation, the total price stated in the Financial Proposal for a Lump Sum contract, subject always to adjustment pursuant to 24.2 above, shall not be negotiated.</td>
<td></td>
</tr>
<tr>
<td>29.1</td>
<td>The negotiations are concluded with a review of the finalized draft Contract, which shall then be initialed by the Client and the Consultant’s authorized representative.</td>
<td></td>
</tr>
<tr>
<td>Clause</td>
<td>Instructions to Consultants (ITC) DO NOT MODIFY</td>
<td>Data Sheet (DS)</td>
</tr>
<tr>
<td>--------</td>
<td>-------------------------------------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>29.2</td>
<td>If the negotiations fail, the Client shall inform the Consultant in writing of all pending issues and disagreements and provide a final opportunity to the Consultant to respond. If the disagreement persists, the Client shall terminate the negotiations informing the Consultant of the reasons for doing so in writing. After having obtained the Bank’s no objection, the Client will invite the next-ranked Consultant to negotiate a Contract. Once the Client commences negotiations with the next-ranked Consultant, the Client shall not reopen the earlier negotiations.</td>
<td></td>
</tr>
</tbody>
</table>

### 30. Award of Contract

#### 30.1

After completing the negotiations, the Client shall obtain the Bank’s no objection to the negotiated draft Contract, if applicable; sign the Contract; publish the award information as per the instructions in the Data Sheet; and promptly notify the other shortlisted consultants.

**Sample:**

**Contract Award Notice**

The publication of the contract award information following the completion of the contract negotiations and contract signing will be done as follows:

http://dept.gov./contractawardinfo

The publication will occur within 30 days after the contract signing.

**DS 30.1 – Note**

- Indicate the Client’s website address where the information will be published.
- Publication information and timeline should comply with Client’s laws and regulations.

#### 30.2

The Consultant is expected to commence the assignment on the date and at the location specified in the Data Sheet.

**Sample:**

**Date of Commencement of Services**

Expected date for the commencement of the Services:

*June 2021 at Manila, Philippines*

**DS 30.2 – Note**

Client should ensure that the expected date indicated is updated prior to RFP issuance.

Inputting “XX days after contract signing/issuance of NTP” is not recommended because only the first-ranked firm would have details of contract negotiation, contract signing dates and EA’s NTP.
**Clause** | **Instructions to Consultants (ITC) DO NOT MODIFY** | **Data Sheet (DS)**
---|---|---
31. Procurement-Related Complaint | | 
31.1 | The procedures for making a procurement-related complaint are as specified in the Data Sheet. | **Sample:**

**Procurement-Related Complaints**
The procedures for making a procurement-related complaint are detailed in paragraphs 1.31 and 1.32 of the Procurement Regulations. If a Consultant wishes to make a procurement-related complaint, the Consultant shall submit its complaint following these procedures, in writing (by the quickest means available, such as by e-mail or fax), to:

*For the attention:*
*Peter de la Cruz*
*Chairman, Committee*
*Department of Public Works and Highways*

*Project: Highway 101 Project*
*E-mail: [committeechair@dept.gov.ph](mailto:committeechair@dept.gov.ph)*

In summary, a procurement-related complaint may challenge any of the following:
1. the terms of this Request for Proposal;
2. the Client’s decision to exclude a Consultant from the procurement process prior to the award of contract; and
3. the Client’s decision to award the contract.

---

**DS 31.1 – Note**
Provide the EA’s contact information where shortlisted firms can send their consulting-recruitment related complaint for this selection.
Quick Guide to the Instructions to Consultants, Data Sheet, and Selection Methods

Note that most of the ITC and DS are applicable to all selection methods. The table below highlights differences between selection methods.

<table>
<thead>
<tr>
<th>ITC Clause</th>
<th>Data Sheet</th>
<th>QCBS</th>
<th>FBS</th>
<th>LCS</th>
<th>CQS</th>
<th>QBS</th>
<th>Direct Contracting (SSS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. General Provisions</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Definitions</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Indicate selection method</td>
</tr>
<tr>
<td>2. Introduction</td>
<td>DS 2.1</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Recommended</td>
</tr>
<tr>
<td></td>
<td>Method of Selection</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>DS 2.2</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Submission of Financial Proposal</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Conflict of Interest</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Unfair Competitive Advantage</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Corrupt and Fraudulent Practices</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Eligibility</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B. Preparation of Proposals</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. General Considerations</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Cost of Preparation of Proposal</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9. Language</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10. Documents Comprising the Proposal</td>
<td>DS 10.1</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Financial Proposal</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11. Only One Proposal</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12. Proposal Validity</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ITC Clause</td>
<td>Data Sheet</td>
<td>QCBS</td>
<td>FBS</td>
<td>LCS</td>
<td>CQS</td>
<td>QBS</td>
<td>Direct Contracting (SSS)</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>------------------</td>
<td>---------------</td>
<td>-----</td>
<td>-----</td>
<td>-----</td>
<td>-----</td>
<td>--------------------------</td>
</tr>
<tr>
<td>13. Clarification and Amendment of Request for Proposal (RFP)</td>
<td>DS 14.1.2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Applicable to all Selection Methods</td>
</tr>
<tr>
<td>14. Preparation of Proposals – Specific Considerations</td>
<td>DS 14.1.2</td>
<td>Estimated Inputs</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Estimated Inputs applicable for Lump Sum Contracts</td>
</tr>
<tr>
<td></td>
<td>DS 14.1.2</td>
<td>Estimated Budget</td>
<td>Estimated</td>
<td>Estimated</td>
<td>Estimated</td>
<td>Estimated</td>
<td>Estimated or Maximum Budget</td>
</tr>
<tr>
<td></td>
<td>DS 14.1.3</td>
<td>Minimum inputs</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Minimum inputs applicable for Time-Based Contracts</td>
</tr>
<tr>
<td></td>
<td>DS 14.1.4</td>
<td>Maximum Budget DS 14.1 and 27.2 for FBS</td>
<td>Not Applicable</td>
<td>Not Applicable</td>
<td>Not Applicable</td>
<td>Not Applicable</td>
<td></td>
</tr>
<tr>
<td>15. Technical Proposal Format and Content</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Applicable to all Selection Methods</td>
</tr>
<tr>
<td>16. Financial Proposal</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Applicable to all Selection Methods</td>
</tr>
<tr>
<td>C. Submission, Opening, and Evaluation</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Applicable to all Selection Methods</td>
</tr>
<tr>
<td>17. Submission, Sealing, and Marking of Proposals</td>
<td>DS 17.4</td>
<td>TP and FP in separate sealed envelopes</td>
<td>TP and FP in separate sealed envelopes</td>
<td>TP and FP in separate sealed envelopes</td>
<td>TP and FP in one envelope</td>
<td>FP can be requested after TP evaluation</td>
<td>TP and FP in one envelope</td>
</tr>
<tr>
<td>18. Confidentiality</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Applicable to all Selection Methods</td>
</tr>
<tr>
<td>19. Opening of Technical Proposals</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Applicable to all Selection Methods</td>
</tr>
<tr>
<td>20. Proposals Evaluation</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Applicable to all Selection Methods</td>
</tr>
<tr>
<td>ITC Clause</td>
<td>Data Sheet</td>
<td>QCBS</td>
<td>FBS</td>
<td>LCS</td>
<td>CQS</td>
<td>QBS</td>
<td>Direct Contracting (SSS)</td>
</tr>
<tr>
<td>----------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------</td>
<td>----------</td>
<td>----------</td>
<td>----------</td>
<td>----------</td>
<td>----------</td>
<td>-------------------------</td>
</tr>
<tr>
<td>22. Financial Proposals for Quality-Based Selection (QBS)</td>
<td></td>
<td>Not Applicable</td>
<td>Not Applicable</td>
<td>Not Applicable</td>
<td>Not Applicable</td>
<td>Applicable</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Cost-Based Selection (QCBS), Fixed-Budget Selection (FBS), and</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Least-Cost Selection (LCS) methods</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>24. Correction of Errors</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Applicable to all Selection Methods</td>
</tr>
<tr>
<td>25. Taxes</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Applicable to all Selection Methods</td>
</tr>
<tr>
<td>26. Conversion to Single Currency</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Applicable to all Selection Methods</td>
</tr>
<tr>
<td>27. Combined Quality and Cost Evaluation</td>
<td>Applicable Highest TP within Budget Lowest Price, qualified TP</td>
<td>Not Applicable</td>
<td>Not Applicable</td>
<td>Not Applicable</td>
<td>Not Applicable</td>
<td>Not Applicable</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>D. Negotiations and Award</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Applicable to all Selection Methods</td>
</tr>
<tr>
<td>28. Negotiations</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Applicable to all Selection Methods</td>
</tr>
<tr>
<td>29. Conclusion of Negotiations</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Applicable to all Selection Methods</td>
</tr>
<tr>
<td>30. Award of Contract</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Applicable to all Selection Methods</td>
</tr>
<tr>
<td>31. Procurement-Related Complaint</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Applicable to all Selection Methods</td>
</tr>
</tbody>
</table>
### Appendix: Evaluation Criteria

The Summary and Personnel Evaluation Sheets (SES/PES) forms part of the RFP. As referenced in DS 21.1, insert the SES/PES based on the Type of Proposal requested.

**SES/PES for Full Technical Proposal (FTP)**

**SES/PES for Simplified Technical Proposal (STP)**

**SES/PES for Biodata Technical Proposal (BTP)**

SES/PES should contain the evaluation criteria that the Client shall use to evaluate the Proposals from shortlisted firms.

#### Sample (Blank) SES and PES for Full Technical Proposal (FTP)

Downloaded from [https://www.adb.org/documents/recruitment-firms-individual-consultants-executing-agencies](https://www.adb.org/documents/recruitment-firms-individual-consultants-executing-agencies).

### Evaluation Criteria

<table>
<thead>
<tr>
<th>EVALUATION CRITERIA</th>
<th>Max. Weight</th>
<th>Firm 1</th>
<th>Firm 2</th>
<th>Firm 3</th>
<th>Firm 4</th>
<th>Firm 5</th>
<th>Firm 6</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Qualification</td>
<td></td>
<td>Rating</td>
<td>Score</td>
<td>Rating</td>
<td>Score</td>
<td>Rating</td>
<td>Score</td>
</tr>
<tr>
<td>a. Experience in similar projects</td>
<td>50</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>b. Experience in similar geographic areas</td>
<td>50</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>II. Approach and Methodology</td>
<td>200</td>
<td>Rating</td>
<td>Score</td>
<td>Rating</td>
<td>Score</td>
<td>Rating</td>
<td>Score</td>
</tr>
<tr>
<td>a. Understanding of Objectives</td>
<td>40</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>b. Quality of Methodology</td>
<td>30</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>c. Innovativeness/Comments on TOR</td>
<td>30</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>d. Work Program</td>
<td>30</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>e. Personnel Schedule</td>
<td>30</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>f. Counterpart Personnel &amp; Facilities</td>
<td>30</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>g. Proposal Presentation</td>
<td>30</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>III. Personnel (Areas of Expertise)</td>
<td>700</td>
<td>Rating</td>
<td>Score</td>
<td>Rating</td>
<td>Score</td>
<td>Rating</td>
<td>Score</td>
</tr>
<tr>
<td>Key Experts (International)</td>
<td>500</td>
<td>Rating</td>
<td>Score</td>
<td>Rating</td>
<td>Score</td>
<td>Rating</td>
<td>Score</td>
</tr>
<tr>
<td>a. Team Leadership *</td>
<td>50</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>b. Expert 1</td>
<td>60</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>c. Expert 2</td>
<td>50</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>d. Expert 3</td>
<td>50</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>e. Expert 4</td>
<td>50</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>f. Expert 5</td>
<td>40</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>g. Expert 6</td>
<td>40</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>h. Expert 7</td>
<td>40</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>i. Expert 8</td>
<td>40</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>j. Expert 9</td>
<td>40</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>k. Expert 10</td>
<td>40</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Key Experts (National)</td>
<td>200</td>
<td>Rating</td>
<td>Score</td>
<td>Rating</td>
<td>Score</td>
<td>Rating</td>
<td>Score</td>
</tr>
<tr>
<td>a. Expert 1 (Deputy Team Leader)</td>
<td>20</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>b. Expert 2</td>
<td>20</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>c. Expert 3</td>
<td>20</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>d. Expert 4</td>
<td>20</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>e. Expert 5</td>
<td>20</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>f. Expert 6</td>
<td>20</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>g. Expert 7</td>
<td>20</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>h. Expert 8</td>
<td>20</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>i. Expert 9</td>
<td>20</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>j. Expert 10</td>
<td>10</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

### Summary Evaluation Sheet for Full Technical Proposals

**ASIAN DEVELOPMENT BANK**

**SUMMARY EVALUATION SHEET FOR FULL TECHNICAL PROPOSALS**

[ALL SELECTION METHODS]

<table>
<thead>
<tr>
<th>Loan/Grant No.-Country</th>
<th>Title</th>
</tr>
</thead>
</table>

**EVALUATION CRITERIA**

<table>
<thead>
<tr>
<th>MAX. WEIGHT</th>
<th>FIRM 1</th>
<th>FIRM 2</th>
<th>FIRM 3</th>
<th>FIRM 4</th>
<th>FIRM 5</th>
<th>FIRM 6</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rating</td>
<td>Score</td>
<td>Rating</td>
<td>Score</td>
<td>Rating</td>
<td>Score</td>
<td>Rating</td>
</tr>
</tbody>
</table>

**RATING:**

- Excellent: 100%
- Very Good: 90 – 99%
- Above Average: 80 – 89%
- Average: 70 – 79%
- Below Average: 1 – 69%
- Non-complying: 0%

**SCORE:**

Maximum Weight x Rating / 100

---

* The Team Leader must be identified among the experts.

---

Please refer to F. Disqualification of an Expert, Section 2, RFP.

Criteria Approved by: CHARPERSON

Evaluation Done by: CHARPERSON

Date Approved: Date Evaluated:
When using the downloaded SES/PES, it is important to ensure:

- Accuracy of the formula and links including the rating range, such as: Excellent (100%), Very Good (90%-99%), Above Average (80%-89%), Average (70%-79%), Below Average (1%-69%), and Non-complying (0%).
- The positions or titles of Key Experts (international and national) should be consistent with the TOR included in the RFP and Narrative Evaluation Criteria (NEC). Normally, NEC is for internal use only and is not attached to the issued RFP.
- If the Team Leader is one of the proposed Key Experts, provide a separate row for the evaluation of the expert for Team Leadership (both in SES and PES). The Team Leader will be evaluated for two aspects: his or her team leadership skills and his or her technical expertise.
• When the TOR requires multiple experts for a position such as the Resident Engineer, the SES must provide a line for each expert, e.g., Resident Engineer 1, Resident Engineer 2, and Resident Engineer 3.

• The Client should ensure that only the Key Experts whose roles are critical to the assignment should be evaluated and included in the SES and PES. This is because distributing the 700 evaluation points to more than 10 Key Experts will dilute the purpose of the evaluation and is a tedious exercise that will not result in a realistic evaluation of key personnel whose expertise are vital to the project.

• Do not include the Non-Key Experts and contractual or support staff in the SES and PES even if they are defined in the TOR.
  • The CVs of Non-Key Experts will be evaluated on a pass or fail basis based on a sufficient set of criteria.
  • CVs of Non-Key Experts can be requested from the first-ranked firm prior to contract negotiations.

The Client should seek ADB’s prior approval for any deviation from the standard SES and PES templates.
### F. Disqualification of an Expert

<table>
<thead>
<tr>
<th>Zero (0%) rating resulting in disqualification will be given to a nominated expert in particular circumstances:</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The expert is proposed for a national position but does not fulfill the requisite criteria as defined in DS 1(k).</td>
<td>ITC 6.2, DS 1(k)</td>
</tr>
<tr>
<td>2. The expert failed to state his or her citizenship on the curriculum vitae.</td>
<td>ITC 6.1/2, Section 6, TECH-6</td>
</tr>
<tr>
<td>3. The expert is a current employee of the Client.</td>
<td>ITC 6.2/6.3.4, TECH-6</td>
</tr>
<tr>
<td>4. The Consultant and the expert failed to disclose any situation of an actual or potential conflict of interest, sanctions, criminal records or other information that would make the expert ineligible under Sections 5 and 6 about the expert.</td>
<td>ITC 3/6.2, Section 5, 6</td>
</tr>
</tbody>
</table>
Section 3: Technical Proposal—Standard Forms

Checklist of Required Forms

Do Not Modify

<table>
<thead>
<tr>
<th>Required for</th>
<th>FORM</th>
<th>DESCRIPTION</th>
<th>Page Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>FTP</td>
<td>TECH-1</td>
<td>Technical Proposal Submission Form.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>TECH-1</td>
<td>Proof of legal status and eligibility.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>TECH-1</td>
<td>Attachment</td>
<td></td>
</tr>
<tr>
<td></td>
<td>TECH-1</td>
<td>If the Proposal is submitted by a Joint Venture (JV), attach a letter of intent or a copy of an existing agreement</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Power of Attorney</td>
<td>No pre-set format/form. In the case of a JV, several are required: a power of attorney for the authorized representative of each JV member, and a power of attorney for the representative of the lead member to represent all JV members</td>
<td></td>
</tr>
</tbody>
</table>

| FTP | TECH-2 | Consultant's Organization and Experiences.                                   |            |
|     | TECH-2A | A. Consultant’s Organization                                                 | 2 n/a n/a |
|     | TECH-2B | B. Consultant’s Experience                                                   | 20 n/a n/a|
|     | TECH-3 | Comments or Suggestions on the Terms of Reference and on Counterpart Staff and Facilities to be provided by the Client. |            |
|     | TECH-3A | A. On the Terms of Reference                                                | n/a n/a n/a|
|     | TECH-3B | B. On the Counterpart Staff and Facilities                                  | n/a n/a n/a|
|     | TECH-4 | Description of the Approach, Methodology, and Work Plan for Performing the Assignment | 50 10 1 |
|     | TECH-5 | Work Schedule and Planning for Deliverables                                 | n/a n/a n/a|
|     | TECH-6A| Team Composition, Key Experts Inputs.                                        | n/a n/a n/a|
|     | TECH-6B| Attached Curriculum Vitae (CV)                                               | 5 per CV 5 per CV 5 per CV |
Form TECH-1

No need to modify Form TECH-1 - required for all proposal types (FTP, STP, BTP). The form already includes the Statement of Undertaking, para. (h), required in DS 10.2.

---

FORM TECH-1

TECHNICAL PROPOSAL SUBMISSION FORM

[Insert location, date]

To: [Insert name and address of Client]

Dear Sirs:

We, the undersigned, offer to provide the consulting services for [Insert title of assignment] in accordance with your Request for Proposals dated [Insert Date] and our Proposal. [Select appropriate wording depending on the selection method stated in the RFP: “We are hereby submitting our Proposal, which includes this Technical Proposal and a Financial Proposal sealed in a separate envelope” or, if only a Technical Proposal is invited “We hereby are submitting our Proposal, which includes this Technical Proposal only in a sealed envelope.”].

If the Consultant is a Joint Venture (JV), insert the following: We are submitting our Proposal in a joint venture with: Insert a list with full name and the legal address of each member, and indicate the lead member. We have attached a copy insert: “of our letter of intent to form a joint venture” or, if a JV is already formed, “of the joint venture agreement” signed by every participating member, which details the likely legal structure of and the confirmation of joint and severable liability of the members of the said JV.

OR

If the Consultant’s Proposal includes Sub-Consultants, insert the following: We are submitting our Proposal with the following firms as Sub-Consultants: Insert a list with full names and countries of each Sub-Consultant.

We, by submitting the Proposal, acknowledge that we have read and understand ADB’s Anticorruption Policy and Integrity Principles and Guidelines, both as amended from time to time.

We hereby declare that:

(a) All the information and statements made in this Proposal are true and we accept that any misinterpretation or misrepresentation contained in this Proposal may lead to our disqualification by the Client or cancellation of the contract, if
awarded, and/or may result in remedial actions including being sanctioned by the Bank.

(b) Our Proposal shall be valid and remain binding upon us for the period of time specified in the Data Sheet, Clause 12.1.

(c) We have no conflict of interest in accordance with ITC 3.

(d) We meet the eligibility requirements as stated in ITC 6.

(e) We are not subject to any national or international sanctions, temporary suspension or debarment by ADB or other multilateral development banks (MDB).

(f) Neither we, nor our joint venture or associate partners or sub-consultants or any of the proposed experts prepared the TOR for this consulting assignment.

(g) Except as stated in the Data Sheet, Clause 12.1, we undertake to negotiate a Contract on the basis of the proposed Key Experts. We accept that the substitution of Key Experts for reasons other than those stated in ITC Clause 12 and ITC Clause 28.4 may lead to the termination of Contract negotiations.

(h) Our Proposal is binding upon us and subject to any modifications resulting from the Contract negotiations.

(i) In competing for (and, if the award is made to us, in executing) the Contract, we undertake to observe the laws against fraud and corruption, including bribery, in force in the country of the Client.

(j) Neither we, nor our joint venture or associate partners or sub-consultants or any of the proposed experts have been found guilty or convicted of any violation of law that is not a minor traffic violation.

(k) We can accept payments through the international banking system or otherwise discharge ADB’s obligation upon initiation of wire transfer.

(l) We understand that it is our obligation to notify the Client and ADB should we, our joint venture or associate partners or subconsultants or any of the proposed experts prepared the TOR for this consulting assignment, become subject to any national or international sanctions, including becoming ineligible to work with ADB or other MDBs, cannot accept payments through the international banking system, should integrity issues including conflict of interest arise and/or should we or the proposed consultant be convicted of an offence excluding minor traffic violations.

If the answer to any of the declarations above is NO, please provide details:

We understand that any misrepresentation that knowingly or recklessly misleads or attempts to mislead may lead to automatic rejection if our proposal or cancellation of our contract, if awarded, and may result in further remedial actions, in accordance with ADB’s Anticorruption Policy (1998) and Integrity Principles and Guidelines (2016), both as amended from time to time.
We undertake, if our Proposal is accepted and the Contract is signed, to initiate the Services related to the assignment no later than the date indicated in Clause 3.2 of the Data Sheet.

We understand that the Client is not bound to accept any Proposal that the Client receives.

We remain,

Yours sincerely,

Authorized Signature (In full and initials): ____________________________
Name and Title of Signatory: ________________________________________
Name of Consultant (company's name or JV's name): _______________________
In the capacity of: _____________________________________________________

Address: ___________________________________________________________
Contact information (phone and e-mail): _________________________________

[For a joint venture, either all members shall sign or only the lead member, in which case the power of attorney to sign on behalf of all members shall be attached.]
NEW Annex to Form TECH-1 – is required to facilitate sanctions list checking.

### Annex to Form TECH-1 - Required Information for Sanctions List Checking

#### Consultant’s Information Sheet

<table>
<thead>
<tr>
<th>Consultant’s Information</th>
<th>If the Consultant is a subsidiary or branch, information of any parent company/Companies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Names</td>
<td>Full legal name(s)</td>
</tr>
<tr>
<td></td>
<td>Full trading name(s) (if any)</td>
</tr>
<tr>
<td>Addresses</td>
<td>Registered address(es)</td>
</tr>
<tr>
<td></td>
<td>Trading address(es)</td>
</tr>
<tr>
<td></td>
<td>Postal address(es) (if different from trading address)</td>
</tr>
<tr>
<td>Type of organization</td>
<td>Country of constitution/ incorporation/ registration</td>
</tr>
<tr>
<td></td>
<td>Year of constitution/ incorporation/ registration</td>
</tr>
<tr>
<td>Corporate or registration number</td>
<td>In case of a Joint Venture, legal name of each partner</td>
</tr>
<tr>
<td></td>
<td>Consultant’s authorized representative (name, address, telephone number(s), fax number(s), e-mail address)</td>
</tr>
</tbody>
</table>

#### Joint Venture and Sub-Consultant Information Sheet

Each Joint Venture partner and Sub-Consultant must fill out this form separately.

<table>
<thead>
<tr>
<th>Bidder’s legal name</th>
<th>Information of Joint Venture Partner or Sub-Consultant</th>
<th>If any Joint Venture Partner or Sub-Consultant is a subsidiary or branch, information of any parent company/Companies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Names</td>
<td>Full Legal name(s)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Full trading name(s) (if any)</td>
<td></td>
</tr>
<tr>
<td>Addresses</td>
<td>Registered address(es)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Trading address(es)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Postal address(es) (if different from trading address)</td>
<td></td>
</tr>
<tr>
<td>Type of organization</td>
<td>Country of constitution/ incorporation/ registration</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Year of constitution/ incorporation/ registration</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Corporate or registration number</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Joint Venture Partner’s or Sub-Consultant’s authorized representative information (name, address, telephone number(s), fax number(s), e-mail address)</td>
<td></td>
</tr>
</tbody>
</table>
Form TECH-2

Form TECH-2 B. para. 3 – we recommend requesting for details of similar assignments completed in the last 5 to 10 years.

FORM TECH-2 (FOR FULL TECHNICAL PROPOSAL ONLY)

CONSULTANT’S ORGANIZATION AND EXPERIENCE

Form TECH-2: a brief description of the Consultant’s organization and an outline of the recent experience of the Consultant that is most relevant to the assignment. In the case of a joint venture, information on similar assignments shall be provided for each partner. For each assignment, the outline should indicate the names of the Consultant’s Key Experts and Sub-consultants who participated, the duration of the assignment, the contract amount (total and, if it was done in a form of a joint venture or a sub-consultancy, the amount paid to the Consultant), and the Consultant’s role/involvement.

A - Consultant’s Organization

1. Provide here a brief description of the background and organization of your company, and – in case of a JV – of each member for this assignment.

2. Include an organizational chart, a list of Board of Directors, and beneficial ownership.

B - Consultant’s Experience

3. List only previous similar assignments successfully completed in the last [insert number of years] years.

4. List only those assignments for which the Consultant was legally contracted by the Client as a company or was one of the JV partners. Assignments completed by the Consultant’s individual experts working privately or through other consulting firms cannot be claimed as the relevant experience of the Consultant, or that of the Consultant’s partners or Sub-Consultants, but can be claimed by the Experts themselves in their CVs. The Consultant should be prepared to substantiate the claimed experience by presenting copies of relevant documents and references if so requested by the Client.

For STP and BTP - Form TECH-2 is not required and should be deleted.
<table>
<thead>
<tr>
<th>Duration</th>
<th>Assignment name and brief description of main deliverables or outputs</th>
<th>Name of Client and Country of Assignment</th>
<th>Approximate Contract value (in $ or €)/Amount Paid to Your Firm</th>
<th>Role on the Assignment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Example 1: January 2009– April 2010</td>
<td>Improvement quality of ............; designed master plan for rationalization of ............</td>
<td>Ministry of ......, [insert country]</td>
<td>$1 million</td>
<td>Lead partner in a JV A&amp;B&amp;C</td>
</tr>
<tr>
<td>Example 2: January May 2009</td>
<td>Support to sub-national government: drafted secondary level regulations on ...............</td>
<td>Municipality of ......, [insert country]</td>
<td>$0.2 million</td>
<td>Consultant</td>
</tr>
</tbody>
</table>
Form TECH-3

No need to modify Form TECH-3 - required for FTP

FORM TECH-3 (FOR FULL TECHNICAL PROPOSAL)

COMMENTS AND SUGGESTIONS ON THE TERMS OF REFERENCE, COUNTERPART STAFF, AND FACILITIES TO BE PROVIDED BY THE CLIENT

Form TECH-3: The Consultant will write its comments and suggestions on the Terms of Reference that could improve the quality or effectiveness of the assignment; and on requirements for counterpart staff and facilities, which are provided by the Client, including: administrative support, office space, local transportation, equipment, data, etc.

A. On the Terms of Reference

[Insert improvements to the Terms of Reference, if any]

B. On Counterpart Staff and Facilities

[Include comments on counterpart staff and facilities to be provided by the Client, e.g., administrative support, office space, local transportation, equipment, data, background reports, etc., if any]

For STP and BTP - Form TECH-3 is not required and should be deleted.
Form TECH-4 - For Full Technical Proposals (FTP) or Simplified Technical Proposals (STP)

No need to modify Form TECH-4, required for FTP or STP. Attach appropriate form to the RFP.

**FORM TECH-4 (FOR FULL TECHNICAL PROPOSAL ONLY)**

**DESCRIPTION OF APPROACH, METHODOLOGY, AND WORK PLAN IN RESPONDING TO THE TERMS OF REFERENCE**

Form TECH-4 is a description of the approach, methodology and work plan for performing the assignment, including a detailed description of the proposed methodology and staffing for training, if the Terms of Reference specify training as a specific component of the assignment.

The suggested structure of the Technical Proposal (in FTP format) is as follows:

(i) **Technical Approach and Methodology.** Explain understanding of the objectives of the assignment as outlined in the Terms of Reference (TOR), the technical approach, and the methodology that would be adopted for implementing the tasks to deliver the expected output(s), and the degree of detail of such output. **Do not repeat the TOR here.**

(ii) **Work Plan.** Outline the plan for the implementation of the main activities or tasks of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the Client), and tentative delivery dates of the reports. The proposed work plan should be consistent with the technical approach and methodology, showing your understanding of the TOR and ability to translate them into a feasible working plan. A list of the final documents (including reports) to be delivered as final output(s) should be included here. The work plan should be consistent with the Work Schedule Form.

(iii) **Organization and Staffing.** Describe the structure and composition of the team, including the list of the Key Experts, Non-Key Experts, and relevant technical and administrative support staff.
FORM TECH-4 (FOR SIMPLIFIED TECHNICAL PROPOSAL ONLY)

DESCRIPTION OF APPROACH, METHODOLOGY, AND WORK PLAN FOR PERFORMING THE ASSIGNMENT

Form TECH-4 is a description of the approach, methodology, and work plan for performing the assignment, including a detailed description of the proposed methodology and staffing for training, if the Terms of Reference specify training as a specific component of the assignment.

The suggested structure of the Technical Proposal is as follows:

(i) Technical Approach, Methodology, and Organization of the Consultant’s Team. Explain understanding of the objectives of the assignment as outlined in the Terms of Reference (TOR), the technical approach, and the methodology that would be adopted for implementing the tasks to deliver the expected output(s); the degree of detail of such output; and describe the structure and composition of your team. Do not repeat the TOR here.

(ii) Work Plan and Staffing. Outline the plan for the implementation of the main activities or tasks of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the Client), and tentative delivery dates of the reports. The proposed work plan should be consistent with the technical approach and methodology, showing understanding of the TOR and ability to translate them into a feasible work plan and work schedule showing the assigned tasks for each expert. A list of the final documents (including reports) to be delivered as final output(s) should be included here. The work plan should be consistent with the Work Schedule Form.

(iii) Comments (on the Terms of Reference and on Counterpart Staff and Facilities). Suggestions should be concise and to the point, and incorporated in the Proposal. Include comments on counterpart staff and facilities to be provided by the Client, if any (e.g., administrative support, office space, local transportation, equipment, data, background reports, etc.).
Form TECH-5

No need to modify Form TECH-5 – required for all proposal types (FTP, STP, BTP)

<table>
<thead>
<tr>
<th>N°</th>
<th>Deliverables (D-)</th>
<th>Months</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>D-1</td>
<td>(e.g., Deliverable #1: Report A)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1. Data Collection</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Drafting</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Inception Report</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Incorporating Comments</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>6. Delivery of Final Report to Client</td>
<td></td>
</tr>
<tr>
<td>D-2</td>
<td>(e.g., Deliverable #2: ............)</td>
<td></td>
</tr>
<tr>
<td>n</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1. List the deliverables with the breakdown for activities required to produce them and other benchmarks such as the Client’s approvals. For phased assignments, indicate the activities, delivery of reports, and benchmarks separately for each phase.
2. The duration of activities shall be indicated in a form of a bar chart.
3. Include a legend, if necessary, to help read the chart.
**Form TECH-6A**

No need to modify Form TECH-6A – required for all proposal types (FTP, STP, BTP)

---

**FORM TECH-6A (FOR FTP, STP AND BTP)**

**TEAM COMPOSITION, ASSIGNMENT, AND KEY EXPERTS’ INPUTS**

<table>
<thead>
<tr>
<th>N°</th>
<th>Name, Nationality and DOB</th>
<th>Expert's Input (in person/month) per each Deliverable (listed in TECH-5)</th>
<th>Total Time-Input (in months)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Position</td>
<td>D-1</td>
<td>D-2</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**KEY EXPERTS**

- **International**
  - K-1: e.g., Mr. A., PAC, 25.06.1954
  - K-2: e.g., Mr. B., USA, 20.04.1969

- **National**
  - K

**NON-KEY EXPERTS**

- N-1
- N-2

---

**DCB** = date of birth.

Consultants should consider the following in the preparation of the Team Composition, Assignment, and Key Experts’ Inputs:

1. For Key Experts, the input should be indicated individually for the same positions as required under the Data Sheet FTC21.1.
2. Months are counted from the start of the assignment or mobilization. There are 22 working (billable) days in 1 month and no less than 8 working hours in 1 working day.
3. "Kons" means work in the expert's country of residence. "Field" work means work carried out in the Client's country or any other country outside the expert's country of residence, at Client's request.

---

**Input Levels**

- Full time input
- Part time input
FORM TECH-6B

[Note to Consultant: Each Curriculum Vitae (CV) should have a maximum of five pages]

CURRICULUM VITAE (CV) FOR INTERNATIONAL OR NATIONAL EXPERTS

1. Proposed Position: [TOR Expertise]

2. Name of Firm: [Insert name of firm proposing the expert, if applicable]
   (Do not abbreviate or use symbols in any portion of the firm or individual name)

3. Name of Expert: [Consultant Name]
   (Do not abbreviate or use symbols in any portion of the firm or individual name)

4. Current Residential Address:
   Telephone No.:
   Fax No.:
   E-Mail Address:

5. Date of Birth:
   Citizenship:

For proposed national experts who are individuals of ADB member countries and have appropriate authorization to legally reside and work in the country of the assignment, but do not hold the nationality of that country, provide supporting documentation as a TECH-6B attachment.
<table>
<thead>
<tr>
<th>Type of government ID and ID Number.</th>
</tr>
</thead>
<tbody>
<tr>
<td>(please attach a copy of the ID to this form)</td>
</tr>
</tbody>
</table>

| 6. Education: | [Indicate college or university and other specialized education of expert, giving names of institutions, degrees obtained, and dates of obtainment] |

<table>
<thead>
<tr>
<th>7. Membership in Professional Associations:</th>
</tr>
</thead>
</table>

| 8. Other Trainings: | [Indicate significant training since degrees under 5 - Education were obtained] |

| 9. Countries of Work Experience: | [List countries where expert has worked in the last 10 years] |

| 10. Languages: | [For each language indicate proficiency: good, fair, or poor in speaking, reading, and writing] |

| 11. Employment Record | [Starting with present position, list in reverse order every employment held by expert since graduation, providing for each employment (see formal here below): dates of employment, name of employing organization, positions held] |

<table>
<thead>
<tr>
<th>From [Month/Year]:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>To [Month/Year]:</td>
<td></td>
</tr>
<tr>
<td>Employer:</td>
<td></td>
</tr>
<tr>
<td>Positions held:</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>12. Detailed Tasks Assigned</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>[List all tasks to be performed under this assignment]</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>13. Work Undertaken that Best Illustrates Capability to Handle the Tasks Assigned</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>[Among the assignments in which the expert has been involved, indicate the following information for those assignments that best illustrate the expert's capability to handle the tasks listed in line 11.]</td>
<td></td>
</tr>
<tr>
<td>Name of assignment or project:</td>
<td></td>
</tr>
<tr>
<td>Month and Year:</td>
<td></td>
</tr>
<tr>
<td>Location:</td>
<td></td>
</tr>
<tr>
<td>Client:</td>
<td></td>
</tr>
</tbody>
</table>
14. Certification:

I, the undersigned, certify to the best of my knowledge and belief that

(i) This CV correctly describes my qualifications and experience;

(ii) I am not a current employee of the Executing or the Implementing Agency;

(iii) In the absence of medical incapacity, I will undertake this assignment for the duration and in terms of the inputs specified for me in Form TECH-6 provided team mobilization takes place within the validity of this proposal;

(iv) I was not part of the team who wrote the terms of reference for this consulting services assignment;

(v) I do not have conflict of interest in accordance with ITC 3.0;

(vi) I am not subject to any national or international sanctions, temporary suspension or debarment by ADB or other multilateral development banks (MDB);

(vii) I certify that I have been informed by the firm that it is including my CV in the Proposal for the [Insert name of project and contract]. I confirm that I will be available to carry out the assignment for which my CV has been submitted in accordance with the implementation arrangements and schedule set out in the Proposal;

(viii) I have not been found guilty or convicted of any violation of law that is not a minor traffic violation.

(ix) I can accept payments through the international banking system or otherwise discharge ADB’s obligation upon initiation of wire transfer.

(x) I understand that it is my obligation to notify the Client and ADB should I become subject to any national or international sanction, including becoming ineligible to work with ADB or other MDBs, cannot accept payments through the international banking system, should integrity issues including conflict of interest arise and/or should we or the proposed consultant be convicted of an offence excluding minor traffic violations.

If the answer to any of the declarations above is NO, please provide details:

If the CV is signed by the firm’s authorized representative, insert:

(xi) I, as the authorized representative of the firm submitting this Proposal for the [Insert name of project and contract], certify that I have obtained the consent of the named expert to submit his/her CV, and that s/he will be available to carry out the assignment in accordance with the implementation arrangements and schedule set out in the Proposal, and confirm his/her compliance with paras (i) to (v) above.
I understand that any willful misstatement described herein may lead to my disqualification or dismissal, if engaged.

__________________________________________ Date: ____________

[Signature of expert or authorized representative of the firm]<sup>9</sup> Day/Month/Year

Full name of authorized representative

---

<sup>9</sup> This CV can be signed by the authorized representative of the Consultant provided during proposal submission. If the Consultant’s proposal is ranked first, a copy of the CV signed by the expert and/or specialist must be submitted to the Client prior to the commencement of contract negotiations.
Section 4: Financial Proposal—Standard Forms

Section 4. Financial Proposal - Standard Forms

[Notes to Consultant shown in brackets and italics provide guidance to the Consultant to prepare the Financial Proposals; they should not appear on the Financial Proposals to be submitted.]

Financial Proposal Standard Forms shall be used for the preparation of the Financial Proposal according to the instructions provided in Section 2.

NOTE: The authorized representative of the Consultant who signs the Proposal is advised to initial all pages of the original Financial Proposal.

FIN-1 Financial Proposal Submission Form

FIN-2 Summary of Costs

FIN-3 Breakdown of Remuneration

FIN-4 Other Expenses, Provisional Sums and Contingency
Form FIN-1 – Financial Proposal Submission Form

No need to modify Form FIN-1

4-3

FORM FIN-1
FINANCIAL PROPOSAL SUBMISSION FORM

[Location, Date]

To: [Name and address of Client]

Dear Sirs:

We, the undersigned, offer to provide the consulting services for [insert title of assignment] in accordance with your Request for Proposal dated [Insert date] and our Technical Proposal.

Our attached Financial Proposal is for the amount of [Insert amount(s) in words and figures - [in the event the proposal involves multiple currencies, indicate the corresponding amount for each currency]], excluding the local taxes described in Clause 25 in the Data Sheet. We understand the aforementioned local taxes will be discussed, and the agreed amount will be added to the contract with appropriate provisions at the contract negotiations.

Our Financial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, up to expiration of the validity period of the Proposal, i.e. before the date indicated in Clause 12.1 of the Data Sheet.

During the course of this registration or any engagement, we can accept electronic payments through the international financial system or otherwise discharge ADB’s obligations upon initiation of wire transfer and it is our obligation to notify the Client and ADB if we cannot accept electronic payments through the international financial system or otherwise discharge ADB’s obligations upon initiation of wire transfer.

Commissions, gratuities or fees that we have paid or will pay to an agent or any other party relating to preparation or submission of this Proposal and Contract execution, paid if we are awarded the Contract, are listed below:

<table>
<thead>
<tr>
<th>Name and Address of Agent(s)/Other party</th>
<th>Amount and Currency or Gratuity</th>
<th>Purpose of Commission</th>
</tr>
</thead>
</table>

If no payments are made or promised, add the following statement: “No commissions, gratuities or fees have been or are to be paid by us to agents or any other party relating to this Proposal and, in the case of award, Contract execution.”

We agree 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 to comply with this obligation may constitute “obstructive practice” that may result in debarment and/or contract termination, if awarded.

We understand you are not bound to accept any Proposal you receive.

ADB’s Office of Anticorruption and Integrity (OAI) is the initial point of contact and Investigative Office for allegations of integrity violations involving ADB-related activities.
We understand that any misrepresentation that knowingly or recklessly misleads or attempts to mislead may lead to automatic rejection if our proposal or cancellation of our contract, if awarded, and may result in further remedial actions, in accordance with ADB’s Anticorruption Policy (1996) and Integrity Principles and Guidelines (2016), both as amended from time to time.

We remain,
Yours sincerely,

Authorized Signature (in full and initials): __________________________
Name and Title of Signatory: _______________________________________
In the capacity of: ________________________________________________
Address: _________________________________________________________
E-mail: ___________________________________________________________

[FOR A JOINT VENTURE, EITHER ALL MEMBERS SHALL SIGN OR ONLY THE LEAD MEMBER OR CONSULTANT, IN WHICH CASE THE POWER OF ATTORNEY TO SIGN ON BEHALF OF ALL MEMBERS SHALL BE ATTACHED.]
Form FIN-2 – Summary of Costs

No need to modify Form FIN-2

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Insert foreign currency # 1</td>
</tr>
<tr>
<td>Competitive Components</td>
<td></td>
</tr>
<tr>
<td>Remuneration, Key Experts</td>
<td></td>
</tr>
<tr>
<td>Remuneration, Non-Key Experts</td>
<td></td>
</tr>
<tr>
<td>Reimbursable Expenses</td>
<td></td>
</tr>
<tr>
<td>Sub-Total</td>
<td></td>
</tr>
<tr>
<td>Non-Competitive Components</td>
<td></td>
</tr>
<tr>
<td>Provisional Sums</td>
<td></td>
</tr>
<tr>
<td>Contingency</td>
<td></td>
</tr>
<tr>
<td>Sub-Total</td>
<td></td>
</tr>
<tr>
<td>Total Cost of the Financial Proposal</td>
<td></td>
</tr>
</tbody>
</table>

11 Should match the amount in Form FIN-1.
Form FIN-3 – Breakdown of Remuneration

No need to modify Form FIN-3

---

**FORM FIN-3 BREAKDOWN OF REMUNERATION**

When used for Lump Sum Contract assignment, information to be provided in this Form shall only be used to demonstrate the basis for the calculation of the Contract’s ceiling amount; to calculate applicable taxes at contract negotiations; and, if needed, to establish payments to the Consultant for possible additional services requested by the Client. This Form shall not be used as a basis for payments under Lump Sum Contracts.

<table>
<thead>
<tr>
<th>No.</th>
<th>Name</th>
<th>Nationality</th>
<th>Currency</th>
<th>Person-Month Remuneration Rate (Home)</th>
<th>Time Input in Person-Month (from TECH-6) (Home)</th>
<th>Currency 1: as in FIN-2</th>
<th>Currency 2: as in FIN-2</th>
<th>Currency 3: as in FIN-2</th>
<th>Local Currency: as in FIN-2</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**KEY EXPERTS (International)**

1. 
   Sub-Total Costs

2. 
   Sub-Total Costs

**Total Costs: Key Experts (International and National)**

**NON-KEY EXPERTS**

1. 

2. 

**Total Costs: Non-Key Experts**

**TOTAL COSTS: KEY AND NON-KEY EXPERTS**

---

12 In the case of selections that do not include cost as an evaluation factor (i.e., QBS, CQS, and SSSS), the Client may use an expanded version of this Form to add columns to request social charges, overhead, other charges (such as premium for field assignments in difficult locations) and the multiplier.

13 As identified in the Summary and Personnel Evaluation Sheet.
Expanded Form to FIN-3 – for QBS, CQS, and SSS

Appendix A: Financial Negotiations – Breakdown of Remuneration Rates

Delete these forms for competitive selections (i.e., QCBS, FBS, LCS)

<table>
<thead>
<tr>
<th>Personal</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Position</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Basic Remuneration Rate per Working Month/Day/Year</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Social Charges</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Overseas</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subtotal</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Profit</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Away from Home Office Allowance</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proposed Fixed Rate per Working Month/Day/Hour</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proposed Fixed Rate per Working Month/Day/ Hour</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*If more than one currency is used, use additional table(s), one for each currency
1. Expressed as percentage of 1
2. Expressed as percentage of 4
Sample Form

Consultant: Country:
Assignment: Date:

Consultant’s Representations Regarding Costs and Charges

We hereby confirm that:

(a) the basic fees indicated in the attached table are taken from the firm’s payroll records and reflect the current rates of the Experts listed which have not been raised other than within the normal annual pay increase policy as applied to all the Consultant’s Experts;

(b) attached are true copies of the latest pay slips of the Experts listed;

(c) the away-from-home office allowances indicated here are those that the Consultant has agreed to pay for this assignment to the Experts listed;

(d) the factors listed in the attached table for social charges and overhead are based on the firm’s average cost experiences for the last 3 years as represented by the firm’s financial statements; and

(e) said factors for overhead and social charges do not include any bonuses or other means of profit-sharing.

[Name of Consultant]

________________________________________
Signature of Authorized Representative Date

Name: ________________________________

Title: _________________________________
Appendix A: Financial Negotiations - Breakdown of Remuneration Rates

1. Review of Remuneration Rates

1.1. The remuneration rates are made up of salary or a base fee, social costs, overheads, profit, and any premium or allowance that may be paid for assignments away from headquarters or a home office. The attached sample form in FIN-3 (Sample Form) can be used to provide a breakdown of rates.

1.2. If the RFP requests submission of a technical proposal only, the Sample Form is used by the selected Consultant to prepare for the negotiations of the Contract. If the RFP requests submission of the financial proposal, the Sample Form shall be completed and attached to the Financial Form-3. Agreed (at the negotiations) breakdown sheets shall form part of the negotiated Contract and included in its Appendix D or C.

1.3. At the negotiations, the firm shall be prepared to disclose its audited financial statements for the last 3 years to substantiate its rates, and accept that its proposed rates and other financial matters are subject to scrutiny. The Client is charged with the custody of government funds and is expected to exercise prudence in the expenditure of these funds.

1.4. Rate details are discussed below:

(i) **Salary.** This is the gross regular cash salary or fee paid to the individual in the firm’s home office. It shall not contain any premium for work away from headquarters or bonus (except where these are included by law or government regulations).

(ii) **Bonuses.** These are normally paid out of profits. To avoid double counting, any bonuses shall not normally be included in the salary and should be shown separately. Where the Consultant’s accounting system is such that the percentages of social costs and overheads are based on total revenue, including bonuses, those percentages shall be adjusted down accordingly. Where national policy requires that 13 months’ pay be given for 12 months’ work, the profit element need not be adjusted. Any discussions on bonuses shall be supported by audited documentation, which shall be treated as confidential.

(iii) **Social charges.** These are the costs of non-monetary benefits and may include, among others, social security (including pension, medical, and life insurance costs) and the cost of a paid sick and/or annual leave. In this regard, a paid leave during public holidays or an annual leave taken during an assignment if no Expert’s replacement has been provided is not considered social charges.

(iv) **Cost of leave.** The principles of calculating the cost of total days leave per annum as a percentage of basic salary is normally calculated as follows:

\[
\text{Leave cost as percentage of salary} = \frac{\text{total days leave \times 100}}{365 - \text{w - ph - v - s}}
\]

Where \( w \) = weekends, \( ph \) = public holidays, \( v \) = vacation, and \( s \) = sick leave.

Please note that leave can be considered as a social cost only if the Client is not charged for the leave taken.
(v) **Overheads.** These are the Consultant’s business costs that are not directly related to the execution of the assignment and shall not be reimbursed as separate items under the Contract. Typical items are: home office costs (non-billable time, time of senior Consultant’s staff monitoring the project, rent of headquarters’ office, support staff, research, staff training, marketing, etc.); the cost of Consultant’s personnel not currently employed on revenue-earning projects, taxes on business activities, and business promotion costs. During negotiations, audited financial statements, certified as correct by an independent auditor and supporting the last three years’ overheads, shall be available for discussion, together with detailed lists of items making up the overheads and the percentage by which each relates to basic salary. The Client does not accept an add-on margin for social charges, overhead expenses, etc. for Experts who are not permanent employees of the Consultant. In this case, the Consultant shall be entitled only to administrative costs and a fee on the monthly payments charged for sub-contracted Experts.

(vi) **Profit.** This is normally based on the sum of the salary, social costs, and overheads. If any bonuses paid on a regular basis are listed, a corresponding reduction shall be made in the profit amount. Profit shall not be allowed on travel or any other reimbursable expenses.

(vii) **Away from home office allowance or premium or subsistence allowances.** Some Consultants pay allowances to Experts working away from headquarters or outside of the home office. Such allowances are calculated as a percentage of the salary (or a fee) and shall not draw overheads or profit. Sometimes, by law, such allowances may draw social costs. In this case, the amount of this social cost shall still be shown under social costs, with the net allowance shown separately.
Form FIN-4 – Breakdown of Other Expenses, Provisional Sums, and Contingency

No need to modify Form FIN-4, unless the EA wants to provide recommended quantities for reimbursable expenses, which should be consistent with DS 16.1

<table>
<thead>
<tr>
<th>Type of Expenses, Provisional Sums and Contingency</th>
<th>Quantity</th>
<th>Unit</th>
<th>Currency</th>
<th>Unit Price</th>
<th>(Currency #1 as in FIN-2)</th>
<th>(Currency #2 as in FIN-2)</th>
<th>(Currency #3 as in FIN-2)</th>
<th>(Local Currency as in FIN-2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reimbursable Expenses</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>[e.g.: Per diem allowances]</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>[e.g.: International flights]</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>[e.g.: Hotel or airport transportation]</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>[e.g.: Communication costs]</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>[e.g.: Reproduction of reports]</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>[e.g.: Office rent]</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Sub-Total: Reimbursable Expenses

| Provisional Sums                                  |          |      |          |            |                          |                          |                          |                           |
| Item 1                                           |          |      |          |            |                          |                          |                          |                           |
| Item 2                                           |          |      |          |            |                          |                          |                          |                           |

Sub-Total: Provisional Sums

| Contingency                                       |          |      |          |            |                          |                          |                          |                           |
| Total: Reimbursable Expenses + Provisional Sums + Contingency

* Provisional Sums and Contingency must be expressed in the currency indicated in the Data Sheet.
Section 5: Eligible Countries

Check the Loan/Grant agreement (for funding source), Reports and Recommendations of the President (RRP) or the Project Administration Manual (PAM) to determine which of the eight (8) instructions below are applicable.

For Contracts to be financed by loans/grants from

1. OCR without cofinancing resources:

Unless a waiver of ADB member country procurement eligibility restrictions was approved by the ADB Board of Directors, please insert the most recent list of ADB member countries obtainable from www.adb.org/about/members.

EXCEPTION: If any other contract under the project is financed by cofinancing resources that are administered by ADB (other than those listed in paragraph 2 below), then please state “No nationality restrictions apply, other than any restrictions arising from ITC 6.3.2.”

2. Regular loan from OCR with cofinancing resources from any one of the following funds:

(a) Asian Clean Energy Fund,
(b) Japan Fund for Poverty Reduction,
(c) Investment Climate Facilitation Fund,
(d) Japan Fund for the Joint Credit Mechanism, and
(e) e-Asia and Knowledge Partnership Fund.

Unless a waiver of ADB member country procurement eligibility restrictions was approved by the ADB Board of Directors, please insert the most recent list of ADB member countries obtainable from www.adb.org/about/members.

3. Concessional loan from OCR with cofinancing resources from any one of the following funds:

(a) Asian Clean Energy Fund,
(b) Japan Fund for Poverty Reduction,
(c) Japan Fund for Public Policy Training,
(d) Japan Fund for Information and Communication Technology,
(e) Investment Climate Facilitation Fund, and
(f) e-Asia and Knowledge Partnership Fund.

Unless a waiver of ADB member country procurement eligibility restrictions was approved by the ADB Board of Directors, please insert the most recent list of ADB member countries obtainable from www.adb.org/about/members.
4. Regular loan from OCR with cofinancing resources other than those listed in paragraph 2 above:
Please state “No nationality restrictions apply, other than any restrictions arising from ITC 6.3.2.”

5. Concessional loan from OCR with cofinancing resources other than those listed in paragraph 3 above:
Please state “No nationality restrictions apply, other than any restrictions arising from ITC 6.3.2.”

6. ADF without cofinancing resources:
Unless a waiver of ADB member country procurement eligibility restrictions was approved by the ADB Board of Directors, please insert the most recent list of ADB developed member countries that have contributed to ADF resources, and all ADB developing member countries.

EXCEPTION: If any other contract under the project is financed by cofinancing resources that are administered by ADB (other than those listed in paragraph 7 below), then please state “No nationality restrictions apply, other than any restrictions arising from ITC 6.3.2.”

7. ADF with cofinancing resources from any one of the following funds:

(a) Asian Clean Energy Fund,
(b) Japan Fund for Poverty Reduction,
(c) Japan Fund for Public Policy Training,
(d) Japan Fund for Information and Communication Technology,
(e) Investment Climate Facilitation Fund, and
(f) e-Asia and Knowledge Partnership Fund.

Unless a waiver of ADB member country procurement eligibility restrictions was approved by the ADB Board of Directors, please insert the most recent list of ADB developed member countries that have contributed to ADF resources, and all ADB developing member countries.

8. ADF with cofinancing resources other than those listed in paragraph 7 above:
Please state “No nationality restrictions apply, other than any restrictions arising from ITC 6.3.2.”
Section 6. Bank’s Anticorruption Policy

[Notes to the Client: this Section 6 shall not be modified]

Anticorruption Policy

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, contractors, consultants, subcontractors, subconsultants and agents (including their respective officers, directors, employees and personnel) under ADB-financed contracts, to observe the highest standards of ethics during the selection process and in 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 improperly influence the actions of another party.

(ii) “Fraudulent practice” means any action 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 improperly influence 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 a party’s performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations.

(vii) Integrity violation is any act which violates ADB’s Anticorruption Policy, including items (i) to (vi) above and the following: obstructive practice, abuse, conflict of interest, 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 an award if it determines that the Consultant recommended for the award or any of its officers, directors, employees, personnel, subcontractors, service providers, suppliers or manufacturers has engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations during the procurement or the execution of the Contract;

(c) will cancel the portion of the financing allocated to a contract if it determines at any time that representatives of the Client 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 (both as amended
from time to time), including declaring ineligible, either indefinitely or for a stated period
of time, to participate 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. ADB reserves the right to publish any debarment; and

(e) will have the right to require that a provision be included in request for proposals and in
Contracts financed, administered or supported by ADB, requiring Consultants 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 their accounts and records and other documents relating to the selection
process and contract performance and to have them audited by auditors appointed by
ADB.

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 obliged 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
includes, but is not limited to, the following:

(a) being available to be interviewed and replying fully and truthfully to all questions
asked;

(b) providing ADB with any items requested that are within the party's control including,
but not limited to, documents and other physical objects;

(c) upon written request by ADB, authorizing other related entities to release directly to
ADB such information that is specifically and materially related, directly or indirectly,
to the said entities or issues which are the subject of the investigation;

(d) cooperating with all reasonable requests to search or physically inspect their person
and/or work areas, including files, electronic databases, and personal property used
on ADB activities, or that utilizes ADB's Information and Communications Technology
(ICT) resources or systems (including mobile phones, personal electronic devices,
and electronic storage devices such as external disk drives);

(e) cooperating in any testing or examination requested by ADB;

(f) providing all other information relevant for the exercise of ADB's audit or inspection
rights; and

(g) preserving and protecting confidentiality of all information discussed with, and as
required by, ADB.

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

14 Whether as a Consultant, Sub-Consultant or Key Expert; or in any other capacity specified in the Contract
The Borrower 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 Consultant 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.
Section 7: Terms of Reference (TOR)

Sample structure below should be replaced with the final version of the TOR, based on the version included in the CSRN. The TOR should clearly state the tasks, preferred qualifications, and experience of Key Experts.

[sample structure]

1. Project Background ____________________________________________

2. Purpose of the Assignment (and how they relate or contribute to the overall project objectives) __________

3. Duration and Location of the Services _____________________________________________________

4. Scope of Services

[If the Services consist of or include the supervision of civil works, the following action that require prior approval by the Client shall be added: “Taking any action under a civil works contract designating the Consultant as “Engineer”, for which action, pursuant to such civil works contract, the written approval of the Client as “Employer” is required.”]

5. Detailed Outputs of the assignment (and applicable quality standards, where applicable)

5.1 Key Timelines or Milestones

5.2 Team Composition and Qualification Requirements for the Key Experts (and Any Other Requirements that Will Be Used for Evaluating the Key Experts under Data Sheet 21.1 of the ITC)

5.3 Reporting Requirements and Time Schedule for Deliverables

At a minimum, list the following:

(i) format, frequency, and contents of reports;
(ii) number of copies, and requirements to electronic submission (or on CD ROM). Final reports shall be delivered in CD ROM in addition to the specified number of hard copies;
(iii) dates of submission; and
(iv) persons [indicate names, titles, submission address] to receive them; etc.

5.4 Relevant background information or materials for the assignment

5.5 Indication is downstream work is potentially considered

5.6 Training and capacity building requirement—specify

5.7 Equipment procurement—specify procurement, asset management and transfer and insurance requirements

6. Scope of Services, Tasks (Components), and Expected Deliverables

6.1 _______________________________________

6.2 [indicate if downstream work is required]

6.3 [indicate if training is a specific component of the assignment]
7. Client’s Input and Counterpart Personnel
   (a) Services, facilities, and property to be made available to the Consultant by the Client:
       ________________________________ [list/specify]
   (b) Professional and support counterpart personnel to be assigned by the Client to the Consultant’s team:
       ________________________________ [list/specify]

8. Client will provide the following inputs, project data, and reports to facilitate preparation of the Proposals:
   [List or specify and attach. If none, state N/A]

9. Basis of Payment

   **Time-Based assignment** - payments are for agreed daily or monthly rates for the consultant (normally named in the contract) and for reimbursable (eligible out-of-pocket expense) items using actual expenses and agreed unit prices.

   **Lump Sum assignment** - payments under the contract are linked to achieving milestones specified in the contract.

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Required Output / Deliverable</th>
<th>% of Lump Sum Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Section 8: Conditions of Contract and Contract Forms

Important: Select and use either time-based or lump sum form of contract, which should match the nature of the assignment. Delete the other. Only one form of contract should be included in the RFP.

Section 8 – Foreword – is meant to guide the reader and should be deleted from the draft RFP.

Section 8. Conditions of Contract and Contract Forms

Foreword

1. There are two types of standard Contract forms for Consulting Services (a Time-Based Contract and a Lump Sum Contract) included in the Master Document for Selection of Consultants prepared by participating multilateral development banks.

2. **Time-Based Contract.** This type of contract is appropriate when it is difficult to define or fix the scope and duration of the services, either because they are related to activities carried out by others for which the completion period may vary, or because the input of the consultants required for attaining the objectives of the assignment is difficult to assess. In time-based contracts the Consultant provides services on a timed basis according to quality specifications, and the Consultant’s remuneration is determined on the basis of the time actually spent by the Consultant in carrying out the Services and is based on (i) agreed-upon unit rates for the Consultant’s experts multiplied by the actual time spent by the experts in executing the assignment, and (ii) other expenses, provisional sums and contingency using actual expenses and/or agreed unit prices. This type of contract requires the Client to closely supervise the Consultant and to be involved in the daily execution of the assignment.

3. **Lump Sum Contract.** This type of contract is used mainly for assignments in which the scope and duration of the Services and the required output of the Consultant are clearly defined. Payments are linked to outputs (deliverables) such as reports, drawings, bill of quantities, bidding documents, or software programs. Lump Sum contracts are easier to administer because they operate on the principle of a fixed price for a fixed scope, and payments are due on clearly specified outputs and milestones. Nevertheless, quality control of the Consultant’s outputs by the Client is paramount.

4. The templates are designed for use in assignments with consulting firms and shall not be used for contracting of individual experts. These standard Contract forms are to be used for complex and/or large value assignments, and/or for contracts above a monetary threshold established by the Asian Development Bank.
Harmonized Standard Form of Contract: Consultant’s Services—Time-Based

Preliminaries

Please retain the pages below – meant to guide the EA and Firm in finalizing the Contract modified.
## Contents

Preface ......................................................................................................................... 8-8
I. Form of Contract ...................................................................................................... 8-11
II. General Conditions of Contract .............................................................................. 8-13
   A. GENERAL PROVISIONS ............................................................................... 8-13
      1. Definitions .................................................................................................. 8-13
      2. Relationship between the Parties .............................................................. 8-14
      3. Law Governing Contract ........................................................................... 8-14
      4. Language .................................................................................................... 8-14
      5. Headings .................................................................................................... 8-14
      6. Communications ....................................................................................... 8-14
      7. Location ..................................................................................................... 8-15
      8. Authority of Member in Charge ................................................................. 8-15
      9. Authorized Representatives ...................................................................... 8-15
     10. Corrupt and Fraudulent Practices .............................................................. 8-15
   B. COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT: 8-15
      11. Effectiveness of Contract ......................................................................... 8-15
      12. Termination of Contract for Failure to Become Effective ....................... 8-15
      13. Commencement of Services .................................................................... 8-16
      14. Expiration of Contract ............................................................................ 8-16
      15. Entire Agreement ..................................................................................... 8-16
      16. Modifications or Variations ..................................................................... 8-16
      17. Force Majeure ......................................................................................... 8-16
      18. Suspension ............................................................................................... 8-17
      19. Termination .............................................................................................. 8-18
   C. OBLIGATIONS OF THE CONSULTANT ......................................................... 8-20
      20. General ..................................................................................................... 8-20
      21. Conflict of Interests ................................................................................ 8-20
      22. Confidentiality ....................................................................................... 8-21

8-5
<table>
<thead>
<tr>
<th>Consultant’s Services</th>
<th>Time-Based</th>
</tr>
</thead>
<tbody>
<tr>
<td>23. Liability of the Consultant</td>
<td>8-21</td>
</tr>
<tr>
<td>24. Insurance to be Taken out by the Consultant</td>
<td>8-22</td>
</tr>
<tr>
<td>25. Accounting, Inspection and Auditing</td>
<td>8-22</td>
</tr>
<tr>
<td>26. Reporting Obligations</td>
<td>8-22</td>
</tr>
<tr>
<td>27. Proprietary Rights of the Client in Reports and Records</td>
<td>8-22</td>
</tr>
<tr>
<td>28. Equipment, Vehicles and Materials</td>
<td>8-23</td>
</tr>
<tr>
<td><strong>D. CONSULTANT’S EXPERTS AND SUB-CONSULTANTS</strong></td>
<td>8-23</td>
</tr>
<tr>
<td>29. Description of Key Experts</td>
<td>8-23</td>
</tr>
<tr>
<td>30. Replacement of Key Experts</td>
<td>8-24</td>
</tr>
<tr>
<td>31. Approval of Additional Key Experts</td>
<td>8-24</td>
</tr>
<tr>
<td>32. Removal of Experts or Sub-Consultants</td>
<td>8-24</td>
</tr>
<tr>
<td>34. Working Hours, Overtime, Leave, etc.</td>
<td>8-25</td>
</tr>
<tr>
<td><strong>E. OBLIGATIONS OF THE CLIENT</strong></td>
<td>8-25</td>
</tr>
<tr>
<td>35. Assistance and Exemptions</td>
<td>8-25</td>
</tr>
<tr>
<td>36. Access to Project Site</td>
<td>8-26</td>
</tr>
<tr>
<td>37. Change in the Applicable Law Related to Taxes and Duties</td>
<td>8-26</td>
</tr>
<tr>
<td>38. Services, Facilities and Property of the Client</td>
<td>8-26</td>
</tr>
<tr>
<td>39. Counterpart Personnel</td>
<td>8-26</td>
</tr>
<tr>
<td>40. Payment Obligation</td>
<td>8-27</td>
</tr>
<tr>
<td><strong>F. PAYMENTS TO THE CONSULTANT</strong></td>
<td>8-27</td>
</tr>
<tr>
<td>41. Ceiling Amount</td>
<td>8-27</td>
</tr>
<tr>
<td>42. Remuneration and Other Expenses, Provisional Sums and Contingency</td>
<td>8-27</td>
</tr>
<tr>
<td>43. Taxes and Duties</td>
<td>8-28</td>
</tr>
<tr>
<td>44. Currency of Payment</td>
<td>8-28</td>
</tr>
<tr>
<td>45. Mode of Billing and Payment</td>
<td>8-28</td>
</tr>
<tr>
<td>46. Interest on Delayed Payments</td>
<td>8-29</td>
</tr>
<tr>
<td><strong>G. FAIRNESS AND GOOD FAITH</strong></td>
<td>8-29</td>
</tr>
<tr>
<td>47. Good Faith</td>
<td>8-29</td>
</tr>
<tr>
<td><strong>H. SETTLEMENT OF DISPUTES</strong></td>
<td>8-29</td>
</tr>
<tr>
<td>48. Amicable Settlement</td>
<td>8-29</td>
</tr>
<tr>
<td>Consultant's Services</td>
<td>Time-Based</td>
</tr>
<tr>
<td>----------------------</td>
<td>------------</td>
</tr>
<tr>
<td>49. Dispute Resolution</td>
<td>8-30</td>
</tr>
<tr>
<td>I. ELIGIBILITY</td>
<td>8-30</td>
</tr>
<tr>
<td>50. Eligibility</td>
<td>8-30</td>
</tr>
<tr>
<td>Attachment 1: Anticorruption Policy</td>
<td>8-31</td>
</tr>
<tr>
<td>III. Special Conditions of Contract</td>
<td>8-34</td>
</tr>
<tr>
<td>IV. Appendices</td>
<td>8-49</td>
</tr>
<tr>
<td>Appendix A: Terms of Reference</td>
<td>8-49</td>
</tr>
<tr>
<td>Appendix B: Key Experts</td>
<td>8-49</td>
</tr>
<tr>
<td>Appendix C: Remuneration Cost Estimates</td>
<td>8-49</td>
</tr>
<tr>
<td>Appendix D: Other Expenses and Provisional Sums</td>
<td>8-51</td>
</tr>
<tr>
<td>Appendix E: Form of Advance Payments Guarantee</td>
<td>8-52</td>
</tr>
</tbody>
</table>

8-7
Preface

1. The standard Contract form consists of four parts: the Form of Contract to be signed by the Client and the Consultant, the General Conditions of Contract (GCC), including Attachment 1 (Anticorruption Policy); the Special Conditions of Contract (SCC); and the Appendices.

2. The General Conditions of Contract, including Attachment 1, shall not be modified. The Special Conditions of Contract that contain clauses specific to each Contract intend to supplement, but not over-write or otherwise contradict, the General Conditions.
I. Form of Contract

Please retain the pages below – these can be finalized during contract negotiations.

---

**CONTRACT FOR CONSULTANT’S SERVICES**

**Time-Based**

---

**Project Name**

[Loan/Grant/Financing] No.

Contract No.

between

---

[Name of the Client]

---

and

---

[Name of the Consultant]

---

Dated: ________________

---
I. Form of Contract

**TIME-BASED**

(Text in brackets and/or in italics is for guidance purposes only and should be deleted in the final contract)

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

[Note: if the Consultant consists of more than one entity, the previous paragraph should be partially amended to read as follows: “…(hereinafter called the “Client”) and, on the other hand, a Joint Venture (name of the Joint Venture) consisting of the following entities, each member of which will be jointly and severally liable to the Client for all the Consultant’s obligations under this Contract, namely, [name of member] and [name of member] (hereinafter called the “Consultant”).]

WHEREAS

(a) the Client has requested the Consultant to provide certain consulting services as defined in this Contract (hereinafter called the “Services”);

(b) the Consultant, having represented to the Client that it has the required professional skills, expertise and technical resources, has agreed to provide the Services on the terms and conditions set forth in this Contract; and

(c) the Client has received [or has applied for] a loan [or grant or financing] from the Asian Development Bank toward the cost of the Services and intends to apply a portion of the proceeds of this loan/grant/financing to eligible payments under this Contract, it being understood that (i) payments by the Bank will be made only at the request of the Client and upon approval by the Bank; (ii) such payments will be subject, in all respects, to the terms and conditions of the loan/grant/financing agreement, including prohibitions of withdrawal from the loan/grant/financing account for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the Bank, is prohibited by the decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations; and (iii) no party other than the Client shall derive any rights from the loan/grant/financing agreement or have any claim to the loan/grant/financing proceeds;

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:
   (a) The General Conditions of Contract (including Attachment 1: Anti-corruption Policy);
   (b) The Special Conditions of Contract;
1. Form of Contract

(c) Appendices:
   Appendix A: Terms of Reference
   Appendix B: Key Experts
   Appendix C: Remuneration Cost Estimates
   Appendix D: Other Expenses, Provisional Sums and Contingency Cost Estimates
   Appendix E: Form of Advance Payments Guarantee

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

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

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

For and on behalf of [Name of Client]

[Authorized Representative of the Client-- name, title and signature]

For and on behalf of [Name of Consultant or Name of a Joint Venture]

[Authorized Representative of the Consultant-- name and signature]

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

For and on behalf of each of the members of the Consultant [insert the name of the Joint Venture]

[Name of the lead member]

[Authorized Representative on behalf of a Joint Venture]
[add signature blocks for each member if all are signing]
II. General Conditions of Contract

General Conditions of Contract (GCC) must not be modified.

<table>
<thead>
<tr>
<th>II. General Conditions of Contract</th>
<th>Time-Based</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>II. General Conditions of Contract</td>
<td>Time-Based</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>A. GENERAL PROVISIONS</td>
<td></td>
</tr>
<tr>
<td>1. Definitions</td>
<td></td>
</tr>
<tr>
<td>(a) Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:</td>
<td></td>
</tr>
<tr>
<td>(b) “Applicable Guidelines” are guidelines or policies of the Asian Development Bank governing the selection and contract award process as specified in the Special Conditions of Contract (SCC).</td>
<td></td>
</tr>
<tr>
<td>(c) “Applicable Law” means the laws and any other instruments having the force of law in the Client's country, or in such other country as may be specified in the SCC, as they may be issued and in force from time to time.</td>
<td></td>
</tr>
<tr>
<td>(d) “Bank” means the Asian Development Bank.</td>
<td></td>
</tr>
<tr>
<td>(e) “Borrower [or Recipient or Beneficiary]” refers to the Government, Government agency or other entity that signs the financing [or loan or grant or project] agreement with the Bank.</td>
<td></td>
</tr>
<tr>
<td>(f) “Client” refers to the [the implementing or the executing] agency that signs the Contract for the Services with the Selected Consultant.</td>
<td></td>
</tr>
<tr>
<td>(g) A “Consultant” is a legally-established professional consulting firm or entity selected by the Client to provide the Services under the signed Contract.</td>
<td></td>
</tr>
<tr>
<td>(h) A “Contract” is the legally binding signed written agreement between the Client and the Consultant and which includes all the attached documents listed in its paragraph 1 of the Form of Contract (the General Conditions (GCC), the Special Conditions (SCC), and the Appendices).</td>
<td></td>
</tr>
<tr>
<td>(i) A “Day” is a working day unless indicated otherwise.</td>
<td></td>
</tr>
<tr>
<td>(j) “Effective Date” refers to the date on which this Contract comes into force and effect pursuant to Clause GCC 11.</td>
<td></td>
</tr>
<tr>
<td>(k) “Experts” are collectively, Key Experts, Non-Key Experts, or any other personnel of the Consultant, Sub-Consultant or Joint Venture (JV) member(s) assigned by the Consultant to perform the Services or any part thereof under the Contract.</td>
<td></td>
</tr>
<tr>
<td>(l) “Foreign Currency” is any currency other than the currency of the Client’s country.</td>
<td></td>
</tr>
<tr>
<td>(m) “GCC” refers to these General Conditions of Contract.</td>
<td></td>
</tr>
<tr>
<td>(n) “Government” refers to the government of the Client’s country.</td>
<td></td>
</tr>
<tr>
<td>(o) “Joint Venture (JV)” is an association with or without a legal personality distinct from that of its members, of more than one entity where one member has the authority to conduct all</td>
<td></td>
</tr>
</tbody>
</table>
### II. General Conditions of Contract

<table>
<thead>
<tr>
<th>Time-Based</th>
</tr>
</thead>
</table>

businesses for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally liable to the Client for the performance of the Contract.

(p) “Key Expert(s)” refers to an individual professional whose skills, qualifications, knowledge, and experience are critical to the performance of the Services under the Contract and whose Curriculum Vitae (CV) was taken into account in the technical evaluation of the Consultant’s proposal.

(q) “Local Currency” is the currency of the Client’s country.

(r) “Non-Key Expert(s)” is an individual professional provided by the Consultant or its Sub-Consultant to perform the Services or any part thereof under the Contract.

(s) “Party” refers to the Client or the Consultant, as the case may be, and “Parties” means both of them.

(t) The Special Conditions of Contract (SCC) can amend or supplement but not overwrite the GCC.

(u) “Services” refers to the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A hereto.

(v) “Sub-Consultant” is an entity to whom/which the Consultant subcontracts any part of the Services while remaining solely liable for the execution of the Contract.

(w) “Third Party” means any person or entity other than the Government, the Client, the Consultant or a Sub-Consultant.

#### 2. Relationship between the Parties

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

#### 3. Law Governing Contract

3.1 This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law as specified in the SCC.

#### 4. Language

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

#### 5. Headings

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

#### 6. Communications

6.1 Any communication required or permitted to be given or made pursuant to this Contract shall be in writing in the language specified in Clause GCC 4. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an
11. General Conditions of Contract

<table>
<thead>
<tr>
<th>Conditions of Contract</th>
<th>Time-Based</th>
</tr>
</thead>
<tbody>
<tr>
<td>Powered representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the SCC.</td>
<td></td>
</tr>
<tr>
<td>6.2 A Party may change its address for notice hereunder by giving the other Party any communication of such change to the address specified in the SCC.</td>
<td></td>
</tr>
<tr>
<td>7. Location</td>
<td></td>
</tr>
<tr>
<td>7.1 The Services shall be performed at such locations as are specified in Appendix A hereto and, where the location of a particular task is not so specified, at such locations, whether in the Government’s country or elsewhere, as the Client may approve.</td>
<td></td>
</tr>
<tr>
<td>8. Authority of Member in Charge</td>
<td></td>
</tr>
<tr>
<td>8.1 In case the Consultant is a JV, the members hereby authorize the member specified in the SCC to act on their behalf in exercising all the Consultant’s rights and obligations toward the Client under this Contract, including without limitation the receiving of instructions and payments from the Client.</td>
<td></td>
</tr>
<tr>
<td>9. Authorized Representatives</td>
<td></td>
</tr>
<tr>
<td>9.1 Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Client or the Consultant may be taken or executed by the officials specified in the SCC.</td>
<td></td>
</tr>
<tr>
<td>10. Corrupt and Fraudulent Practices</td>
<td></td>
</tr>
<tr>
<td>10.1 The Bank requires compliance with its Anti-corruption Policy as set forth in Attachment 1 to the GOC.</td>
<td></td>
</tr>
<tr>
<td>Commissions and Fees</td>
<td></td>
</tr>
<tr>
<td>10.2 The Client requires the Consultant to disclose any commissions, gratuities, or fees that may have been paid or are to be paid to agents or any other party with respect to the selection process or execution of the Contract. The information disclosed must include at least the name and address of the agent or the other party, the amount and currency, and the purpose of the commission, gratuity or fee. Failure to disclose such commissions and gratuities may result in the termination of the Contract and/or remedial actions including sanctions by the Bank.</td>
<td></td>
</tr>
</tbody>
</table>

B. Commencement, Completion, Modification and Termination of Contract

<table>
<thead>
<tr>
<th>Conditions of Contract</th>
<th>Time-Based</th>
</tr>
</thead>
<tbody>
<tr>
<td>11. Effectiveness of Contract</td>
<td></td>
</tr>
<tr>
<td>11.1 This Contract shall come into force and effect on the date (the “Effective Date”) of the Client’s notice to the Consultant instructing the Consultant to begin carrying out the Services. This notice shall confirm that the effectiveness conditions, if any, listed in the SCC have been met.</td>
<td></td>
</tr>
<tr>
<td>12. Termination of Contract for</td>
<td></td>
</tr>
</tbody>
</table>
| 12.1 If this Contract has not become effective within such time period after the date of Contract signature as specified in the SCC, either Party may, by not less than 22 days written notice to the other Party, declare this Contract to be null and void, and in the event of
II. General Conditions of Contract

13. Commencement of Services

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

14. Expiration of Contract

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

15. Entire Agreement

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

16. Modifications or Variations

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

16.2. In cases of substantial modifications or variations, the prior written consent of the Bank is required.

17. Force Majeure

a. Definition

17.1. For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and makes a Party’s performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible under the circumstances, and subject to those requirements. Examples include, but are not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, and lockouts or other industrial action confiscation or any other action by Government agencies.

17.2. Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party’s Experts, Sub-Consultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both take into account at the time of the conclusion of this Contract, and avoid or overcome in the carrying out of its obligations hereunder.

17.3. Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.
11. General Conditions of Contract

b. No Breach of Contract

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

c. Measures to be Taken

17.5. A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

17.6. A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than 14 calendar days following its occurrence, providing evidence of the nature and cause of the event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.

17.7. Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which the Party was unable to perform the action as a result of Force Majeure.

17.8. During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon Instructions by the Client, shall either:

(a) demobilize, in which case the Consultant shall be reimbursed for additional costs they reasonably and necessarily incurred, and, if required by the Client, in reactivating the Services; or

(b) continue with the Services to the extent reasonably possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.

17.9. In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clauses GOC 48 and 49.

18. Suspension

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

19. Termination

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

a. By the Client

19.1.1 The Client may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (f) of this Clause occurs. In this case, the Client shall give at least 30 calendar days’ written notice of termination to the Consultant for events referred to in (a) to (d); at least 60 calendar days’ written notice in case of the event referred to in (e); and at least 5 calendar days’ written notice for the event referred to in (f):

(a) If the Consultant fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause GCC 16;

(b) If the Consultant becomes (or, if the Consultant consists of more than one entity, if any of its members) becomes insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary;

(c) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GCC 49.1;

(d) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than 60 calendar days;

(e) If the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract;

(f) If the Consultant fails to confirm the availability of Key Experts as required in Clause GCC 13.

19.1.2 Furthermore, if the Client determines that the Consultant has engaged in corrupt, fraudulent, collusive, coercive [or obstructive] practices or other integrity violations, in competing for or in executing the Contract, the Client may, after giving 14 calendar days’ written notice to the Consultant, terminate the Consultant’s employment under the Contract.

b. By the Consultant

19.1.3 The Consultant may terminate this Contract, by not less than 30 calendar days’ written notice to the Client, in case any of the events specified in paragraphs (a) to (d) of this Clause occurs.

(a) If the Client fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clauses GCC 49.1 within 45 calendar days after receiving written notice from the Consultant that the payment is overdue;
II. General Conditions of Contract

(b) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than 60 calendar days;

(c) If the Client fails to comply with any final decision reached as a result of arbitration pursuant to Clause GCC 49.1; or

(d) If the Client is in material breach of its obligations pursuant to this Contract and has not remedied the same within 45 days (or a longer period that the Consultant may have subsequently approved in writing) following the receipt by the Client of the Consultant’s notice specifying the breach.

c. Cessation of Rights and Obligations

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

d. Cessation of Services

19.1.5 Upon termination of this Contract by notice of either Party to the other pursuant to Clauses GCC 19a or GCC 19b, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant, the Consultant shall proceed as provided in Clause GCC 27. For equipment and materials furnished by the Client, the Consultant shall refer to Clause GCC 28.

e. Payment upon Termination

19.1.6 Upon termination of this Contract, the Client shall pay the Consultant the following:

(a) remuneration for Services satisfactorily performed prior to the effective date of termination, other expenses, provisional sums, and contingency for expenditures actually incurred prior to the effective date of termination; and pursuant to Clause 42; and

(b) in the case of termination pursuant to paragraphs (d) and (e) of Clause GCC 19.1.1, reimbursement of any reasonable cost incidental to the prompt and orderly termination of this Contract, including the cost of the return travel of the Experts.
C. OBLIGATIONS OF THE CONSULTANT

20. General

Standard of Performance

20.1 The Consultant shall perform the Services and carry out the Services with due diligence, efficiency, and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to the Contract or to the Services, as a faithful adviser to the Client, and shall at all times support and safeguard the Client’s legitimate interests in any dealings with the third parties.

20.2 The Consultant shall employ and provide such qualified and experienced Experts and Sub-Consultants as are required to carry out the Services.

20.3 The Consultant may subcontract part of the Services to an extent and with such Key Experts and Sub-Consultants as may be approved in advance by the Client. Notwithstanding this approval, the Consultant shall retain full responsibility for the Services.

Law Applicable to Services

20.4 The Consultant shall perform the Services in accordance with the Contract and the Applicable Law and shall take all practicable steps to ensure that any of its Experts and Sub-consultants, comply with the Applicable Law.

20.5 Throughout the execution of the Contract, the Consultant shall comply with the import of goods and services prohibitions in the Client’s country when

(a) as a matter of law or official regulations, the Borrower’s Beneficiary’s country prohibits commercial relations with that country; or

(b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Borrower’s Country prohibits any import of goods from that country or any payments to any country, person, or entity in that country.

20.6 The Client shall notify the Consultant in writing of relevant local customs, and the Consultant shall, after such notification, respect such customs.

21. Conflict of Interests

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

Consultant Not to Benefit from

21.1.1 The payment of the Consultant pursuant to GCC F (Clauses GCC 41 to GCC 46) shall constitute the Consultant’s only payment in connection with this Contract and, subject to Cause GCC 21.1.3, the Consultant shall not accept for its own
### II. General Conditions of Contract

| **Commissions, Discounts, etc.** | benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations hereunder, and the Consultant shall use its best efforts to ensure that any Sub-Consultants, as well as the Experts and agents of either of them, similarly shall not receive any additional payment. |
| **Consultant and Affiliates Not to Engage in Certain Activities** | 21.1.3 The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-Consultants and any entity affiliated with such Sub-consultants, shall be disqualified from providing goods, works or non-consulting services resulting from or directly related to the Consultant's Services for the preparation or implementation of the project, unless otherwise indicated in the SCC. |
| **Prohibition of Conflicting Activities** | 21.1.4 The Consultant shall not engage, and shall cause its Experts as well as its Sub-Consultants not to engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract. |
| **Strict Duty to Disclose Conflicting Activities** | 21.1.5 The Consultant has an obligation and shall ensure that its Experts and Sub-Consultants shall have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interests of their Client, or that may reasonably be perceived as having this effect. Failure to disclose these situations may lead to the disqualification of the Consultant or the termination of its Contract. |

#### 22. Confidentiality

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

#### 23. Liability of the Consultant

23.1 Subject to additional provisions, if any, set forth in the SCC, the Consultant's liability under this Contract shall be as determined under the Applicable Law.
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>24. Insurance to be Taken out by the Consultant</td>
<td>24.1 The Consultant (i) shall take out and maintain, and shall cause any Sub-Consultants to take out and maintain, at its (or the Sub-Consultants’, as the case may be) own cost but on terms and conditions approved by the Client, insurance against the risks, and for the coverage specified in the SCC, and (ii) at the Client’s request, shall provide evidence to the Client showing that the insurance has been taken out and maintained and that the current premiums have been paid. The Consultant shall ensure that such insurance is in place prior to commencing the Services as stated in Clause GCC 13.</td>
</tr>
<tr>
<td>25. Accounting, Inspection and Auditing</td>
<td>25.1 The Consultant shall keep, and shall make all reasonable efforts to cause its Sub-Consultants to keep, accurate and systematic accounts and records in respect of the Services and in such form and detail as will clearly identify relevant time changes and costs. 25.2 The Consultant shall permit and shall cause its Sub-Consultants to permit, the Bank and/or persons appointed by the Bank to inspect the Site, assets and/or all accounts and records relating to the performance of the Contract and the selection process to provide the Services, and to have such accounts and records audited by auditors appointed by the Bank if requested by the Bank. The Consultant’s attention is drawn to Clause GCC 10 which provides, among others, that acts intended to materially impede the exercise of the Bank’s inspection and audit rights provided for under this Clause GCC 25.2 constitute an integrity violation subject to contract termination (as well as to a determination of ineligibility under the Bank’s Anticorruption Policy and Integrity Principles and Guidelines).</td>
</tr>
<tr>
<td>26. Reporting Obligations</td>
<td>26.1 The Consultant shall submit the reports and documents specified in Appendix A to the Client, in the form, in the numbers and within the time periods set forth in the said Appendix.</td>
</tr>
</tbody>
</table>
| 27. Proprietary Rights of the Client in Reports and Records | 27.1 Unless otherwise indicated in the SCC, all reports and relevant data and information such as maps, diagrams, plans, databases, other documents and software, or supporting records or materials compiled or prepared by the Consultant for the Client in the course of the Services shall be confidential and become and remain the absolute property of the Client. The Consultant shall deliver all such documents to the Client, together with a detailed inventory thereof not later than the date of termination or expiration of this Contract. The Consultant may retain a copy of these documents, data and/or software but shall not use the same for purposes unrelated to this Contract without prior written approval of the Client. 27.2 If license agreements are necessary or appropriate between the Consultant and third parties for purposes of development of the plans, drawings, specifications, designs, databases, other documents and software, the Consultant shall obtain the Client’s prior written approval to such agreements, and at its discretion the Client shall be entitled at
its discretion to require recovering the expenses related to the development of the program(s) concerned. Other restrictions about the future use of these documents and software, if any, shall be specified in the SCC.

28.1 Equipment, vehicles, and materials made available to the Consultant by the Client, or purchased by the Consultant wholly or partly with funds provided by the Client, shall be the property of the Client and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make an inventory of such equipment, vehicles, and materials available to the Client and shall dispose of the equipment, vehicles, and materials in accordance with the Client’s instructions. While in possession of such equipment, vehicles, and materials, the Consultant, unless otherwise instructed by the Client in writing, shall insure them at the expense of the Client in an amount equal to their full replacement value.

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

D. CONSULTANT’S EXPERTS AND SUB-CONSULTANTS

29. Description and Obligations of Key Experts

29.1 The title, agreed job description, minimum qualification and time-input estimates to carry out the Services of each of the Consultant’s Key Experts are described in Appendix B.

29.2 If required to comply with the provisions of Clause GCC 20 ‘Standard of Performance,’ adjustments with respect to the estimated time-input of Key Experts set forth in Appendix B may be made by the Consultant by a written notice to the Client, provided that (i) that such adjustments shall not alter the original time-input estimates for any individual by more than 10% or one week, whichever is larger; and (ii) that the aggregate of these adjustments shall not cause payments under this Contract to exceed the ceilings set forth in Clause GCC 41.2.

29.3 If additional work is required beyond the scope of the Services specified in Appendix A, the estimated time-input for the Key Experts may be increased by agreement in writing between the Client and the Consultant. When payments under this Contract exceed the ceilings set forth in Clause GCC 41.1, the Parties shall sign a Contract amendment.

29.4 The Consultant shall require all Experts and Sub-consultants to observe the highest level of ethical and behavioral standards and shall refrain from any form of bullying, harassment, discrimination and misconduct, including sexual harassment and abuse, and shall, at all times, behave in a manner that creates an environment free of bullying, harassment, discrimination and misconduct.
30. Replacement of Key Experts

30.1 Except as the Client may otherwise agree in writing, no changes shall be made in the Key Experts.

30.2 Notwithstanding GCC 30.1, the substitution of Key Experts during Contract execution may be considered only based on the Consultant’s written request and due to circumstances outside the reasonable control of the Consultant, including but not limited to death or medical incapacity. In this case, the Consultant shall forthwith provide as a replacement, a person of equivalent or better qualifications and experience, and at the same rate of remuneration.

31. Approval of Additional Key Experts

31.1 If during execution of the Contract, additional Key Experts are required to carry out the Services, the Consultant shall submit to the Client for review and approval a copy of their Curriculum Vitae (CVs). If the Client does not object in writing (stating the reasons for the objection) within 22 days from the date of receipt of the CVs, the additional Key Experts shall be deemed to have been approved by the Client.

32. Removal of Experts or Sub-Consultants

32.1 If the Client or the Consultant finds that any of the Experts or Sub-Consultant has breached Clause 26.4 or has been charged with having committed a criminal action, or if the Client determines that Consultant’s Expert or Sub-consultant has engaged in corrupt, fraudulent, collusive or coercive [or obstructive] practice while performing the Services, the Consultant shall, at the Client’s written request, provide a replacement.

32.2 In the event that any of Key Experts, Non-Key Experts, or Sub-Consultants is found by the Client to be incompetent or incapable in
11. General Conditions of Contract

Time-Based

discharging assigned duties, the Client, specifying the grounds therefore, may request the Consultant to provide a replacement.

32.3 Any replacement of the removed Experts or Sub-Consultants shall possess better qualifications and experience and shall be acceptable to the Client.


33.1 Except if the Client agrees otherwise, (i) the Consultant shall bear all additional travel and other costs arising out of or incidental to any removal and/or replacement, and (ii) the remuneration to be paid for any of the replacement Experts shall not exceed the remuneration that would have been payable to the Experts replaced or removed.

34. Working Hours, Overtime, Leave, etc.

34.1 Working hours and holidays for Experts are set forth in Appendix B. To account for travel time and from the Client’s country, experts carrying out Services inside the Client’s country shall be deemed to have commenced or finished work in respect of the Services such number of days before their arrival in, or after their departure from, the Client’s country as is specified in Appendix B.

34.2 The Experts shall not be entitled to overtime pay nor to paid sick leave or vacation leave except as specified in Appendix B, and the Consultant’s remuneration shall be deemed to cover these items.

34.3 Any leaves taken by Key Experts shall be subject to the prior approval of the Consultant who shall ensure that absence for leave purposes will not delay the progress and or impact adequate supervision of the Services.

E. OBLIGATIONS OF THE CLIENT

35. Assistance and Exemptions

35.1 Unless otherwise specified in the SCC, the Client shall use its best efforts to:

(a) Assist the Consultant with obtaining work permits and other documents as shall be necessary to enable the Consultant to perform the Services.

(b) Assist the Consultant with promptly obtaining, for the Experts and, if appropriate, their eligible dependents, all necessary entry and exit visas, residence permits, exchange permits, and any other documents required for their stay in the Client’s country while carrying out the Services under the Contract.

(c) Facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Experts and their eligible dependents.

(d) Issue all instructions and information to officials, agents and representatives of the Government that may be necessary or appropriate for the prompt and effective implementation of the Services.
11. General Conditions of Contract

<table>
<thead>
<tr>
<th>Time-Based</th>
</tr>
</thead>
</table>
| (e) Assist the Consultant and the Experts and any Sub-Consultants employed by the Consultant for the Services with obtaining exemption from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity in the Client’s country according to the Applicable Law in the Client’s country.

(f) Assist the Consultant, any Sub-Consultants, and their Experts with obtaining the privilege, pursuant to the Applicable Law in the Client’s country, of bringing into the Client’s country reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Experts and of withdrawing any such amounts as may be earned therein by the Experts in the execution of the Services.

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

36. Access to Project Site

36.1 The Client warrants that the Consultant shall have, free of charge, unimpeded access to the project site as required to perform the Services. The Client will be responsible for any damage to the project site or any property thereon resulting from such access and will indemnify the Consultant and Experts in respect of liability for any such damage, unless the damage was caused by the willful default or negligence of the Consultant or any Sub-Consultants or their Experts.

37. Change in the Applicable Law Related to Taxes and Duties

37.1 If, after the date of this Contract, there is any change in the Applicable Law in the Client’s country with respect to taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, the remuneration and reimbursable expenses otherwise payable to the Consultant under this Contract shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the ceiling amounts specified in Clause GCC 41.1.

38. Services, Facilities and Property of the Client

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

38.2 In case the services, facilities, and property shall not be made available to the Consultant as and when specified in Appendix A, the Parties shall agree on (i) any time extension that it may be appropriate to grant to the Consultant for the performance of the Services; (ii) the manner in which the Consultant shall procure any such services, facilities, and property from other sources; and (iii) the additional payments, if any, to be made to the Consultant as a result thereof pursuant to Clause GCC 41.3.

39. Counterpart Personnel

39.1 The Client shall make such professional and support counterpart personnel available to the Consultant free of charge.
These personnel shall be nominated by the Client with the Consultant’s advice, if specified in Appendix A.

39.2 If counterpart personnel are not provided by the Client to the Consultant as and when specified in Appendix A, the Client and the Consultant shall agree on (i) how the affected part of the Services shall be carried out, and (ii) the additional payments, if any, to be made by the Client to the Consultant as a result thereof pursuant to Clause GCC 41.3.

39.3 Professional and support counterpart personnel, excluding Client’s liaison personnel, shall work under the exclusive direction of the Consultant. If any member of the counterpart personnel fails to adequately perform any work assigned to the member by the Consultant that is consistent with the position occupied by the member, the Consultant may request the replacement of the member, and the Client shall not unreasonably refuse to act upon the request.

40. Payment Obligation

40.1 In consideration of the Services performed by the Consultant under this Contract, the Client shall make the payments to the Consultant and in such manner as is provided by GCC F below.

F. PAYMENTS TO THE CONSULTANT

41. Ceiling Amount

41.1 An estimate of the cost of the Services is set forth in Appendix C (Remuneration) and Appendix D (Other Expenses, Provisional Sums and Contingency).

41.2 Payments under this Contract shall not exceed the ceilings in foreign and local currencies specified in the SCC.

41.3 For any payments in excess of the ceilings specified in GCC41.2, an amendment to the Contract shall be signed by the Parties referring to the provision of this Contract that evokes such amendment.

42. Remuneration and Other Expenses, Provisional Sums and Contingency

42.1 The Client shall pay the Consultant (i) remuneration determined on the basis of time actually spent by each Expert in the performance of the Services after the date of commencing of Services or such other date as the Parties shall agree in writing and (ii) other expenses, provisional sums, and contingency that are actually and reasonably incurred by the Consultant in the performance of the Services.

42.2 All payments shall be at the rates set forth in Appendix C and Appendix D.

42.3 Unless the SCC provides for the price adjustment of the remuneration rates, the remuneration shall be fixed for the duration of the Contract.

42.4 The remuneration rates shall cover: (i) salaries and allowances as the Consultant agreed to pay the Experts as well as
II. General Conditions of Contract

Time-Based

factors for social charges and overheads (bonuses or other means of profit-sharing shall not be allowed as an element of overheads). (ii) the cost of backstopping by home office staff not included in the Experts’ list in Appendix B, (iii) the Consultant’s profit, and (iv) any other items as specified in the SCC.

42.5 Any rates specified for Experts not yet appointed shall be provisional and shall be subject to revision, with the written approval of the Client, once the applicable remuneration rates and allowances are known.

43. Taxes and Duties

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

43.2 As an exception to the above and as stated in the SCC, all local identifiable indirect taxes and other local taxes which are not included in the Consultant’s Financial proposal in accordance with ITC 25, which are itemized and finalized at Contract negotiations, are reimbursed to the Consultant or are paid by the Client on behalf of the Consultant.

44. Currency of Payment

44.1 Any payment under this Contract shall be made in the currency(ies) specified in the SCC.

45. Mode of Billing and Payment

45.1 Billings and payments in respect of the Services shall be made as follows:

(a) **Advance payment.** Within the number of days after the Effective Date, the Client provide the Consultant with an advance payment as specified in the SCC. Unless otherwise indicated in the SCC, an advance payment shall be made against an advance payment bank guarantee acceptable to the Client in an amount (or amounts) and in a currency (or currencies) specified in the SCC. This guarantee (i) is to remain effective until the advance payment has been fully set off, and (ii) is to be in the form set forth in Appendix E, or in such other form as the Client shall have approved in writing. The advance payments will be set off by the Client in equal installments against the statements for the number of months of the Services specified in the SCC until the advance payments have been fully set off.

(b) **Itemized invoices.** As soon as practicable and not later than fifteen (15) days after the end of each calendar month during the period of the Services, or after the end of each time interval otherwise indicated in the SCC, the Consultant shall submit to the Client, in duplicate, itemized invoices, accompanied by the receipts or other appropriate supporting documents, of the amounts payable pursuant to Clauses GCC 44 and GCC 45 for such interval, or any other period indicated in the SCC. Separate invoices shall be submitted for expenses incurred in foreign currency and in local currency. Each invoice shall show remuneration and reimbursable expenses separately.
II. General Conditions of Contract

(c) The Client shall pay the Consultant’s invoices within 60 days after the receipt by the Client of the itemized invoices and supporting documents. Only the portion of the invoice that is not satisfactorily supported may be withheld from payment. Should any discrepancy be found to exist between actual payment and costs authorized to be incurred by the Consultant, the Client may add or subtract the difference from any subsequent payments.

(d) Final payment. The final payment under this Clause shall be made only after the final report and a final invoice (identified as such) shall have been submitted by the Consultant and approved as satisfactory by the Client. The Services shall be deemed completed and finally accepted by the Client and the final report and final invoice shall be deemed approved by the Client as satisfactory 90 calendar days after receipt of the final report and final invoice by the Client unless the Client gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report or final invoice within the 90-calendar day period. The Consultant shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated. Any amount that the Client has paid or has caused to be paid in accordance with this Clause in excess of the amounts payable in accordance with the provisions of this Contract shall be reimbursed by the Consultant to the Client within 30 days after receipt by the Consultant of notice thereof. Any claim by the Client for reimbursement must be made within 12 calendar months after receipt by the Client of a final report and a final invoice approved by the Client in accordance with this clause.

(e) All payments under this Contract shall be made to the accounts of the Consultant specified in the SCC.

(f) With the exception of the final payment under (d), payments do not constitute acceptance of the Services nor relieve the Consultant of any obligations hereunder.

46. Interest on Delayed Payments

46.1 If the Client had delayed payments beyond fifteen (15) days after the due date stated in Clause G.C. 45.1 (c), interest shall be paid to the Consultant on any amount due by, not paid on, the due date for each day of delay at the annual rate stated in the SCC.

G. FAIRNESS AND GOOD FAITH

47. Good Faith

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

H. SETTLEMENT OF DISPUTES

48. Amicable Settlement

48.1 The Parties shall seek to resolve any dispute amicably by mutual consultation.
II. General Conditions of Contract

48.2 If either Party objects to any action or inaction of the other Party, the objecting Party may file a written Notice of Dispute to the other Party providing in detail the basis of the dispute. The Party receiving the Notice of Dispute will consider it and respond in writing within 14 days after receipt. If that Party fails to respond within 14 days, or the dispute cannot be amicably settled within 14 days following the response of that Party, Clause GCC 49.1 shall apply.

49. Dispute Resolution

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

I. ELIGIBILITY

50. Eligibility

50.1 Compliance with the Bank’s eligibility policy is required throughout the Contract’s execution.
II. General Conditions

Attachment 1: Bank’s Anticorruption Policy

["Notes to the Client": the text in this Attachment 1 shall not be modified]

Anticorruption Policy

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, contractors, consultants, subcontractors, subconsultants and agents (including their respective officers, directors, employees and personnel) under ADB-financed contracts, to observe the highest standard of ethics during the selection process and in 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 improperly influence the actions of another party.

(ii) “Fraudulent practice” means any action 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 improperly influence 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 a party’s performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations.

(vii) Integrity violation is any act which violates ADB’s Anticorruption Policy, including items (i) to (vi) above and the following: obstructive practice, abuse, conflict of interest, 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 an award if it determines that the Consultant recommended for the award or any of its officers, directors, employees, personnel, subconsultants, subcontractors, service providers, suppliers or manufacturers has 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 Client engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations during the procurement
III. Special Conditions of Contract

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 Anti-corruption Policy and Integrity Principles and Guidelines (as amended from time to time), including declaring ineligible, either indefinitely or for a stated period of time, to participate\textsuperscript{15} 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. ADB reserves the right to publish any debarment and

(e) will have the right to require that a provision be included in request for proposals and in Contracts financed, administered or supported by ADB, requiring Consultants 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 their accounts and records and other documents relating to the selection process and contract performance and to have them audited by auditors appointed by ADB.

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 obliged 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 includes, but is not limited to, the following:

(a) being available to be interviewed and replying fully and truthfully to all questions asked;
(b) providing ADB with any items requested that are within the party’s control including, but not limited to, documents and other physical objects;
(c) upon written request by ADB, authorizing other related entities to release directly to ADB such information that is specifically and materially related, directly or indirectly, to the said entities or issues which are the subject of the investigation;
(d) cooperating with all reasonable requests to search or physically inspect their person and/or work areas, including files, electronic databases, and personal property used on ADB activities, or that utilizes ADB’s Information and Communications Technology (ICT) resources or systems (including mobile phones, personal electronic devices, and electronic storage devices such as external disk drives);
(e) cooperating in any testing or examination requested by ADB;
(f) providing all other information relevant for the exercise of ADB’s audit or inspection rights, and
(g) preserving and protecting confidentiality of all information discussed with, and as required by, ADB.

All bidders, Consultants, contractors and suppliers shall require their officers, directors, employees, personnel, agents to ensure that, in its contract with its sub-consultants, Subcontractors, and other third parties engaged or involved in ADB-related activities, such

\textsuperscript{15} Whether as a Consultant, Sub-Consultant or Key Expert; or in any other capacity specified in the Contract
III. Special Conditions of Contract

sub-consultants, Subcontractors, and other third parties similarly are obliged to cooperate fully in any investigation when requested by ADB to do so.

The Borrower 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 Consultant 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.
### III. Special Conditions of Contract

Some provisions of the Special Conditions of Contract (SCC) can be filled out, and this information will help the shortlisted firms in preparing their proposal.

Text in the GCC placed beside the SCC for easy reference. Only DS should be modified.

<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) DO NOT MODIFY</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (TIME-BASED) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
</table>
| 1 (b)               | “Applicable Guidelines” are guidelines or policies of the Asian Development Bank governing the selection and contract award process as specified in the Special Conditions of Contract (SCC). | Sample:  
**Applicable Guidelines**  
ADB Procurement Policy 2017 (Policy) and Procurement Regulations for ADB Borrowers 2017 (as amended from time to time) (Procurement Regulations) |
| 1 (c) and 3.1       | “Applicable Law” means the laws and any other instruments having the force of law in the Client’s country, or in such other country as may be specified in the SCC, as they may be issued and in force from time to time.  
3.1 This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law as specified in the SCC. | Sample:  
**Applicable Law**  
The Contract shall be construed in accordance with the law of the Republic of the Philippines.  
**Note:** Bank-financed contracts normally designate the law of the Client’s country as the law governing the contract. However, the Parties may designate the law of another country, in which case the name of the respective country should be inserted, and the square brackets should be removed. |
| 4.1                 | This Contract has been executed in the language specified in the SCC, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract. | Sample:  
**Language**  
The language is English.  
**Note:** Unless otherwise approved by the Bank, the RFP and other relevant documents and communication should be in the English language. |

**SCC 1(b) - Note**  
Copy applicable guidelines from Data Sheet 1(b)  
**SCC 1(c) and 3.1 - Note**  
Copy country of applicable law from Data Sheet 1(c)  
**SCC 4.1 - Note**  
Copy language set in Data Sheet 9.1
6.1 and 6.2

Any communication required or permitted to be given or made pursuant to this Contract shall be in writing in the language specified in Clause GCC 4. Any such notice, request, or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the SCC.

6.2. A Party may change its address for notice hereunder by giving the other Party any communication of such change to the address specified in the SCC.

8.1

In case the Consultant is a JV, the members hereby authorize the member specified in the SCC to act on their behalf in exercising all the Consultant’s rights and obligations toward the Client under this Contract, including without limitation the receiving of instructions and payments from the Client.

SCC 6.1 and 6.2 – Note
Fill details for Client only

Contact Details

Client:

Attention:

Facsimile:

E-mail (where permitted):

Consultant:

Attention:

Facsimile:

E-mail (where permitted):

SCC 8.1 – No need to modify. To be filled out during contract negotiations.

Lead Member of Joint Venture

[Note: If the Consultant consists only of one entity, state “N/A”;]

OR

If the Consultant is a Joint Venture consisting of more than one entity, the name of the JV member whose address is specified in Clause SCC 6.1 should be inserted here.]

The Lead Member on behalf of the JV is ________________________________ [insert name of the member]
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) DO NOT MODIFY</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (TIME-BASED) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
</table>
| 9.1                 | Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Client or the Consultant may be taken or executed by the officials specified in the SCC. | SCC 9.1 – Note  
Fill details for Client’s Authorized Representative only  
Authorized Representatives  
The Authorized Representatives are:  
For the Client: [insert name, title]  
For the Consultant: [insert name, title] |
| 11.1                | This Contract shall come into force and effect on the date (the “Effective Date”) of the Client’s notice to the Consultant instructing the Consultant to begin carrying out the Services. This notice shall confirm that the effectiveness conditions, if any, listed in the SCC have been met. | SCC 11.1 – Note  
List here any conditions of effectiveness, examples below:  
approval of the Contract by the Bank;  
effectiveness of the Bank [loan/grant];  
receipt by the Consultant of an advance payment; or an advance payment guarantee by the Client (Clause SCC 45.1(i)).  
Sample:  
Conditions of Effectiveness of Contract  
Effectiveness of the Bank loan.  
Note: If there are no effectiveness conditions, state “N/A” |
| 12.1                | If this Contract has not become effective within such time period after the date of Contract signature as specified in the SCC, either Party may, by not less than 22 days written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto. | SCC 12.1 – Note  
Suggested time frame is four (4) months to allow for the conditions to be met. This may be varied depending on the conditions of effectiveness and the time anticipated by the Client to meet those conditions.  
Sample:  
Termination of Contract for Failure to Become Effective:  
The time period shall be 4 months from the date the Contract was signed. |
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) DO NOT MODIFY</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (TIME-BASED) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
</table>
| 13.1                | The Consultant shall confirm the availability of Key Experts and begin carrying out the Services not later than the number of days after the Effective Date specified in the SCC. | **Sample:**  
**Commencement of Services:**  
The number of days shall be 10 days after the effective date of the Contract.  
Confirmation of Key Experts’ availability to start the Assignment shall be submitted to the Client in writing as a written statement signed by each Key Expert.  
**SCC 13.1 – Note**  
The confirmation of Key Experts availability should be in accordance with the agreed schedule, which shall be submitted to the client in writing by each Key Expert as a precondition to start the assignment. |
| 14.1                | Unless terminated earlier pursuant to Clause GCC 19 hereof, this Contract shall expire at the end of such time period after the Effective Date as specified in the SCC. | **Sample:**  
**Contract Period**  
Expiration of Contract: The time period shall be 12 months after the effective date of Contract.  
**SCC 14.1 – Note**  
Indicate contract duration. Contract period should be consistent with the TOR and to end before the loan closing date. |
| 21.1.3              | **Consultant and Affiliates Not to Engage in Certain Activities**  
The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-Consultants and any entity affiliated with such Sub-Consultants, shall be disqualified from providing goods, works, or non-consulting services resulting from or directly related to the Consultant’s Services for the preparation or implementation of the project, unless otherwise indicated in the SCC. | **SCC 21.1.3 – Retain default provision.**  
**Conflict**  
The Client may disqualify the Consultant from providing goods, works, or nonconsulting services due to a conflict of a nature described in Clause GCC 21.1.3. |
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC)</th>
<th><strong>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (TIME-BASED) – Special Conditions of Contract (SCC)</strong></th>
</tr>
</thead>
</table>
| 23.1                | Subject to additional provisions, if any, set forth in the SCC, the Consultant’s liability under this Contract shall be as determined under the Applicable Law. | **SCC 23.1** – Choose from the 2 options below, as appropriate. **Sample 1:** **Consultant’s Liability** No additional provisions. **Sample 2:** **Consultant’s Liability** The following limitation of the Consultant’s Liability towards the Client can be subject to the Contract’s negotiations: “Limitation of the Consultant’s Liability towards the Client: (a) Except in the case of gross negligence or willful misconduct on the part of the Consultant or on the part of any person or a firm acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused by the Consultant to the Client, shall not be liable to the Client: (i) for any indirect or consequential loss or damage; and (ii) for any direct loss or damage that exceeds one times the total value of the Contract; **Note:** Multiplier should not be less than 1x value of the contract. (b) This limitation of liability shall not (i) affect the Consultant’s liability, if any, for damage to Third Parties caused by the Consultant or any person or firm acting on behalf of the Consultant in carrying out the Services; (ii) be construed as providing the Consultant with any limitation or exclusion from liability which is prohibited by the [insert “Applicable Law”, if it is the law of the Client’s country, or insert “applicable law in the Client’s country”, if the Applicable Law stated in Clause SCC 1.1(c) is different from the law of the Client’s country].
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) DO NOT MODIFY</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (TIME-BASED) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
</table>
| SCC 23.1(continued) | Do not delete note to Client and Consultant below. | Retain this text:  

**[Notes to the Client and the Consultant:**

Any suggestions made by the Consultant in the Proposal to introduce exclusions or limitations of the Consultant’s liability under the Contract should be carefully scrutinized by the Client and discussed with the Bank prior to accepting any changes to what was included in the issued RFP. In this regard, the Parties should be aware of the Bank’s policy on this matter which is as follows:

To be acceptable to the Bank, any limitation of the Consultant’s liability should at the very least be reasonably related to (a) the damage the Consultant might potentially cause to the Client and (b) the Consultant’s ability to pay compensation using its own assets and reasonably obtainable insurance coverage. The Consultant’s liability shall not be limited to less than a multiplier of the total payments to the Consultant under the Contract for remuneration and reimbursable expenses. A statement to the effect that the Consultant is liable only for the re-performance of faulty Services is not acceptable to the Bank. Also, the Consultant’s liability should never be limited to loss or damage caused by the Consultant’s gross negligence or willful misconduct.

The Bank does not accept a provision to the effect that the Client shall indemnify and hold the Consultant harmless against Third Party claims, except, of course, if a claim is based on loss or damage caused by a default or wrongful act of the Client to the extent permissible by the law applicable in the Client’s country.]

}
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) DO NOT MODIFY</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (TIME-BASED) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
<tbody>
<tr>
<td>24.1</td>
<td>The Consultant (i) shall take out and maintain, and shall cause any Sub-Consultants to take out and maintain, at its (or the Sub-Consultants’, as the case may be) own cost but on terms and conditions approved by the Client, insurance against the risks, and for the coverage specified in the SCC, and (ii) at the Client’s request, shall provide evidence to the Client showing that the insurance has been taken out and maintained and that the current premiums have been paid. The Consultant shall ensure that such insurance is in place prior to commencing the Services as stated in Clause GCC 13.</td>
<td></td>
</tr>
</tbody>
</table>

### Sample:

#### Insurance Coverage

The insurance coverage against the risks shall be as follows:

(a) Professional liability insurance, with a minimum coverage of $1 million

**Note:** Insert amount and currency that should be not less than the total ceiling amount of the Contract

(b) Third Party motor vehicle liability insurance in respect of motor vehicles operated in the Client’s country by the Consultant or its Experts or Sub-Consultants, with a minimum coverage in accordance with the applicable law in the Client’s country;

**Note:** Insert amount and currency or state “in accordance with the applicable law in the Client’s country”.

(c) Third Party liability insurance, with a minimum coverage in accordance with the applicable law in the Client’s country;

**Note:** Insert amount and currency or state “in accordance with the applicable law in the Client’s country”.

(d) employer’s liability and workers’ compensation insurance of the Experts and Sub-Consultants in accordance with the relevant provisions of the applicable law in the Client’s country, as well as, with respect to such Experts, any such life, health, accident, travel, or other insurance as may be appropriate; and
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) DO NOT MODIFY</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (TIME-BASED) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
<tbody>
<tr>
<td>27.1</td>
<td>Unless otherwise indicated in the <strong>SCC</strong>, all reports and relevant data and information such as maps, diagrams, plans, databases, other documents, and software, or supporting records or materials compiled or prepared by the Consultant for the Client in the course of the Services shall be confidential and become and remain the absolute property of the Client. The Consultant shall deliver all such documents to the Client, together with a detailed inventory thereof not later than the date of termination or expiration of this Contract. The Consultant may retain a copy of these documents, data, and/or software but shall not use the same for purposes unrelated to this Contract without prior written approval of the Client.</td>
<td>(e) insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Consultant’s property used in the performance of the Services, and (iii) any documents prepared by the Consultant in the performance of the Services.</td>
</tr>
</tbody>
</table>

**SCC 27.1 – Note**
Insert “None” if there are no exceptions. If applicable, insert any exceptions to proprietary rights provision.

**Sample:**

**Exceptions to Proprietary Rights**

*None*
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) DO NOT MODIFY</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (TIME-BASED) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
</table>
| 27.2                | If license agreements are necessary or appropriate between the Consultant and third parties for purposes of development of the plans, drawings, specifications, designs, databases, other documents, and software, the Consultant shall obtain the Client’s prior written approval to such agreements, and at its discretion the Client shall be entitled to require recovering the expenses related to the development of the program(s) concerned. Other restrictions about the future use of these documents and software, if any, shall be specified in the SCC. | Sample 1: Future Use of Documents  
The Consultant shall not use these [insert what applies ...... documents and software......] for purposes unrelated to this Contract without the prior written approval of the Client.  
Sample 2: Future Use of Documents  
The Client shall not use these [insert what applies ...... documents and software......] for purposes unrelated to this Contract without the prior written approval of the Consultant.  
Sample 3: Future Use of Documents  
Neither Party shall use these [insert what applies ...... documents and software......] for purposes unrelated to this Contract without the prior written approval of the other Party. |

**SCC 27.2 – Note**  
If there is to be no restriction on the future use of these documents by either Party, this Clause SCC 27.2 should be deleted.
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) DO NOT MODIFY</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (TIME-BASED) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
</table>
| 35.1 (a) through (f) | 35.1 Unless otherwise specified in the SCC, the Client shall use its best efforts to: | SCC 35.1(a–f) – Note  
List here any changes or additions to Clause GCC 35.1. If there are no such changes or additions, delete this Clause SCC 35.1.  
Sample:  
**Assistance and Exemptions**  
Assist the Consultants with obtaining the necessary firm permit for the use of custom IT equipment and software. |
<p>|                     | (a)  Assist the Consultant with obtaining work permits and other documents as shall be necessary to enable the Consultant to perform the Services. | |
|                     | (b)  Assist the Consultant with promptly obtaining, for the Experts and, if appropriate, their eligible dependents, all necessary entry and exit visas, residence permits, exchange permits, and any other documents required for their stay in the Client’s country while carrying out the Services under the Contract. | |
|                     | (c)  Facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Experts and their eligible dependents. | |
|                     | (d)  Issue all instructions and information to officials, agents, and representatives of the Government that may be necessary or appropriate for the prompt and effective implementation of the Services. | |
|                     | (e)  Assist the Consultant and the Experts and any Sub-Consultants employed by the Consultant for the Services with obtaining exemption from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity in the Client’s country according to the Applicable Law in the Client’s country. | |
|                     | (f)  Assist the Consultant, any Sub-Consultants, and their Experts with obtaining the privilege, pursuant to the Applicable Law in the Client’s country, of bringing into the Client’s country reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Experts and of withdrawing any such amounts as may be earned therein by the Experts in the execution of the Services. | |</p>
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) DO NOT MODIFY</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (TIME-BASED) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
</table>
| 35.1(g)             | (g) Provide to the Consultant any such other assistance as may be specified in the SCC. | **SCC 35.1(g) – Note**  
List here any other assistance to be provided by the Client. If there are no such changes or additions, delete this Clause SCC 35.1.  

**Sample:**  

**Other Assistance to be Provided by Client**  
Assist the Consultant with obtaining the necessary permits in the construction site. |
| 41.2                | Payments under this Contract shall not exceed the ceilings in foreign and local currencies specified in the SCC. | **SCC 41.2 – No need to modify. To be filled out during contract negotiations.**  

**Currency Ceilings**  
The ceiling in foreign currency or currencies is:  

__________ [insert amount and currency for each currency and whether it is inclusive or exclusive] of local indirect taxes and other local taxes in accordance with GCC 43.2.  

The ceiling in local currency is:  

__________ [insert amount and currency for each currency and whether it is inclusive or exclusive] of local indirect taxes and other local taxes in accordance with GCC 43.2.  

Any indirect local taxes and other local taxes in accordance with GCC 43.2 chargeable in respect of this Contract for the Services provided by the Consultant shall [insert as appropriate: “be paid” or “reimbursed”] by the Client [insert as appropriate “for” or “to”] the Consultant.  

**Note:** Tax provisions must be consistent with ITC/DS 16 and 25. |
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) DO NOT MODIFY</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (TIME-BASED) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
</table>
| 42.3                | Unless the SCC provides for the price adjustment of the remuneration rates, the remuneration shall be fixed for the duration of the Contract. | **SCC 35.1(g) – Note**  
Price adjustment provision must be consistent with DS 16.2. |

**Note to Client:**  
If the Contract is less than 18 months, price adjustment does not apply.

If however, price adjustment does apply, the draft contract attached to the RFP must indicate which of the formulas provided below applies as the Consultant needs to have this information in order to prepare its Financial Proposal.

If the Contract duration is more than 18 months, a price adjustment provision on the remuneration for foreign and/or local inflation shall be included here.

The adjustment should be made every 12 months after the date of the contract for remuneration in foreign currency and—except if there is very high inflation in the Client’s country, in which case more frequent adjustments should be provided for—at the same intervals for remuneration in local currency.

Remuneration in a foreign currency should be adjusted by using the relevant index for salaries in the country of the respective foreign currency (which normally is the country of the Consultant) and remuneration in the local currency by using the corresponding index for the Client’s country.

A sample provision is provided here for guidance:

**Sample 1:**  
**Price Adjustments.**

Price adjustment on the remuneration does not apply.

**Sample 2:**  
**Price Adjustments.**

Price adjustment on the remuneration applies.

Payments for remuneration made in foreign and/or local currency shall be adjusted as follows:
Sample 2.a, Remuneration paid in Foreign Currency:

(1) Remuneration paid in foreign currency on the basis of the rates set forth in Appendix C shall be adjusted every 12 months (and, the first time, with effect for the remuneration earned in the 13th calendar month after the date of the Contract Effectiveness date) by applying the following formula:

\[
R_f = R_{fo} \times \frac{I_f}{I_{fo}}
\]

or

\[
R_f = R_{fo} \times \left[ 0.1 + 0.9 \frac{I_f}{I_{fo}} \right]
\]

where

- \( R_f \) is the adjusted remuneration;
- \( R_{fo} \) is the remuneration payable on the basis of the remuneration rates (Appendix C) in foreign currency;
- \( I_f \) is the official index for salaries in the country of the foreign currency for the first month for which the adjustment is supposed to have effect; and
- \( I_{fo} \) is the official index for salaries in the country of the foreign currency for the month of the date of the Contract.

Notes on Formulas

The Client may choose one from the two formulas presented in item (1) for foreign currency and item (2) for local currency.

If the consultant will be paid in foreign currency, the index is stated as index of foreign currency. For example, if foreign currency is in United States (US) dollars, the US Bureau of Labor Statistics index shall apply.

If the Consultant will be paid in local currency, the index produced in the country that is the source of currency shall be used. Normally, it shall be an index which is similar to the US Bureau of Labor Statistics of the Department of Labor. If, for example, the index for wage or salary inflation is not produced for the country, the CPI should be a reasonable alternative.

Both the Client and the Consultant should agree on the index to be used at negotiations to avoid any dispute.

The Client should indicate the selected formula in the draft contract attached to the RFP. The first formula requires 100% of the firm’s remuneration to be subject to price adjustment, whereas the second formula requires only 90% of the firm’s remuneration to be subject to price adjustment. The Client’s choice of formula is information that the Consultant needs to know when preparing its financial proposal.
**Notes on Formulas**

The Client may choose one from the two formulas presented in item (1) for foreign currency and item (2) for local currency.

If the consultant will be paid in foreign currency, the index is stated as index of foreign currency. For example, if foreign currency is in United States (US) dollars, the US Bureau of Labor Statistics index shall apply.

If the Consultant will be paid in local currency, the index produced in the country that is the source of currency shall be used. Normally, it shall be an index which is similar to the US Bureau of Labor Statistics of the Department of Labor. If, for example, the index for wage or salary inflation is not produced for the country, the CPI should be a reasonable alternative.

Both the Client and the Consultant should agree on the index to be used at negotiations to avoid any dispute.

**Sample 2.b, Remuneration paid in Local Currency:**

**(2) Remuneration paid in local currency**

pursuant to the rates set forth in Appendix D shall be adjusted every [insert number] months (and, for the first time, with effect for the remuneration earned in the [insert number] the calendar month after the date of the Contract) by applying the following formula:

\[
R_l = R_{lo} \times \frac{I_l}{I_{lo}}
\]

or

\[
R_l = R_{lo} \times \left[ 0.1 + 0.9 \frac{I_l}{I_{lo}} \right]
\]

where

The Client should indicate the selected formula in the draft contract attached to the RFP. The first formula requires 100% of the firm’s remuneration to be subject to price adjustment, whereas the second formula requires only 90% of the firm’s remuneration to be subject to price adjustment. The Client’s choice of formula is information that the Consultant needs to know when preparing its financial proposal.
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) DO NOT MODIFY</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (TIME-BASED) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>$R_i$ is the adjusted remuneration;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$R_{lo}$ is the remuneration payable on the basis of the remuneration rates (Appendix D) in local currency;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$I_i$ is the official index for salaries in the Client’s country for the first month for which the adjustment is to have effect; and</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$I_{lo}$ is the official index for salaries in the Client’s country for the month of the date of the Contract.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The Client shall state here the name, source institution, and any necessary identifying characteristics of the official index for salaries corresponding to $I_i$ and $I_{lo}$ in the adjustment formula for remuneration paid in local currency: [Insert the name, source institution, and necessary identifying characteristics of the index for foreign currency]</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Sample 2, continued:</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(3) Any part of the remuneration that is paid in a currency different from the currency of the official index for salaries used in the adjustment formula, shall be adjusted by a correction factor $X/Y$. $X$ is the number of units of currency of the country of the official index, equivalent to one unit of the currency of payment on the date of the contract. $Y$ is the number of units of currency of the country of the official index, equivalent to one unit of the currency of payment on the first day of the first month for which the adjustment is supposed to have effect.</td>
</tr>
</tbody>
</table>
| 42.4                | The remuneration rates shall cover: (i) salaries and allowances as the Consultant agreed to pay the Experts as well as factors for social charges and overheads (bonuses or other means of profit-sharing shall not be allowed as an element of overheads), (ii) the cost of backstopping by home office staff not included in the Experts’ list in Appendix B, (iii) the Consultant’s profit, and (iv) any other items as specified in the SCC. | **SCC 42.4 – Note**  
State “Not Applicable” if there are no other items to be covered as remuneration.  
**Other Items to Be Covered As Remuneration**  
If there are no other items to be covered as remuneration apart from those already specified in GCC 42.4, please insert “Not applicable”. |
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) DO NOT MODIFY</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (TIME-BASED) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
</table>
| 43.1 and 43.2      | 43.1 The Consultant, Sub-Consultants, and Experts are responsible for meeting any and all tax liabilities arising out of the Contract unless it is stated otherwise in the SCC.  
43.2 As an exception to the above and as stated in the SCC, all local identifiable indirect taxes and other local taxes which are not included in the Consultant’s Financial proposal in accordance with ITC 25, which are itemized and finalized at Contract negotiations, are reimbursed to the Consultant or are paid by the Client on behalf of the Consultant. | Sample 1 – with tax exemption:  
**Taxes and Duties**  
The Client warrants that the Consultant, the Sub-Consultants, and the Experts shall be exempt from any local indirect taxes and other local taxes in accordance with GCC 43.2, duties, fees, levies, and other impositions imposed, under the applicable law in the Client’s country, on the Consultant, the Sub-Consultants and the Experts in respect of:  
(a) any payments whatsoever made to the Consultant, Sub-Consultants and the Experts (other than nationals or permanent residents of the Client’s country), in connection with the carrying out of the Services;  
(b) any equipment, materials, and supplies brought into the Client’s country by the Consultant or Sub-Consultants for the purpose of carrying out the Services and which, after having been brought into such territories, will be subsequently withdrawn by them;  
(c) any equipment imported for the purpose of carrying out the Services and paid for out of funds provided by the Client and which is treated as property of the Client; and  
(d) any property brought into the Client’s country by the Consultant, any Sub-Consultants or the Experts (other than nationals or permanent residents of the Client’s country), or the eligible dependents of such experts for their personal use and which will subsequently be withdrawn by them upon their respective departure from the Client’s country, provided that:  
**Note on Taxes**  
The Bank leaves it to the Client to decide whether the Consultant:  
(i) should be exempted from indirect local taxes and other local taxes in accordance with GCC 43.2, or  
(ii) should be reimbursed by the Client for any such tax they might have to pay (or that the Client would pay such tax on behalf of the Consultant)  
Choose one applicable option consistent with the ITC 16.3 and the outcome of the Contract’s negotiations: |
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) DO NOT MODIFY</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (TIME-BASED) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
</table>
|                     | i. The Consultant, Sub-Consultants, and Experts shall follow the usual customs procedures of the Client’s country in importing property into the Client’s country; and  
|                     | ii. If the Consultant, Sub-Consultants or Experts do not withdraw but dispose of any property in the Client’s country upon which customs duties and taxes have been exempted, the Consultant, Sub-Consultants or Experts, as the case may be, (a) shall bear such customs duties and taxes in conformity with the regulations of the Client’s country, or (b) shall reimburse them to the Client if they were paid by the Client at the time the property in question was brought into the Client’s country. |
|                     | Sample 2 – without tax exemption, Client to pay on behalf of the Consultant |
|                     | **Taxes and Duties**  
The Client warrants that the Client shall pay on behalf of the Consultant, the Sub-Consultants and the Experts, any local indirect taxes and other local taxes imposed, under the applicable law in the Client’s country, on the Consultant, the Sub-Consultants and the Experts in respect of:  
(e) any payments whatsoever made to the Consultant, Sub-Consultants and the Experts (other than nationals or permanent residents of the Client’s country), in connection with the carrying out of the Services;  
(f) any equipment, materials, and supplies brought into the Client’s country by the Consultant or Sub-Consultants for the purpose of carrying out the Services and which, after having been brought into such territories, will be subsequently withdrawn by them; |
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) DO NOT MODIFY</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (TIME-BASED) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(g) any equipment imported for the purpose of carrying out the Services and paid for out of funds provided by the Client and which is treated as property of the Client; and (h) any property brought into the Client’s country by the Consultant, any Sub-Consultants or the Experts (other than nationals or permanent residents of the Client’s country), or the eligible dependents of such experts for their personal use and which will subsequently be withdrawn by them upon their respective departure from the Client’s country, provided that: i. the Consultant, Sub-Consultants and Experts shall follow the usual customs procedures of the Client’s country in importing property into the Client’s country; and ii. if the Consultant, Sub-Consultants or Experts do not withdraw but dispose of any property in the Client’s country upon which customs duties and taxes have been exempted, the Consultant, Sub-Consultants or Experts, as the case may be, (a) shall bear such customs duties and taxes in conformity with the regulations of the Client’s country, or (b) shall reimburse them to the Client if they were paid by the Client at the time the property in question was brought into the Client’s country.</td>
<td></td>
</tr>
<tr>
<td>Number of GC Clause</td>
<td>General Conditions of Contract (GCC) DO NOT MODIFY</td>
<td>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (TIME-BASED) – Special Conditions of Contract (SCC)</td>
</tr>
<tr>
<td>---------------------</td>
<td>-----------------------------------------------------</td>
<td>------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>Choose one applicable option consistent with the ITC 16.3 and the outcome of the Contract’s negotiations:</td>
<td>Sample 3 – without tax exemption, the Client shall reimburse the Consultant</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Taxes and Duties</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td>The Client warrants that the Client shall reimburse the Consultant, the Sub-Consultants and the Experts, any local indirect taxes and other local taxes in accordance with GCC 43.2, duties, fees, levies, and other impositions imposed, under the applicable law in the Client’s country, on the Consultant, the Sub-Consultants and the Experts in respect of:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(i) any payments whatsoever made to the Consultant, Sub-Consultants and the Experts (other than nationals or permanent residents of the Client’s country), in connection with the carrying out of the Services;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(j) any equipment, materials, and supplies brought into the Client’s country by the Consultant or Sub-Consultants for the purpose of carrying out the Services and which, after having been brought into such territories, will be subsequently withdrawn by them;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(k) any equipment imported for the purpose of carrying out the Services and paid for out of funds provided by the Client and which is treated as property of the Client; and</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(l) any property brought into the Client’s country by the Consultant, any Sub-Consultants or the Experts (other than nationals or permanent residents of the Client’s country), or the eligible dependents of such experts for their personal use and which will subsequently be withdrawn by them upon their respective departure from the Client’s country, provided that:</td>
</tr>
<tr>
<td>Number of GC Clause</td>
<td>General Conditions of Contract (GCC) DO NOT MODIFY</td>
<td>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (TIME-BASED) – Special Conditions of Contract (SCC)</td>
</tr>
<tr>
<td>---------------------</td>
<td>---------------------------------------------------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>i.</td>
<td>the Consultant, Sub-Consultants and Experts shall follow the usual customs procedures of the Client’s country in importing property into the Client’s country; and</td>
<td></td>
</tr>
<tr>
<td>ii.</td>
<td>if the Consultant, Sub-Consultants or Experts do not withdraw but dispose of any property in the Client’s country upon which customs duties and taxes have been exempted, the Consultant, Sub-Consultants or Experts, as the case may be, (a) shall bear such customs duties and taxes in conformity with the regulations of the Client’s country, or (b) shall reimburse them to the Client if they were paid by the Client at the time the property in question was brought into the Client’s country.</td>
<td></td>
</tr>
<tr>
<td>44.1</td>
<td>Any payment under this Contract shall be made in the currency(ies) specified in the SCC.</td>
<td>SCC 44.1 – No need to modify. This should be filled out and finalized during contract negotiations.</td>
</tr>
<tr>
<td></td>
<td><strong>Currency of Payments</strong></td>
<td>The currency(ies) of payment shall be the following: [[list currency(ies) which should be the same as in the Financial Proposal, Form FIN-2]].</td>
</tr>
<tr>
<td>Number of GC Clause</td>
<td>General Conditions of Contract (GCC) <strong>DO NOT MODIFY</strong></td>
<td>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (TIME-BASED) – Special Conditions of Contract (SCC)</td>
</tr>
<tr>
<td>---------------------</td>
<td>---------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| 45.1(a)             | 45.1 Billings and payments in respect of the Services shall be made as follows:  
(a) **Advance payment.** Within the number of days after the Effective Date, the Client shall provide the Consultant with an advance payment as specified in the SCC. Unless otherwise indicated in the SCC, an advance payment shall be made against an advance payment bank guarantee acceptable to the Client in an amount (or amounts) and in a currency (or currencies) specified in the SCC. This guarantee (i) is to remain effective until the advance payment has been fully set off, and (ii) is to be in the form set forth in Appendix E, or in such other form as the Client shall have approved in writing. The advance payments will be set off by the Client in equal installments against the statements for the number of months of the Services specified in the SCC until the advance payments have been fully set off.  

**SCC 45.1(a) - No need to modify. This should be filled out and finalized during contract negotiations.** |
|                     | **Advance Payments**  
[Note: The advance payment could either be in the foreign currency, or the local currency, or both; select the appropriate wording in the Clause here below. The advance bank payment guarantee should be in the same currency(ies).]  
The following provisions shall apply to the advance payment and the advance bank payment guarantee:  
(1) An advance payment of [insert amount] in foreign currency and of [insert amount] in local currency shall be made within [insert number] days after the Effective Date. The advance payment will be set-off by the Client in equal installments against the statements for the first [insert number] months of the Services until the advance payment has been fully set-off.  
(2) The advance bank payment guarantee shall be in the amount and in the currency of the currency(ies) of the advance payment. |
|                     | **Notes on Payment Provisions**  
Payment provisions, including amounts to be paid, schedule of payments, and payment procedures, shall be agreed upon during negotiations. Payments may be made at regular intervals (as under time-based contracts) or for agreed outputs (as under lump sum contracts). For loan consultant contracts, the borrower may request the consultant to provide an advance payment guarantee against the amount advanced by the borrower. |
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) DO NOT MODIFY</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (TIME-BASED) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>45.1(b)</strong></td>
<td><strong>(b)</strong> <em>Itemized invoices</em>. As soon as practicable and not later than fifteen (15) days after the end of each calendar month during the period of the Services, or after the end of each time interval otherwise indicated in the <strong>SCC</strong>, the Consultant shall submit to the Client, in duplicate, itemized invoices, accompanied by the receipts or other appropriate supporting documents, of the amounts payable pursuant to Clauses GCC 44 and GCC 45 for such interval, or any other period indicated in the <strong>SCC</strong>. Separate invoices shall be submitted for expenses incurred in foreign currency and in local currency. Each invoice shall show remuneration and reimbursable expenses separately.</td>
<td><strong>SCC 45.1(b) – Note</strong>&lt;br&gt;• Insert time interval for itemized statements (e.g., every quarter, every 6 months, every 2 weeks)&lt;br&gt;• Delete this Clause SCC 45.1(b) if the Consultant shall submit its itemized statements monthly.&lt;br&gt;&lt;br&gt;<strong>Sample for Quarterly Reporting:</strong>&lt;br&gt;&lt;br&gt;<strong>Itemized Statements</strong>&lt;br&gt;The Consultant shall submit itemized statements to the Client at time intervals of every quarter.</td>
</tr>
<tr>
<td><strong>45.1(e)</strong></td>
<td><strong>(e)</strong> All payments under this Contract shall be made to the accounts of the Consultant specified in the <strong>SCC</strong>.</td>
<td><strong>SCC 45.1(e) – No need to modify. To be filled out and finalized during contract negotiations.</strong>&lt;br&gt;&lt;br&gt;<strong>Consultant’s Accounts</strong>&lt;br&gt;The accounts are:&lt;br&gt;for foreign currency: [insert account].&lt;br&gt;for local currency: [insert account].</td>
</tr>
<tr>
<td>Number of GC Clause</td>
<td>General Conditions of Contract (GCC) DO NOT MODIFY</td>
<td>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (TIME-BASED) – Special Conditions of Contract (SCC)</td>
</tr>
<tr>
<td>---------------------</td>
<td>---------------------------------------------------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| 46.1                | If the Client had delayed payments beyond fifteen (15) days after the due date stated in Clause GCC 45.1 (c), interest shall be paid to the Consultant on any amount due by, not paid on, the due date for each day of delay at the annual rate stated in the SCC. | **SCC 46.1 – Note**  
Insert annual interest rate for delayed payments.  
Normally, the interest rates on delayed payment should be:  
• no less than LIBOR* + 100bp (if LIBOR* for the currency exists); or  
• for currencies with no LIBOR*, apply interbank rate plus spread (probably no more than 300 bp).  

* LIBOR phased out starting 1 January 2022. For details on LIBOR transition, see https://www.adb.org/what-we-do/public-sector-financing/libor-transition#accordion-0-0.  
SOFR (Secured Overnight Financing Rate)  
Data available at https://www.newyorkfed.org/markets/reference-rates/sofr

**Sample:**  
**Interest Rate on Delayed Payments**  
The interest rate is: prime lending rate of the Banque Pour Le Commerce Exterieur Lao Public (BCEL) or 0.01 percent per day, whichever is less.
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) DO NOT MODIFY</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (TIME-BASED) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
</table>
| 49.                 | Any dispute between the Parties arising under or related to this Contract that cannot be settled amicably may be referred to by either Party to the adjudication or arbitration in accordance with the provisions specified in the SCC. | Default Text:  

**Dispute Resolutions**  
Disputes shall be settled by arbitration in accordance with the following provisions:  

1. **Selection of Arbitrators.** Each dispute submitted by a Party to arbitration shall be heard by a sole arbitrator or an arbitration panel composed of three (3) arbitrators, in accordance with the following provisions:  

(a) Where the Parties agree that the dispute concerns a technical matter, they may agree to appoint a sole arbitrator or, failing agreement on the identity of such sole arbitrator within thirty (30) days after receipt by the other Party of the proposal of a name for such an appointment by the Party who initiated the proceedings, either Party may apply to [name an appropriate international professional body, e.g., the Fédération Internationale Des Ingénieurs-Conseils (FIDIC) of Lausanne, Switzerland] for a list of not fewer than five (5) nominees and, on receipt of the list, the Parties shall alternately strike names therefrom, and the last remaining nominee on the list shall be the sole arbitrator for the matter in dispute. If the last remaining nominee has not been determined in this manner within sixty (60) days of the date of the list, [insert the name of the same professional body as above] shall appoint, upon the request of either Party and from such list or otherwise, a sole arbitrator for the matter in dispute.  

**SCC 49 – Notes**  
The Client may choose the most cost-efficient among three arbitration choices provided in this Standard Request for Proposal. The list of other arbitrators can be obtained from FIDIC.  

Please also note that not all ADB developing member countries are signatories to the United Nations Convention (1958) on recognition of Foreign Arbitral Awards. The list of signatories can be checked here: [http://www.uncitral.org/uncitral/en/uncitraltxt/arbitration/NYConvention_status.html](http://www.uncitral.org/uncitral/en/uncitraltxt/arbitration/NYConvention_status.html).**  

**Important:**  
- In contracts with foreign consultants, the Bank requires that the international commercial arbitration in a neutral venue is used.  
- For national shortlisting, the Project Division should consult with ADB’s Office of General Counsel for advice to the Client.
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) DO NOT MODIFY</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (TIME-BASED) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
</table>

(b) Where the Parties do not agree that the dispute concerns a technical matter, the Client and the Consultant shall each appoint one (1) arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the arbitrators named by the Parties do not succeed in appointing a third arbitrator within thirty (30) days after the second arbitrator named by the Parties has been appointed, the third arbitrator shall, at the request of either Party, be appointed by [name an appropriate international appointing authority, e.g., the Secretary-General of the Permanent Court of Arbitration, The Hague; the Secretary-General of the International Centre for Settlement of Investment Disputes, Washington, DC; the International Chamber of Commerce, Paris, etc.].

(c) If in a dispute subject to paragraph (b) above, one Party fails to appoint its arbitrator within thirty (30) days after the other Party has appointed its arbitrator, the Party that has named an arbitrator may apply to the [name the same appointing authority as in said paragraph (b)] to appoint a sole arbitrator for the matter in dispute, and the arbitrator appointed pursuant to such application shall be the sole arbitrator for that dispute.

2. **Rules of Procedure.** Except as otherwise stated herein, arbitration proceedings shall be conducted in accordance with the rules of procedure for arbitration of the United Nations Commission on International Trade Law (UNCITRAL) as in force on the date of this Contract.

3. **Substitute Arbitrators.** If, for any reason, an arbitrator is unable to perform his or her function, a substitute shall be appointed in the same manner as the original arbitrator.
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) DO NOT MODIFY</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (TIME-BASED) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
</table>

4. **Nationality and Qualifications of Arbitrators.** The sole arbitrator or the third arbitrator appointed pursuant to paragraphs 1(a) to 1(c) above shall be an internationally recognized legal or technical expert with extensive experience in relation to the matter in dispute and shall not be a national of the Consultant’s home country [Note: If the Consultant consists of more than one entity, add:] or of the home country of any of their members or Parties or of the Government’s country. For the purposes of this Clause, “home country” means any of:

(a) the country of incorporation of the Consultant [Note: If the Consultant consists of more than one entity, add:] or of any of their members’ or Parties’;

(b) the country in which the Consultant’s [or any of their members’ or Parties’] principal place of business is located; or

(c) the country of nationality of a majority of the Consultant’s [or of any members’ or Parties’] shareholders; or

(d) the country of nationality of the Sub-Consultants concerned, where the dispute involves a subcontract.

5. **Miscellaneous.** In any arbitration proceeding hereunder:

(a) proceedings shall, unless otherwise agreed by the Parties, be held in [select a country which is neither the Client’s country nor the Consultant’s country];

(b) the [insert type of language] language shall be the official language for all purposes; and

(c) the decision of the sole arbitrator or of a majority of the arbitrators (or of the third arbitrator if there is no such majority) shall be final and binding and shall be enforceable in any court of competent jurisdiction, and the Parties hereby waive any objections to or claims of immunity in respect of such enforcement.
IV. Appendices

Retain these pages – containing instructions and templates on finalizing appendices, for reference during contract negotiations

APPENDIX A: TERMS OF REFERENCE

(Note: This Appendix shall include the final Terms of Reference (TORs) worked out by the Client and the Consultant during the negotiations, dates for completion of various tasks; location of performance for different tasks; detailed reporting requirements; Client’s input, including counterpart personnel assigned by the Client to work on the Consultant’s team; and specific tasks that require prior approval by the Client.

Insert the text based on the Section 7 (Terms of Reference) of the ITC in the RFP and modified based on the Forms TECH-1 to TECH-5 in the Consultant’s Proposal. Highlight the changes to Section 7 of the RFP)

If the Services consist of or include the supervision of civil works, the following action that require prior approval of the Client shall be added to the “Requiring Requirements” section of the TORs: Taking any action under a civil works contract designating the Consultant as “Engineer,” for which action, pursuant to such civil works contract, the written approval of the Client as “Employer” is required.

APPENDIX B: KEY EXPERTS

[Insert a table based on Form TECH-6 of the Consultant’s Technical Proposal and finalized at the Contract’s negotiations. Attach the Curriculum Vitae (updated and signed by the respective Key Experts) demonstrating the qualifications of Key Experts.]

[Specify Hours of Work for Key Experts: List here the hours of work for Key Experts; travel time to and from the Client’s country; entitlement, if any, to leave pay; public holidays in the Client’s country that may affect Consultant’s work; etc. Make sure there is consistency with Form TECH-6. In particular: there are twenty-two (22) working (billable) days in 1 month and no less than eight (8) working (billable) hours in 1 working (billable) day.]

APPENDIX C: REMUNERATION COST ESTIMATES

Monthly rates for the Experts:

[Insert the table with the remuneration rates. The table shall be based on [Form FIN-3] of the Consultant’s Proposal and reflect any changes agreed upon at the Contract negotiations, if any. The footnotes shall list the changes made to [Form FIN-3] at the negotiations or state that none has been made.]
## Model Form I

**Breakdown of Agreed Fixed Rates in Consultant’s Contract**

We hereby confirm that we have agreed to pay to the Experts listed, who will be involved in performing the Services, the basic fees and away from the home office allowances (if applicable) indicated below:

*(Expressed in [insert name of currency])*

<table>
<thead>
<tr>
<th>Experts</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Position</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Basic Remuneration rate per Working Month/Day/Year</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Social Charges¹</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Overhead ε</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subtotal</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Profit</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Away from Home Office Allowance</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Agreed Fixed Rate per Working Month/Day/Hour</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Agreed Fixed Rate per Working Month/Day/Hour²</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1. Expressed as percentage of 1
2. Expressed as percentage of 4

*If more than one currency, add a scale*

---

**Signature**

**Date**

**Name and Title:** ________________________________
APPENDIX D: OTHER EXPENSES AND PROVISIONAL SUMS

1. Insert the table with the Other Expenses and Provisional Sums. The table shall be based on Form FIN-4 of the Consultant’s Proposal and reflect any changes agreed upon at the Contract negotiations, if any. The footnote shall list the changes made to Form FIN-4 at the negotiations or state that none has been made.

2. All other expenses and provisional sums shall be reimbursed at actual cost, unless otherwise explicitly provided in this Appendix, and no reimbursement shall be made in excess of the Contract amount.
APPENDIX E: FORM OF ADVANCE PAYMENTS GUARANTEE

[See Clause GCC 46.1 (a) and SCC 45.1 (a)]

Guarantor Letterhead or SWIFT Identifier Code

Bank Guarantee for Advance Payment

Guarantor: ______________________ [insert commercial Bank’s Name, and Address of Issuing Branch or Office]

Beneficiary: ______________________ [insert name and address of Client]

Date: _______________ [insert date]

ADVANCE PAYMENT GUARANTEE No.: ______________________ [insert number]

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

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

At the request of the Consultant, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of ______________________ [insert amount in figures] (__________) [insert amount in words] upon our receipt of the Beneficiary’s complying demand supported by the Beneficiary’s written statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Consultant is in breach of their obligation under the Contract because the Consultant has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount that the Consultant has failed to repay.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to here must have been received by the Consultant on their account number ______________________________________________ [insert name and address of bank].

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Consultant as indicated in certified statements or invoices marked as “paid” by the Client that shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of the payment certificate or paid invoice indicating that the Consultant

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

Time-Based

has made full repayment of the amount of the advance payment, or on the ___ day of ___ (month), ____ (year), whichever is earlier. Consequently, we must receive any demand for payment under this guarantee at this office on or before that date.

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

[Signature(s)]

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

---

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

Insert the contract summary as a table with the total costs for remuneration, reimbursable expenses, provisional sums, contingency and taxes. The table shall be based on [Form FIN-2] of the Consultant’s Proposal and reflect any changes agreed upon at the Contract negotiations, if any.
Harmonized Standard Form of Contract: Consultant’s Services—Lump Sum

Preliminaries

Please retain the pages below – meant to guide the EA and Firm in finalizing the Contract modified.
Contents

Preface ........................................................................................................................................... 8-60
I. Form of Contract .......................................................................................................................... 8-63
II. General Conditions of Contract .............................................................................................. 8-65
A. General Provisions ..................................................................................................................... 8-65
   2. Relationship between the Parties ......................................................................................... 8-66
   3. Law Governing Contract ....................................................................................................... 8-66
   4. Language ................................................................................................................................. 8-66
   5. Headings ................................................................................................................................. 8-66
   6. Communications .................................................................................................................... 8-66
   7. Location ................................................................................................................................ 8-67
   8. Authority of Member in Charge ............................................................................................. 8-67
   9. Authorized Representatives ................................................................................................... 8-67
  10. Corrupt and Fraudulent Practices ......................................................................................... 8-67
B. Commencement, Completion, Modification and Termination of Contract ......................... 8-67
   11. Effectiveness of Contract ........................................................................................................ 8-67
   12. Termination of Contract for Failure to Become Effective .................................................... 8-67
   13. Commencement of Services .................................................................................................. 8-68
   14. Expiration of Contract .......................................................................................................... 8-68
   15. Entire Agreement ................................................................................................................... 8-68
   16. Modifications or Variations .................................................................................................... 8-68
   17. Force Majeure ......................................................................................................................... 8-68
   18. Suspension ............................................................................................................................. 8-69
   19. Termination ............................................................................................................................ 8-70
C. Obligations of the Consultant ..................................................................................................... 8-72
   20. General .................................................................................................................................. 8-72
   21. Conflict of Interests ............................................................................................................... 8-72
   22. Confidentiality ....................................................................................................................... 8-73

8-57
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>23. Liability of the Consultant</td>
<td>8-73</td>
</tr>
<tr>
<td>24. Insurance to be Taken out by the Consultant</td>
<td>8-74</td>
</tr>
<tr>
<td>25. Accounting, Inspection and Auditing</td>
<td>8-74</td>
</tr>
<tr>
<td>26. Reporting Obligations</td>
<td>8-74</td>
</tr>
<tr>
<td>27. Proprietary Rights of the Client in Reports and Records</td>
<td>8-74</td>
</tr>
<tr>
<td>28. Equipment, Vehicles and Materials</td>
<td>8-75</td>
</tr>
<tr>
<td><strong>D. CONSULTANT’S EXPERTS AND SUB-CONSULTANTS</strong></td>
<td></td>
</tr>
<tr>
<td>29. Description of Key Experts</td>
<td>8-75</td>
</tr>
<tr>
<td>30. Replacement of Key Experts</td>
<td>8-76</td>
</tr>
<tr>
<td>31. Removal of Experts or Sub-Consultants</td>
<td>8-76</td>
</tr>
<tr>
<td><strong>E. OBLIGATIONS OF THE CLIENT</strong></td>
<td></td>
</tr>
<tr>
<td>32. Assistance and Exemptions</td>
<td>8-76</td>
</tr>
<tr>
<td>33. Access to Project Site</td>
<td>8-77</td>
</tr>
<tr>
<td>34. Change in the Applicable Law Related to Taxes and Duties</td>
<td>8-77</td>
</tr>
<tr>
<td>35. Services, Facilities and Property of the Client</td>
<td>8-77</td>
</tr>
<tr>
<td>36. Counterpart Personnel</td>
<td>8-77</td>
</tr>
<tr>
<td>37. Payment Obligation</td>
<td>8-78</td>
</tr>
<tr>
<td><strong>F. PAYMENTS TO THE CONSULTANT</strong></td>
<td></td>
</tr>
<tr>
<td>38. Contract Price</td>
<td>8-78</td>
</tr>
<tr>
<td>39. Taxes and Duties</td>
<td>8-78</td>
</tr>
<tr>
<td>40. Currency of Payment</td>
<td>8-78</td>
</tr>
<tr>
<td>41. Mode of Billing and Payment</td>
<td>8-78</td>
</tr>
<tr>
<td>42. Interest on Delayed Payments</td>
<td>8-79</td>
</tr>
<tr>
<td><strong>G. FAIRNESS AND GOOD FAITH</strong></td>
<td></td>
</tr>
<tr>
<td>43. Good Faith</td>
<td>8-79</td>
</tr>
<tr>
<td><strong>H. SETTLEMENT OF DISPUTES</strong></td>
<td></td>
</tr>
<tr>
<td>44. Amicable Settlement</td>
<td>8-79</td>
</tr>
<tr>
<td>45. Dispute Resolution</td>
<td>8-80</td>
</tr>
<tr>
<td><strong>I. ELIGIBILITY</strong></td>
<td></td>
</tr>
<tr>
<td>46. Eligibility</td>
<td>8-80</td>
</tr>
<tr>
<td><strong>Attachment 1: Anticorruption Policy</strong></td>
<td>8-81</td>
</tr>
<tr>
<td><strong>III. Special Conditions of Contract</strong></td>
<td>8-85</td>
</tr>
</tbody>
</table>
IV. Appendices .......................................................................................................................8-99
   Appendix A: Terms of Reference ........................................................................8-99
   Appendix B: Key Experts .........................................................................................8-99
   Appendix C: Breakdown of Contract Price .................................................................8-99
   Appendix D: Form of Advance Payments Guarantee ..............................................8-101
Preface

1. The standard Contract form consists of four parts: the Form of Contract to be signed by the Client and the Consultant, the General Conditions of Contract (GCC), including Attachment 1 (Anticorruption Policy); the Special Conditions of Contract (SCC); and the Appendices.

2. The General Conditions of Contract, including Attachment 1, shall not be modified. The Special Conditions of Contract that contain clauses specific to each Contract intend to supplement, but not overwrite or otherwise contradict, the General Conditions.
I. Form of Contract

Please retain the pages below – these can be finalized during contract negotiations

---

**CONTRACT FOR CONSULTANT’S SERVICES**

**Lump Sum**

Project Name ____________________________

[Loan/Grant/Financing] No. _______________________

Contract No. ____________________________

between

[Name of the Client]

and

[Name of the Consultant]

Dated: ____________________________
I. Form of Contract

LUMP SUM

Text in brackets and/or italics is optional; all notes should be deleted in the final contract.

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

[Note: If the Consultant consists of more than one entity, the above should be partially amended to read as follows: “… (hereinafter called the “Client”) and, on the other hand, a Joint Venture (name of the Joint Venture) consisting of the following entities, each member of which will be jointly and severally liable to the Client for all the Consultant’s obligations under this Contract: [name of member] and [name of member] (hereinafter called the “Consultant”),].

WHEREAS

(a) the Client has requested the Consultant to provide certain consulting services as defined in this Contract (hereinafter called the “Services”);

(b) the Consultant, having represented to the Client that it has the required professional skills, expertise and technical resources, has agreed to provide the Services on the terms and conditions set forth in this Contract; and

(c) the Client has received [or has applied for] a loan [or grant or financing] from the Asian Development Bank toward the cost of the Services and intends to apply a portion of the proceeds of this loan [or grant or financing] to eligible payments under this Contract, it being understood that (i) payments by the Bank will be made only at the request of the Client and upon approval by the Bank; (ii) these payments will be subject, in all respects, to the terms and conditions of the [loan or grant or financing] agreement, including prohibitions of withdrawal from the [loan or grant or financing] account for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the Bank, is prohibited by the decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations; and (iii) no party other than the Client shall derive any rights from the [loan or grant or financing] agreement or have any claim to the [loan or grant or financing] proceeds;

NOW THEREFORE the parties hereto hereby agree as follows:

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

   (a) The General Conditions of Contract (including Attachment 1: Anticorruption Policy);

   (b) The Special Conditions of Contract;
1. Form of Contract

(c) Appendices:
   Appendix A: Terms of Reference
   Appendix B: Key Experts
   Appendix C: Breakdown of Contract Price
   Appendix D: Form of Advance Payments Guarantee

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

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

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

For and on behalf of [Name of Client]

[Authorized Representative of the Client – name, title and signature]

For and on behalf of [Name of Consultant or Name of a Joint Venture]

[Authorized Representative of the Consultant – name and signature]

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

For and on behalf of each of the members of the Consultant [insert the Name of the Joint Venture]

[Name of the lead member]

[Authorized Representative on behalf of a Joint Venture]

[add signature blocks for each member if all are signing]
II. General Conditions of Contract

A. GENERAL PROVISIONS

1. Definitions

(a) Unless the context otherwise requires, the following terms wherever used in this Contract have the following meanings:

(b) “Applicable Guidelines” are guidelines or policies of the Asian Development Bank governing the selection and Contract award process as specified in the Special Conditions of Contract (SCC).

(c) “Applicable Law” are the laws and any other instruments having the force of law in the Client’s country, or in such other country as may be specified in the (SCC), as they may be issued and in force from time to time.

(d) “Bank” refers to the Asian Development Bank.

(e) “Borrower [or Recipient or Beneficiary]” refers to the Government, Government agency or other entity that signs the financing [or loan or grant or project] agreement with the Bank.

(f) “Client” refers to the [implementing or the executing] agency that signs the Contract for the Services with the Selected Consultant.

(g) A “Consultant” is a legally-established professional consulting firm or entity selected by the Client to provide the Services under the signed Contract.

(h) A “Contract” is the legally binding signed written agreement between the Client and the Consultant and which includes all the attached documents listed in its paragraph 1 of the Form of Contract (the General Conditions [GCC], SCC, and the Appendices).

(i) A “Day” is a working day unless indicated otherwise.

(j) “Effective Date” refers to the date on which this Contract comes into force and effect pursuant to Clause GCC 11.

(k) “Experts” are, collectively, Key Experts, Non-Key Experts, or any other personnel of the Consultant, Sub-Consultant or Joint Venture (JV) member(s) assigned by the Consultant to perform the Services or any part thereof under the Contract.

(l) “Foreign Currency” is any currency other than the currency of the Client’s country.

(m) “GCC” refers to these General Conditions of Contract.

(n) “Government” refers to the government of the Client’s country.

(o) “Joint Venture (JV)” is an association with or without a legal personality distinct from that of its members, of more than one entity where one member has the authority to conduct all businesses for and on behalf of any and all the members of the
2. Relationship between the Parties

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

3. Law Governing Contract

3.1. This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law as specified in the SCC.

4. Language

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

5. Headings

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

6. Communications

6.1. Any communication required or permitted to be given or made pursuant to this Contract shall be in writing in the language specified in Clause GCC 4. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is
11. General Conditions of Contract

addressed, or when sent to such Party at the address specified in the SCC.

6.2. A Party may change its address for notice hereunder by giving the other Party any communication of such change to the address specified in the SCC.

7. Location

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

8. Authority of Member in Charge

8.1. In case the Consultant is a JV, the members hereby authorize the member specified in the SCC to act on their behalf in exercising all the Consultant’s rights and obligations towards the Client under this Contract, including without limitation the receiving of instructions and payments from the Client.

9. Authorized Representatives

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

10. Corrupt and Fraudulent Practices

10.1. The Bank requires compliance with its Anticorruption Policy as set forth in Attachment 1 to the GCC.

Commissions and Fees

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

B. COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT

11. Effectiveness of Contract

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

12. Termination of Contract for Failure to Become Effective

12.1. If this Contract has not become effective within such time period after the date of Contract signature as specified in the SCC, either Party may, by not less than 22 days written notice to the other Party, declare this Contract to be null and void, and in the event of
13. Commencement of Services

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

14. Expiration of Contract

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

15. Entire Agreement

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

16. Modifications or Variations

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

16.2. In cases of substantial modifications or variations, the prior written consent of the Bank is required.

17. Force Majeure

a. Definition

17.1. For the purposes of this Contract, “Force Majeure” means an event beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and makes a Party’s performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible under the circumstances, and subject to those requirements. Examples include, but are not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes and lockouts or other industrial action confiscation or any other action by Government agencies.

17.2. Force Majeure shall not include (i) any event caused by the negligence or intentional action of a Party or such Party’s Experts, Sub-Consultants or agents or employees, nor (ii) any event a diligent Party could reasonably have been expected to both take into account at the time of the conclusion of this Contract, and avoid or overcome in the carrying out of its obligations hereunder.

17.3. Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.
11. General Conditions of Contract

b. No Breach of Contract

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

c. Measures to be Taken

17.5. A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

17.6. A Party affected by an event of Force Majeure shall notify the other Party as soon as possible, and in any case not later than 14 calendar days following its occurrence, providing evidence of the nature and cause of the event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.

17.7. Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which the Party was unable to perform the action as a result of Force Majeure.

17.8. During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the Client, shall either:

(a) demobilize, in which case the Consultant shall be reimbursed for additional costs they reasonably and necessarily incurred, and, if required by the Client, in reactivating the Services; or

(b) continue with the Services to the extent reasonably possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.

17.9. In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clauses 20.4 and 45.

18. Suspension

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

19. Termination

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

a. By the Client

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

(a) If the Consultant fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause GCC 18;

(b) If the Consultant (or, if the Consultant consists of more than one entity, if any of its members) becomes insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary;

(c) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GCC 45.1;

(d) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than 60 calendar days;

(e) If the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract;

(f) If the Consultant fails to confirm the availability of Key Experts as required in Clause GCC 13.

19.1.2. Furthermore, if the Client determines that the Consultant has engaged in corrupt, fraudulent, collusive, coercive [or obstructive] practices or other integrity violations, in competing for or in executing the Contract, the Client may, after giving 14 calendar days' written notice to the Consultant, terminate the Consultant's employment under the Contract.

b. By the Consultant

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

(a) If the Client fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clause GCC 45.1 within 45 calendar days after receiving a written notice from the Consultant that the payment is overdue.
II. General Conditions of Contract

(b) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than 60 calendar days;

(c) If the Client fails to comply with any final decision reached as a result of arbitration pursuant to Clause GCC 45.1; or

(d) If the Client is in material breach of its obligations pursuant to this Contract and has not remedied the same within 45 days (or a longer period that the Consultant may have subsequently approved in writing) following the receipt by the Client of the Consultant’s notice specifying the breach.

c. Cessation of Rights and Obligations

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

d. Cessation of Services

19.1.5. Upon termination of this Contract by notice of either Party pursuant to Clauses GCC 19a or GCC 19b, the Consultant shall, immediately upon dispatch or receipt of the notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant, the Consultant shall proceed as provided by Clause GCC 27. For equipment and materials furnished by the Client, the Consultant shall refer to GCC 28.

e. Payment upon Termination

19.1.6. Upon termination of this Contract, the Client shall pay the Consultant the following:

(a) payment for Services satisfactorily performed prior to the effective date of termination; and

(b) in the case of termination pursuant to paragraphs (d) and (e) of Clause GCC 19.1.1, reimbursement of any reasonable cost incidental to the prompt and orderly termination of this Contract, including the cost of the return travel of the Experts.
C. OBLIGATIONS OF THE CONSULTANT

20. General
a. Standard of Performance

20.1 The Consultant shall perform the Services and carry out the Services with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as a faithful adviser to the Client, and shall at all times support and safeguard the Client’s legitimate interests in any dealings with the third parties.

20.2. The Consultant shall employ and provide such qualified and experienced Experts and Sub-Consultants as are required to carry out the Services.

20.3. The Consultant may subcontract part of the Services to an extent and with such Key Experts and Sub-Consultants as may be approved in advance by the Client. Notwithstanding this approval, the Consultant shall retain full responsibility for the Services.

b. Law Applicable to Services

20.4. The Consultant shall perform the Services in accordance with the Contract and the Applicable Law and shall take all practicable steps to ensure that any of its Experts and Sub-Consultants, comply with the Applicable Law.

20.5. Throughout the execution of the Contract, the Consultant shall comply with the import of goods and services prohibitions in the Client’s country when

(e) as a matter of law or official regulations, [the Borrower’s/Beneficiary’s] country prohibits commercial relations with that country; or

(b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Borrower’s Country prohibits any import of goods from that country or any payments to any country, person, or entity in that country.

20.6. The Client shall notify the Consultant in writing of relevant local customs, and the Consultant shall, after being notified, respect these customs.

21. Conflict of Interests

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

Consultant Not to Benefit from

21.1.1. The payment of the Consultant pursuant to GCC F (Clauses GCC 38 to GCC 42) shall constitute the Consultant’s only payment in connection with this Contract and, subject to Cause GCC 21.1.3, the Consultant shall not accept for its own
11. General Conditions of Contract

Commissions, Discounts, etc. benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations hereunder, and the Consultant shall use its best efforts to ensure that any Sub-Consultants, as well as the Experts and agents of either of them, similarly shall not receive any additional payment.

21.1.2 If the Consultant, as part of the Services, has the responsibility of advising the Client on the procurement of goods, works, or services, the Consultant shall comply with the Bank’s Applicable Guidelines, and shall at all times exercise this responsibility in the best interests of the Client. Any discounts or commissions obtained by the Consultant in procuring goods, works, or services shall be for the account of the Client.

Consultant and Affiliates Not to Engage in Certain Activities

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

Prohibition of Conflicting Activities

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

Strict Duty to Disclose Conflicting Activities

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

22. Confidentiality

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

23. Liability of the Consultant

23.1 Subject to additional provisions, if any, set forth in the SCC, the Consultant’s liability under this Contract shall be as determined under the Applicable Law.
24. Insurance to be Taken out by the Consultant

24.1 The Consultant (i) shall take out and maintain, and shall cause any Sub-Consultants to take out and maintain, at its (or the Sub-Consultants’, as the case may be) own cost but on terms and conditions approved by the Client, insurance against the risks, and for the coverage specified in the SCC, and (ii) at the Client’s request, shall provide evidence to the Client showing that the insurance has been taken out and maintained and that the current premiums have been paid. The Consultant shall ensure that the insurance is in place prior to commencing the Services as stated in Clause GCC 13.

25. Accounting, Inspection and Auditing

25.1 The Consultant shall keep, and shall make all reasonable efforts to cause its Sub-Consultants to keep, accurate and systematic accounts and records in respect of the Services and in such form and detail as will clearly identify relevant time changes and costs.

25.2 The Consultant shall permit and shall cause its Sub-Consultants to permit, the Bank and/or persons appointed by the Bank to inspect the Site, assets, and/or all accounts and records relating to the performance of the Contract and the selection process to provide the Services, and to have such accounts and records audited by auditors appointed by the Bank if requested by the Bank.

The Consultant’s attention is drawn to Clause GCC 10 which provides, among others, that acts intended to materially impede the exercise of the Bank’s inspection and audit rights provided for under this Clause GCC 25.2 constitute an integrity violation subject to contract termination (as well as to a determination of ineligibility under the Bank’s Anticorruption Policy and Integrity Principles and Guidelines.)

26. Reporting Obligations

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

27. Proprietary Rights of the Client in Reports and Records

27.1 Unless otherwise indicated in the SCC, all reports and relevant data and information such as maps, diagrams, plans, databases, other documents and software, or supporting records or materials compiled or prepared by the Consultant for the Client in the course of the Services shall be confidential and become and remain the absolute property of the Client. The Consultant shall deliver all such documents to the Client, together with a detailed inventory thereof not later than upon termination or expiration of this Contract. The Consultant may retain a copy of these documents, data and/or software but shall not use the same for purposes unrelated to this Contract without prior written approval of the Client.

27.2 If license agreements are necessary or appropriate between the Consultant and third parties for purposes of development of the plans, drawings, specifications, designs, databases, other documents and software, the Consultant shall obtain the Client’s prior written approval to such agreements, and at its discretion, the Client shall be entitled to require recovering the expenses related to the development of the
## 11. General Conditions of Contract

<table>
<thead>
<tr>
<th>Lump Sum</th>
</tr>
</thead>
</table>

### 28. Equipment, Vehicles and Materials

28.1 Equipment, vehicles, and materials made available to the Consultant by the Client, or purchased by the Consultant wholly or partly with funds provided by the Client, shall be the property of the Client and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make an inventory of such equipment, vehicles, and materials available to the Client and shall dispose of the equipment, vehicles, and materials in accordance with the Client’s instructions. While in possession of such equipment, vehicles, and materials, the Consultant, unless otherwise instructed by the Client in writing, shall assure them at the expense of the Client in an amount equal to their full replacement value.

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

## D. Consultant’s Experts and Sub-Consultants

<table>
<thead>
<tr>
<th>Description and Obligations of Key Experts</th>
</tr>
</thead>
</table>

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

29.2 The Consultant shall require all Experts and Sub-consultants to observe the highest level of ethical and behavioral standards and shall refrain from any form of bullying, harassment, discrimination and misconduct including sexual harassment and abuse and shall, at all times, behave in a manner that creates an environment free of bullying, harassment, discrimination and misconduct.

29.3 If the Consultant becomes aware that an Expert or Sub-consultant may have been involved in any form of bullying, harassment, discrimination or misconduct, the Consultant shall immediately inform the Client of the issue and provide the Client with (a) as much information concerning the issue as is reasonably available to the Consultant, (b) a description of what investigation, review or other steps the Consultant is taking with respect to such issue, and (c) any additional information that the Client may require. If the Consultant receives or becomes aware of any allegation or report of possible bullying, harassment, discrimination or misconduct by any Expert or Sub-consultant, the Consultant shall take reasonable and immediate steps to investigate or verify such incident rigorously, diligently and expeditiously, and shall ensure that it has the power and legal authority to suspend or terminate such Expert or Sub-consultant. If the Client determines in its sole discretion that any possible allegation or report of possible bullying, harassment, discrimination or misconduct by any Expert or Sub-consultant could adversely affect people working at or associated with the project or the reputation of the Client or Government (or agency of the...
30. Replacement of Key Experts

30.1 Except as the Client may otherwise agree in writing, no changes shall be made in the Key Experts.

30.2 Notwithstanding GCC 30.1, the substitution of Key Experts during Contract execution may be considered only based on the Consultant’s written request and due to circumstances outside the reasonable control of the Consultant, including but not limited to death or medical incapacity. In this case, the Consultant shall forthwith provide as a replacement, a person of equivalent or better qualifications and experience, and at the same rate of remuneration.

31. Removal of Experts or Sub-Consultants

31.1 If the Client or the Consultant finds that any of the Experts or Sub-Consultant has breached Clause 26.2 or has been charged with having committed a criminal action, or if the Client determines that the Consultant’s Expert or Sub-Consultant has engaged in corrupt, fraudulent, collusive, or coercive (or obstructive) practice while performing the Services, the Consultant shall, at the Client’s written request, provide a replacement.

31.2 If the event that any of Key Experts, Non-Key Experts or Sub-Consultants is found by the Client to be incompetent or incapable in discharging assigned duties, the Client, specifying the grounds therefore, may request the Consultant to provide a replacement.

31.3 Any replacement of the removed Experts or Sub-Consultants shall possess better qualifications and experience and shall be acceptable to the Client.

31.4 The Consultant shall bear all costs arising out of or incidental to any removal and/or replacement of such Experts.

E. Obligations of the Client

32. Assistance and Exemptions

32.1 Unless otherwise specified in the SCC, the Client shall use its best efforts to:

(a) Assist the Consultant with obtaining work permits and other documents necessary to enable the Consultant to perform the Services.

(b) Assist the Consultant with promptly obtaining, for the Experts and, if appropriate, their eligible dependents, all necessary entry and exit visas, residence permits, exchange permits, and any other documents required for their stay in the Client’s country while carrying out the Services under the Contract.

(c) Facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Experts and their eligible dependents.
11. General Conditions of Contract

| Access to Project Site | 33.1 The Client warrants that the Consultant shall have, free of charge, unimpeded access to the project site as required to perform the Services. The Client will be responsible for any damage to the project site or any property thereon resulting from such access and will indemnify the Consultant and Experts of liability for any such damage, unless the damage was caused by the willful default or negligence of the Consultant or any Sub-Consultants or their Experts. |
| Change in the Applicable Law Related to Taxes and Duties | 34.1 If, after the date of this Contract, there is any change in the applicable law in the Client’s country with respect to taxes and duties that increases or decreases the cost incurred by the Consultant in performing the Services, the remuneration and reimbursable expenses otherwise payable to the Consultant under this Contract shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the Contract price amount specified in Clause GCC 38.1. |
| Services, Facilities and Property of the Client | 35.1 The Client shall make the services, facilities, and property described in the Terms of Reference (Appendix A) available to the Consultant and the Experts for the purposes of the Services and free of any charge, at the times and in the manner specified in said Appendix A. |
| Counterpart Personnel | 36.1 The Client shall make such professional and support counterpart personnel available to the Consultant free of charge. These personnel shall be nominated by the Client with the Consultant’s advice, if specified in Appendix A. |
| 36.2 Professional and support counterpart personnel, excluding the Client’s liaison personnel, shall work under the exclusive direction |
of the Consultant. If any member of the counterpart personnel fails to adequately perform any work assigned to the member by the Consultant that is consistent with the position occupied by the member, the Consultant may request the replacement of the member, and the Client shall not unreasonably refuse to act upon the request.

37. Payment Obligation

37.1 In consideration of the Services performed by the Consultant under this Contract, the Client shall pay the Consultant for the deliverables specified in Appendix A and in the manner as is provided by GCC F below.

F. PAYMENTS TO THE CONSULTANT

38. Contract Price

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

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

39. Taxes and Duties

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

39.2 As an exception to the above and as stated in the SCC, all local identifiable indirect taxes and other local taxes which are not included in the Consultant’s Financial proposal in accordance with ITC 25, which are itemized and finalized at Contract negotiations, are reimbursed to the Consultant or are paid by the Client on behalf of the Consultant.

40. Currency of Payment

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

41. Mode of Billing and Payment

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

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

41.2.1 Advance payment. Unless otherwise indicated in the SCC, an advance payment shall be made against an advance payment bank guarantee acceptable to the Client in an amount (or amounts) and in a currency (or currencies) specified in the SCC. Such guarantee (i) is to remain effective until the advance payment has been fully set off, and (ii) is to be in the form set forth in Appendix D, or in such other form as the Client shall have approved in writing. The advance payments will be set off by the Client in equal portions against the Lump Sum installments.
II. General Conditions of Contract

specified in the SCC until the advance payments have been fully set off.

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

41.2.3 Final payment. The final payment under this Clause shall be made only after the Consultant has submitted and the Client has approved the final report as satisfactory. The Services shall then be deemed completed and finally accepted by the Client. The last Lump Sum installment shall be deemed approved for payment by the Client within 90 calendar days after receipt of the final report by the Client unless the Client, within this 90-calendar day period, gives written notice to the Consultant specifying in detail deficiencies in the Services and the final report. The Consultant shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated.

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

41.2.5 With the exception of the final payment under 41.2.3 above, payments do not constitute acceptance of the whole Services nor relieve the Consultant of any obligations hereunder.

42. Interest on Delayed Payments

42.1 If the Client had delayed payments beyond 15 days after the due date stated in Clause GCC 41.2.2, interest shall be paid to the Consultant on any amount due by, not paid on, the due date for each day of delay at the annual rate stated in the SCC.

G. FAIRNESS AND GOOD FAITH

43. Good Faith

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

H. SETTLEMENT OF DISPUTES

44. Amicable Settlement

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

44.2 If either Party objects to any action or inaction of the other Party, the objecting Party may file a written Notice of Dispute to the other Party providing in detail the basis of the dispute. The Party
II. General Conditions of Contract

receiving the Notice of Dispute will consider it and respond in writing within 14 days after receipt. If that Party fails to respond within 14 days, or the dispute cannot be amicably settled within 14 days following the response of that Party, Clause GCC 45.1 shall apply.

45. Dispute Resolution 45.1 Any dispute between the Parties arising under or related to this Contract that cannot be settled amicably may be referred to by either Party to the adjudication or arbitration in accordance with the provisions specified in the SCC.

I. ELIGIBILITY

46. Eligibility 46.1 Compliance with the Bank’s eligibility policy is required throughout the Contract’s execution.
II. General Conditions

Attachment 1: Bank’s Anticorruption Policy

(*Notes to the Client: the text in this Attachment 1 shall not be modified*)

Anticorruption Policy

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, contractors, consultants, subcontractors, subconsultants, and agents (including their respective officers, directors, employees, and personnel) under ADB-financed contracts, to observe the highest standard of ethics during the selection process and in execution of such contracts in accordance with ADB’s Anticorruption Policy (1996, 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 improperly influence the actions of another party.

(ii) “Fraudulent practice” means any action 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 improperly influence 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 a party’s performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations.

(vii) Integrity violation is any act which violates ADB’s Anticorruption Policy, including items (i) to (vi) above and the following: obstructive practice, abuse, conflict of interest, 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 an award if it determines that the Consultant recommended for the award or any of its officers, directors, employees, personnel, subconsultants, subcontractors, service providers, suppliers or manufacturers has 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 Client 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 (both as amended
from time to time), including declaring ineligible, either indefinitely or for a stated period
of time, to participate 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. ADB reserves the right to publish any debarment; and

e) will have the right to require that a provision be included in request for proposals and
in Contracts financed, administered or supported by ADB, requiring Consultants 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 their accounts and records and other documents relating to the selection
process and contract performance and to have them audited by auditors appointed by
ADB.

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 obliged 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
includes, but is not limited to, the following:

(a) being available to be interviewed and replying fully and truthfully to all questions
asked;
b) providing ADB with any items requested that are within the party’s control including,
but not limited to, documents and other physical objects;
c) upon written request by ADB, authorizing other related entities to release directly to
ADB such information that is specifically and materially related, directly or indirectly,
to the said entities or issues which are the subject of the investigation;
d) cooperating with all reasonable requests to search or physically inspect their person
and/or work areas, including files, electronic databases, and personal property used
on ADB activities, or that utilizes ADB’s Information and Communications
Technology (ICT) resources or systems (including mobile phones, personal
electronic devices, and electronic storage devices such as external disk drives);
e) cooperating in any testing or examination requested by ADB;
f) providing all other information relevant for the exercise of ADB’s audit or inspection
rights; and
g) preserving and protecting confidentiality of all information discussed with, and as
required by, ADB.

All bidders, Consultants, contractors and suppliers shall require their officers, directors,
employees, personnel, agents to ensure that, in its contract with its sub-consultants,
Subcontractors, and other third parties engaged or involved in ADB-related activities, such

\[16\] Whether as a Consultant, Sub-Consultant or Key Expert; or in any other capacity specified in the Contract
II. General Conditions of Contract – Attachment 1

sub-consultants, Subcontractors, and other third parties similarly are obliged to cooperate fully
in any investigation when requested by ADB to do so.

The Borrower 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
Consultant 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.
### III. Special Conditions of Contract

Some provisions of the Special Conditions of Contract (SCC) can be filled out, and this information will help the shortlisted firms in preparing their proposal.

GCC column was placed beside the SCC for easy reference. Only DS column should be modified.

<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) <strong>DO NOT MODIFY</strong></th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (LUMP SUM) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
</table>
| 1 (b)               | “Applicable Guidelines” are guidelines or policies of the Asian Development Bank governing the selection and contract award process as specified in the Special Conditions of Contract (SCC). | Sample: **Applicable Guidelines**  
ADB Procurement Policy 2017 (Policy) and Procurement Regulations for ADB Borrowers 2017 (as amended from time to time) (Procurement Regulations) |
| SCC 1(b) – Note     | Copy applicable guidelines from Data Sheet 1(b)      |                                                                                                                               |
| 1 (c) and 3.1       | “Applicable Law” means the laws and any other instruments having the force of law in the Client’s country, or in such other country as may be specified in the SCC, as they may be issued and in force from time to time. | Sample: **Applicable Law**  
The Contract shall be construed in accordance with the law of the Republic of the Philippines.  
**Note:** Bank-financed contracts normally designate the law of the Client’s country as the law governing the contract. However, the Parties may designate the law of another country, in which case the name of the respective country should be inserted, and the square brackets should be removed. |
| SCC 1(c) and 3.1 – Note | Copy country of applicable law from Data Sheet 1(c) |                                                                                                                               |
| 4.1                 | This Contract has been executed in the language specified in the SCC, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract. | Sample: **Language**  
The language is English.  
**Note:** Unless otherwise approved by the Bank, the RFP and other relevant documents and communication should be in the English language. |
| SCC 4.1 – Note      | Copy language set in Data Sheet 9.1                  |                                                                                                                               |
### 6.1 and 6.2

**6.1.** Any communication required or permitted to be given or made pursuant to this Contract shall be in writing in the language specified in Clause GCC 4. Any such notice, request, or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the **SCC**.

**6.2.** A Party may change its address for notice hereunder by giving the other Party any communication of such change to the address specified in the **SCC**.

### 8.1

In case the Consultant is a JV, the members hereby authorize the member specified in the **SCC** to act on their behalf in exercising all the Consultant’s rights and obligations toward the Client under this Contract, including without limitation the receiving of instructions and payments from the Client.

### Contact Details

| **Client:** |  |
| **Attention:** |  |
| **Facsimile:** |  |
| **E-mail (where permitted):** |  |
| **Consultant:** |  |
| **Attention:** |  |
| **Facsimile:** |  |
| **E-mail (where permitted):** |  |

**SCC 6.1 and 6.2 – Note**

Fill details for Client only

**SCC 8.1 – No need to modify. This should be filled out and finalized during contract negotiations.**

**Lead Member of Joint Venture**

[Note: If the Consultant consists only of one entity, state “N/A”;

OR

If the Consultant is a Joint Venture consisting of more than one entity, the name of the JV member whose address is specified in Clause SCC6.1 should be inserted here.]

The Lead Member on behalf of the JV is ____________________________ [insert name of the member]
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) DO NOT MODIFY</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (LUMP SUM) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
</table>
| 9.1                 | Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Client or the Consultant may be taken or executed by the officials specified in the SCC. | **SCC 9.1 – Note**  
Fill details for Client’s Authorized Representative only.  

Authorized Representatives:  
The Authorized Representatives are:  
For the Client: [insert name, title]  
For the Consultant: [insert name, title] |
| 11.1                | This Contract shall come into force and effect on the date (the “Effective Date”) of the Client’s notice to the Consultant instructing the Consultant to begin carrying out the Services. This notice shall confirm that the effectiveness conditions, if any, listed in the SCC have been met. | **SCC 11.1 – Note**  
List here any conditions of effectiveness, examples below:  
• approval of the Contract by the Bank;  
• effectiveness of the Bank [loan/grant];  
• receipt by the Consultant of an advance payment; or  
• an advance payment guarantee by the Client (Clause SCC 45.1(i)).  

Sample:  
Conditions of Effectiveness of Contract  

Effectiveness of the Bank loan.  

*Note: If there are no effectiveness conditions, state “N/A”* |
| 12.1                | If this Contract has not become effective within such time period after the date of Contract signature as specified in the SCC, either Party may, by not less than 22 days written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto. | **SCC 12.1 – Note**  
Suggested time frame is four (4) months to allow for the conditions to be met. This may be varied depending on the conditions of effectiveness and the time anticipated by the Client to meet those conditions.  

Sample:  
Termination of Contract for Failure to Become Effective:  

The time period shall be 4 months from the date the Contract was signed. |
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) DO NOT MODIFY</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (LUMP SUM) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
</table>
| 13.1                | The Consultant shall confirm the availability of Key Experts and begin carrying out the Services not later than the number of days after the Effective Date specified in the SCC. | **Sample:**  
**Commencement of Services:**  
The number of days shall be 10 days after the effective date of the Contract.  
Confirmation of Key Experts’ availability to start the Assignment shall be submitted to the Client in writing as a written statement signed by each Key Expert. |
| **SCC 13.1 – Note** | The confirmation of Key Experts' availability should be in accordance with the agreed schedule, which shall be submitted to the client in writing by each Key Expert as a precondition to start the assignment. |  |
| 14.1                | Unless terminated earlier pursuant to Clause GCC 19 hereof, this Contract shall expire at the end of such time period after the Effective Date as specified in the SCC. | **Sample:**  
**Contract Period**  
Expiration of Contract: The time period shall be 12 months after the effective date of Contract. |
| **SCC 14.1 – Note** | Indicate contract duration. Contract period should be consistent with the TOR and to end before the loan closing date. |  |
| 21.1.3              | **Consultant and Affiliates Not to Engage in Certain Activities**  
The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-Consultants and any entity affiliated with such Sub-Consultants, shall be disqualified from providing goods, works, or non-consulting services resulting from or directly related to the Consultant’s Services for the preparation or implementation of the project, unless otherwise indicated in the SCC. | **SCC 21.1.3 – Retain default provision.**  
**Conflict**  
The Client may disqualify the Consultant from providing goods, works, or nonconsulting services due to a conflict of a nature described in Clause GCC 21.1.3. |
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) DO NOT MODIFY</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (LUMP SUM) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
</table>
| 23.1                | Subject to additional provisions, if any, set forth in the SCC, the Consultant’s liability under this Contract shall be as determined under the Applicable Law. | **SCC 23.1** – Choose from the 2 options below, as appropriate.  
**Sample 1:**  
**Consultant’s Liability**  
No additional provisions.  
**Sample 2:**  
**Consultant’s Liability**  
The following limitation of the Consultant’s Liability towards the Client can be subject to the Contract’s negotiations:  
“Limitation of the Consultant’s Liability towards the Client:  
(a) Except in the case of gross negligence or willful misconduct on the part of the Consultant or on the part of any person or a firm acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused by the Consultant to the Client, shall not be liable to the Client:  
(i) for any indirect or consequential loss or damage; and  
(ii) for any direct loss or damage that exceeds one times the total value of the Contract;  
**Note:** Multiplier should not be less than 1x value of the contract.  
(b) This limitation of liability shall not  
(i) affect the Consultant’s liability, if any, for damage to Third Parties caused by the Consultant or any person or firm acting on behalf of the Consultant in carrying out the Services;  
(ii) be construed as providing the Consultant with any limitation or exclusion from liability which is prohibited by the [insert “Applicable Law”, if it is the law of the Client’s country, or insert “applicable law in the Client’s country”, if the Applicable Law stated in Clause SCC 1.1(c) is different from the law of the Client’s country].
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) DO NOT MODIFY</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (LUMP SUM) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>SCC 23.1(continued) - Do not delete note to Client and Consultant below.</td>
<td></td>
</tr>
</tbody>
</table>

Retain this text:

[Notes to the Client and the Consultant:

Any suggestions made by the Consultant in the Proposal to introduce exclusions or limitations of the Consultant’s liability under the Contract should be carefully scrutinized by the Client and discussed with the Bank prior to accepting any changes to what was included in the issued RFP. In this regard, the Parties should be aware of the Bank’s policy on this matter which is as follows:

To be acceptable to the Bank, any limitation of the Consultant’s liability should at the very least be reasonably related to (a) the damage the Consultant might potentially cause to the Client and (b) the Consultant’s ability to pay compensation using its own assets and reasonably obtainable insurance coverage. The Consultant’s liability shall not be limited to less than a multiplier of the total payments to the Consultant under the Contract for remuneration and reimbursable expenses. A statement to the effect that the Consultant is liable only for the re-performance of faulty Services is not acceptable to the Bank. Also, the Consultant’s liability should never be limited to loss or damage caused by the Consultant’s gross negligence or willful misconduct.

The Bank does not accept a provision to the effect that the Client shall indemnify and hold the Consultant harmless against Third Party claims, except, of course, if a claim is based on loss or damage caused by a default or wrongful act of the Client to the extent permissible by the law applicable in the Client’s country.]
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) &lt;br&gt; <strong>DO NOT MODIFY</strong></th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract &lt;br&gt; <strong>(LUMP SUM)</strong> – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
<tbody>
<tr>
<td>24.1</td>
<td>The Consultant (i) shall take out and maintain, and shall cause any Sub-Consultants to take out and maintain, at its (or the Sub-Consultants’, as the case may be) own cost but on terms and conditions approved by the Client, insurance against the risks, and for the coverage specified in the SCC, and (ii) at the Client’s request, shall provide evidence to the Client showing that the insurance has been taken out and maintained and that the current premiums have been paid. The Consultant shall ensure that such insurance is in place prior to commencing the Services as stated in Clause GCC 13.</td>
<td><strong>SCC 24.1 – Note</strong>&lt;br&gt;Delete what is not applicable except (a).&lt;br&gt;&lt;br&gt;<strong>Sample:</strong>&lt;br&gt;&lt;br&gt;<strong>Insurance Coverage</strong>&lt;br&gt;&lt;br&gt;The insurance coverage against the risks shall be as follows:&lt;br&gt;(a) Professional liability insurance, with a minimum coverage of <strong>$1 million</strong>&lt;br&gt;&lt;br&gt;<strong>Note:</strong> Insert amount and currency that should be not less than the total ceiling amount of the Contract&lt;br&gt;&lt;br&gt;(b) Third Party motor vehicle liability insurance in respect of motor vehicles operated in the Client’s country by the Consultant or its Experts or Sub-Consultants, with a minimum coverage <strong>in accordance with the applicable law in the Client’s country</strong>;&lt;br&gt;&lt;br&gt;<strong>Note:</strong> Insert amount and currency or state “in accordance with the applicable law in the Client’s country”.&lt;br&gt;&lt;br&gt;(c) Third Party liability insurance, with a minimum coverage <strong>in accordance with the applicable law in the Client’s country</strong>;&lt;br&gt;&lt;br&gt;<strong>Note:</strong> Insert amount and currency or state “in accordance with the applicable law in the Client’s country”.&lt;br&gt;&lt;br&gt;(d) employer’s liability and workers’ compensation insurance of the Experts and Sub-Consultants in accordance with the relevant provisions of the applicable law in the Client’s country, as well as, with respect to such Experts, any such life, health, accident, travel, or other insurance as may be appropriate; and</td>
</tr>
<tr>
<td>Number of GC Clause</td>
<td>General Conditions of Contract (GCC) DO NOT MODIFY</td>
<td>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (LUMP SUM) – Special Conditions of Contract (SCC)</td>
</tr>
<tr>
<td>---------------------</td>
<td>---------------------------------------------------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>27.1</td>
<td>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (LUMP SUM) – Special Conditions of Contract (SCC)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(e) insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Consultant’s property used in the performance of the Services, and (iii) any documents prepared by the Consultant in the performance of the Services.</td>
<td></td>
</tr>
</tbody>
</table>

**SCC 27.1 – Note**
Insert “None” if there are no exceptions. If applicable, insert any exceptions to proprietary rights provision.

**Sample:**

**Exceptions to Proprietary Rights**

*None*
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) DO NOT MODIFY</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (LUMP SUM) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
<tbody>
<tr>
<td>27.2</td>
<td>If license agreements are necessary or appropriate between the Consultant and third parties for purposes of development of the plans, drawings, specifications, designs, databases, other documents, and software, the Consultant shall obtain the Client’s prior written approval to such agreements, and at its discretion the Client shall be entitled to require recovering the expenses related to the development of the program(s) concerned. Other restrictions about the future use of these documents and software, if any, shall be specified in the SCC.</td>
<td>Sample 1: Future Use of Documents The Consultant shall not use these [insert what applies ...... documents and software........] for purposes unrelated to this Contract without the prior written approval of the Client. Sample 2: Future Use of Documents The Client shall not use these [insert what applies...... documents and software........] for purposes unrelated to this Contract without the prior written approval of the Consultant. Sample 3: Future Use of Documents Neither Party shall use these [insert what applies......documents and software.......] for purposes unrelated to this Contract without the prior written approval of the other Party.</td>
</tr>
<tr>
<td>Number of GC Clause</td>
<td>General Conditions of Contract (GCC) DO NOT MODIFY</td>
<td>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (LUMP SUM) – Special Conditions of Contract (SCC)</td>
</tr>
<tr>
<td>---------------------</td>
<td>---------------------------------------------------</td>
<td>--------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>32.1 (a) through (f)</td>
<td>32.1 Unless otherwise specified in the SCC, the Client shall use its best efforts to: &lt;br&gt; (a) Assist the Consultant with obtaining work permits and other documents as shall be necessary to enable the Consultant to perform the Services. &lt;br&gt; (b) Assist the Consultant with promptly obtaining, for the Experts and, if appropriate, their eligible dependents, all necessary entry and exit visas, residence permits, exchange permits, and any other documents required for their stay in the Client’s country while carrying out the Services under the Contract. &lt;br&gt; (c) Facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Experts and their eligible dependents. &lt;br&gt; (d) Issue all instructions and information to officials, agents, and representatives of the Government that may be necessary or appropriate for the prompt and effective implementation of the Services. &lt;br&gt; (e) Assist the Consultant and the Experts and any Sub-Consultants employed by the Consultant for the Services with obtaining exemption from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity in the Client’s country according to the Applicable Law in the Client’s country.</td>
<td>SCC 32.1(a–f) – Note &lt;br&gt; List here any changes or additions to Clause GCC 35.1. If there are no such changes or additions, delete this Clause SCC 32.1. &lt;br&gt; Sample: &lt;br&gt; <strong>Assistance and Exemptions</strong> &lt;br&gt; Assist the Consultants with obtaining the necessary firm permit for the use of custom IT equipment and software.</td>
</tr>
<tr>
<td>Number of GC Clause</td>
<td>General Conditions of Contract (GCC) DO NOT MODIFY</td>
<td>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (LUMP SUM) – Special Conditions of Contract (SCC)</td>
</tr>
<tr>
<td>---------------------</td>
<td>-----------------------------------------------</td>
<td>--------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| 32.1(g)             | (f) Assist the Consultant, any Sub-Consultants, and their Experts with obtaining the privilege, pursuant to the Applicable Law in the Client’s country, of bringing into the Client’s country reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Experts and of withdrawing any such amounts as may be earned therein by the Experts in the execution of the Services. | SCC 35.1(g) – Note  
List here any other assistance to be provided by the Client. If there are no such changes or additions, delete this Clause SCC 35.1.  
Sample:  
**Other Assistance to be Provided by Client**  
Assist the Consultant with obtaining the necessary permits in the construction site. |
|                     | (g) Provide to the Consultant any such other assistance as may be specified in the SCC. | |
| 38.1                | The Contract price is fixed and is set forth in the SCC. The Contract price breakdown is provided in Appendix C. | SCC 38.1 – No need to modify. To be filled out and finalized during contract negotiations, including the amount of indirect taxes and other local taxes. |
|                     | **Contract Price** | |
|                     | The Contract price is: ____________________ | **Contract Price** |
|                     | [insert amount and currency for each currency as applicable and whether it is inclusive or exclusive of local indirect taxes and other local taxes which are not included in the Consultant’s Financial proposal in accordance with ITC 25.] |  
Any indirect local taxes and other local taxes which are not included in the Consultant’s Financial proposal in accordance with ITC 25 chargeable in respect of this Contract for the Services provided by the Consultant shall [insert as appropriate: “be paid” or “reimbursed”] by the Client [insert as appropriate: “for” or “to”] the Consultant. |
39.1 and 39.2

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

39.2

As an exception to the above and as stated in the SCC, all local identifiable indirect taxes and other local taxes which are not included in the Consultant’s Financial proposal in accordance with ITC 25, which are itemized and finalized at Contract negotiations, are reimbursed to the Consultant or are paid by the Client on behalf of the Consultant.

**Note on Taxes**

The Bank leaves it to the Client to decide whether the Consultant

(i) should be exempt from indirect local taxes and other local taxes in accordance with GCC 39.2, or

(ii) should be reimbursed by the Client for any such tax they might have to pay (or that the Client would pay such tax on behalf of the Consultant).

**Choose one applicable option consistent with the ITC 16.3 and the outcome of the Contract’s negotiations:**

**Sample 1 – with tax exemption:**

**Taxes and Duties**

The Client warrants that the Consultant, the Sub-Consultants, and the Experts shall be exempt from any local indirect taxes and other local taxes in accordance with GCC 39.2, duties, fees, levies, and other impositions imposed, under the applicable law in the Client’s country, on the Consultant, the Sub-Consultants and the Experts in respect of:

(a) any payments whatsoever made to the Consultant, Sub-Consultants and the Experts (other than nationals or permanent residents of the Client’s country), in connection with the carrying out of the Services;

(b) any equipment, materials and supplies brought into the Client’s country by the Consultant or Sub-Consultants for the purpose of carrying out the Services and which, after having been brought into such territories, will be subsequently withdrawn by them;

(c) any equipment imported for the purpose of carrying out the Services and paid for out of funds provided by the Client and which is treated as property of the Client; and

(d) any property brought into the Client’s country by the Consultant, any Sub-Consultants or the Experts (other than nationals or permanent residents of the Client’s country), or the eligible dependents of such experts for their personal use and which will subsequently be withdrawn by them upon their respective departure from the Client’s country, provided that:

i. the Consultant, Sub-Consultants and Experts shall follow the usual customs procedures of the Client’s country in importing property into the Client’s country; and

ii. if the Consultant, Sub-Consultants or Experts do not withdraw but dispose of any property in the Client’s country upon which customs duties and taxes have been exempted, the Consultant, Sub-Consultants or Experts, as the case may be, (a) shall bear such customs duties and taxes in conformity
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) DO NOT MODIFY</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (LUMP SUM) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>with the regulations of the Client’s country, or (b) shall reimburse them to the Client if they were paid by the Client at the time the property in question was brought into the Client’s country.</td>
</tr>
</tbody>
</table>

Choose one applicable option consistent with the ITC 16.3 and the outcome of the Contract’s negotiations:

Sample 2 – without tax exemption, Client to pay on behalf of the Consultant

**Taxes and Duties**

The Client warrants that the Client shall pay on behalf of the Consultant, the Sub-Consultants and the Experts, any local indirect taxes and other local taxes in accordance with GCC 39.2, duties, fees, levies, and other impositions imposed, under the applicable law in the Client’s country, on the Consultant, the Sub-Consultants and the Experts in respect of:

(a) any payments whatsoever made to the Consultant, Sub-Consultants and the Experts (other than nationals or permanent residents of the Client’s country), in connection with the carrying out of the Services;

(b) any equipment, materials, and supplies brought into the Client’s country by the Consultant or Sub-Consultants for the purpose of carrying out the Services and which, after having been brought into such territories, will be subsequently withdrawn by them;

(c) any equipment imported for the purpose of carrying out the Services and paid for out of funds provided by the Client and which is treated as property of the Client; and

(d) any property brought into the Client’s country by the Consultant, any Sub-Consultants or the Experts (other than nationals or permanent residents of the Client’s country), or the eligible dependents of such experts for their personal use and which will subsequently be withdrawn by them upon their respective departure from the Client’s country, provided that:

i. the Consultant, Sub-Consultants and Experts shall follow the usual customs procedures of the Client’s country in importing property into the Client’s country; and
Choose one applicable option consistent with the ITC 16.3 and the outcome of the Contract’s negotiations:

**Taxes and Duties**

The Client warrants that the Client shall reimburse the Consultant, the Sub-Consultants and the Experts, any local indirect taxes and other local taxes in accordance with GCC 39.2, duties, fees, levies, and other impositions imposed, under the applicable law in the Client's country, on the Consultant, the Sub-Consultants and the Experts in respect of:

(a) any payments whatsoever made to the Consultant, Sub-Consultants and the Experts (other than nationals or permanent residents of the Client’s country), in connection with the carrying out of the Services;

(b) any equipment, materials, and supplies brought into the Client’s country by the Consultant or Sub-Consultants for the purpose of carrying out the Services and which, after having been brought into such territories, will be subsequently withdrawn by them;

(c) any equipment imported for the purpose of carrying out the Services and paid for out of funds provided by the Client and which is treated as property of the Client; and
| Number of GC Clause | General Conditions of Contract (GCC) DO NOT MODIFY | Amendments of, and Supplements to, Clauses in the General Conditions of Contract (LUMP SUM) - Special Conditions of Contract (SCC) |
|---------------------|----------------------------------------------------|-------------------------------------------------------------------------------------------------
<p>|                     | (d) any property brought into the Client’s country by the Consultant, any Sub-Consultants or the Experts (other than nationals or permanent residents of the Client’s country), or the eligible dependents of such experts for their personal use and which will subsequently be withdrawn by them upon their respective departure from the Client’s country, provided that: |
|                     | i. the Consultant, Sub-Consultants and Experts shall follow the usual customs procedures of the Client’s country in importing property into the Client’s country; and |
|                     | ii. if the Consultant, Sub-Consultants or Experts do not withdraw but dispose of any property in the Client’s country upon which customs duties and taxes have been exempted, the Consultant, Sub-Consultants or Experts, as the case may be, (a) shall bear such customs duties and taxes in conformity with the regulations of the Client’s country, or (b) shall reimburse them to the Client if they were paid by the Client at the time the property in question was brought into the Client’s country. |</p>
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) <strong>DO NOT MODIFY</strong></th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (LUMP SUM) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
</table>
| 41.2                | 41.2 The payments under this Contract shall be made in Lump Sum installments against deliverables specified in Appendix A. The payments will be made according to the payment schedule stated in the **SCC**. | **SCC 41.2** – No need to modify. To be filled out and finalized during contract negotiations. The payment schedule:  

[Note: Payment of installments shall be linked to the deliverables specified in the Terms of Reference in Appendix A]  

1st payment: [insert the amount of the installment, percentage of the total Contract price, and the currency. If the first payment is an advance payment, it shall be made against the bank guarantee for the same amount as per GCC 41.2.1]  

2nd payment: ________________  

……………:__________________  

Final payment: ________________  

[Note: Total sum of all installments shall not exceed the Contract price set up in SCC 38.1.]  

See Section 7 – TOR para. 9 for a sample deliverables/payment table for Lump Sum assignment. |
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) DO NOT MODIFY</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (LUMP SUM) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
</table>
| 41.2.1              | **Advance payment.** Unless otherwise indicated in the SCC, an advance payment shall be made against an advance payment bank guarantee acceptable to the Client in an amount (or amounts) and in a currency (or currencies) specified in the SCC. Such guarantee (i) is to remain effective until the advance payment has been fully set off, and (ii) is to be in the form set forth in Appendix D, or in such other form as the Client shall have approved in writing. The advance payments will be set off by the Client in equal portions against the Lump Sum installments specified in the SCC until the advance payments have been fully set off. | **SCC 41.2 – No need to modify. To be filled out and finalized during contract negotiations.** **Advance Payments**  
[Note: The advance payment could either be in the foreign currency, or the local currency, or both; select the correct wording in the Clause here below. The advance bank payment guarantee should be in the same currency(ies).]  
The following provisions shall apply to the advance payment and the advance bank payment guarantee:  
(1) An advance payment of [insert amount] in foreign currency [and of [insert amount] in local currency] shall be made within [insert number] days after the receipt of an advance bank payment guarantee by the Client. The advance payment will be set-off by the Client in equal portions against [list the payments against which the advance is offset].  
(2) The advance bank payment guarantee shall be in the amount and in the currency of the currency(ies) of the advance payment.  
(3) The bank guarantee will be released when the advance payment has been fully set off. |
| 41.2.4              | All payments under this Contract shall be made to the accounts of the Consultant specified in the SCC. | **SCC 41.2 – No need to modify. To be filled out and finalized during contract negotiations.** **Consultant’s Accounts**  
The accounts are:  
for foreign currency: [insert account].  
for local currency: [insert account]. |

**Notes on Payment Provisions**  
Payment provisions, including amounts to be paid, schedule of payments, and payment procedures, shall be agreed upon during negotiations.  
Payments may be made at regular intervals (as under time-based contracts) or for agreed outputs (as under lump sum contracts).  
For loan consultant contracts, the borrower may request the consultant to provide an advance payment guarantee against the amount advanced by the borrower.
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) DO NOT MODIFY</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (LUMP SUM) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
</table>
| 42.1                | If the Client had delayed payments beyond 15 days after the due date stated in Clause GCC 41.2.2, interest shall be paid to the Consultant on any amount due by, not paid on, the due date for each day of delay at the annual rate stated in the SCC. | **SCC 46.1 – Note**  
Insert annual interest rate for delayed payments.  
Normally, the interest rates on delayed payment should be:  
• no less than LIBOR* + 100bp (if LIBOR* for the currency exists); or  
• for currencies with no LIBOR*, apply interbank rate plus spread (probably no more than 300 bp).  

* LIBOR phased out starting 1 January 2022. For details on LIBOR transition, see https://www.adb.org/what-we-do/public-sector-financing/libor-transition#accordion-0-0.  
SOFR (Secured Overnight Financing Rate) Data available at https://www.newyorkfed.org/markets/reference-rates/sofr  

**Sample:**  

**Interest Rate on Delayed Payments**  
The interest rate is prime lending rate of the Banque Pour Le Commerce Exterieur Lao Public (BCEL) or 0.01 percent per day, whichever is less.
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) DO NOT MODIFY</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (LUMP SUM) – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
</table>
| 45.1                | Any dispute between the Parties arising under or related to this Contract that cannot be settled amicably may be referred to by either Party to the adjudication or arbitration in accordance with the provisions specified in the SCC. | Default Text:  
Dispute Resolutions  
Disputes shall be settled by arbitration in accordance with the following provisions:  
1. **Selection of Arbitrators.** Each dispute submitted by a Party to arbitration shall be heard by a sole arbitrator or an arbitration panel composed of three (3) arbitrators, in accordance with the following provisions:  
   
(a) Where the Parties agree that the dispute concerns a technical matter, they may agree to appoint a sole arbitrator or, failing agreement on the identity of such sole arbitrator within thirty (30) days after receipt by the other Party of the proposal of a name for such an appointment by the Party who initiated the proceedings, either Party may apply to [name an appropriate international professional body, e.g., the Fédération Internationale Des Ingénieurs-Conseils (FIDIC) of Lausanne, Switzerland] for a list of not fewer than five (5) nominees and, on receipt of the list, the Parties shall alternately strike names therefrom, and the last remaining nominee on the list shall be the sole arbitrator for the matter in dispute. If the last remaining nominee has not been determined in this manner within sixty (60) days of the date of the list, [insert the name of the same professional body as above] shall appoint, upon the request of either Party and from such list or otherwise, a sole arbitrator for the matter in dispute. |

**SCC 45.1 – Notes**  
The Client may choose the most cost-efficient among three arbitration choices provided in this Standard Request for Proposal. The list of other arbitrators can be obtained from FIDIC.

Please also note that not all ADB developing member countries are signatories to the United Nations Convention (1958) on recognition of Foreign Arbitral Awards. The list of signatories can be checked here: [http://www.uncitral.org/uncitral/en/uncitral_texts/arbitration/NYConvention_status.html](http://www.uncitral.org/uncitral/en/uncitral_texts/arbitration/NYConvention_status.html).

**Important:**  
• In contracts with foreign consultants, the Bank requires that the international commercial arbitration in a neutral venue is used.  
• For national shortlisting, the Project Division should consult with ADB’s Office of General Counsel for advice to the Client.
<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>General Conditions of Contract (GCC) <strong>DO NOT MODIFY</strong></th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract <strong>(LUMP SUM)</strong> – Special Conditions of Contract (SCC)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>(b) Where the Parties do not agree that the dispute concerns a technical matter, the Client and the Consultant shall each appoint one (1) arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the arbitrators named by the Parties do not succeed in appointing a third arbitrator within thirty (30) days after the second arbitrator named by the Parties has been appointed, the third arbitrator shall, at the request of either Party, be appointed by an appropriate international appointing authority, e.g., the Secretary-General of the Permanent Court of Arbitration, The Hague; the Secretary-General of the International Centre for Settlement of Investment Disputes, Washington, DC; the International Chamber of Commerce, Paris; etc.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(c) If, in a dispute subject to paragraph (b) above, one Party fails to appoint its arbitrator within thirty (30) days after the other Party has appointed its arbitrator, the Party that has named an arbitrator may apply to the same appointing authority as in said paragraph (b) to appoint a sole arbitrator for the matter in dispute, and the arbitrator appointed pursuant to such application shall be the sole arbitrator for that dispute.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2. <strong>Rules of Procedure.</strong> Except as otherwise stated herein, arbitration proceedings shall be conducted in accordance with the rules of procedure for arbitration of the United Nations Commission on International Trade Law (UNCITRAL) as in force on the date of this Contract.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3. <strong>Substitute Arbitrators.</strong> If, for any reason, an arbitrator is unable to perform his or her function, a substitute shall be appointed in the same manner as the original arbitrator.</td>
</tr>
<tr>
<td>Number of GC Clause</td>
<td>General Conditions of Contract (GCC) DO NOT MODIFY</td>
<td>Amendments of, and Supplements to, Clauses in the General Conditions of Contract (LUMP SUM) – Special Conditions of Contract (SCC)</td>
</tr>
<tr>
<td>---------------------</td>
<td>--------------------------------------------------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
|                     |                                                  | 4. **Nationality and Qualifications of Arbitrators.** The sole arbitrator or the third arbitrator appointed pursuant to paragraphs 1(a) to 1(c) above shall be an internationally recognized legal or technical expert with extensive experience in relation to the matter in dispute and shall not be a national of the Consultant’s home country. For the purposes of this Clause, “home country” means any of:
|                     |                                                  | (a) the country of incorporation of the Consultant; (b) the country in which the Consultant’s principal place of business is located; or (c) the country of nationality of a majority of the Consultant’s shareholders; or (d) the country of nationality of the Sub-Consultants concerned, where the dispute involves a subcontract. |
|                     |                                                  | 5. **Miscellaneous.** In any arbitration proceeding hereunder:
|                     |                                                  | (a) proceedings shall, unless otherwise agreed by the Parties, be held in a country which is neither the Client’s country nor the Consultant’s country; (b) the language shall be the official language for all purposes; and (c) the decision of the sole arbitrator or of a majority of the arbitrators (or of the third arbitrator if there is no such majority) shall be final and binding and shall be enforceable in any court of competent jurisdiction, and the Parties hereby waive any objections to or claims of immunity in respect of such enforcement. |
IV. Appendices

Retain these pages - containing instructions and templates on finalizing appendices, for reference during contract negotiations

APPENDIX A: TERMS OF REFERENCE

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

Insert the text based on the Section 7 (Terms of Reference) of the ITC in the RFP and modified based on the Forms TECH-1 to TECH-5 of the Consultant’s Proposal. Highlight the changes to Section 7 of the RFP]

APPENDIX B: KEY EXPERTS

[Insert a table based on Form TECH-8 of the Consultant’s Technical Proposal and finalized at the Contract’s negotiations. Attach the CVs (updated and signed by the respective Key Experts) demonstrating the qualifications of Key Experts.]

APPENDIX C: BREAKDOWN OF CONTRACT PRICE

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


### Model Form I

**Breakdown of Agreed Fixed Rates in Consultant’s Contract**

We hereby confirm that we have agreed to pay to the Experts listed, who will be involved in performing the Services, the basic fees and away from home office allowances (if applicable) indicated below:

(Expressed in [insert name of currency])

<table>
<thead>
<tr>
<th>Experts</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Name</td>
<td>Position</td>
<td>Basic Remuneration rate per Working Month/Day/Year</td>
<td>Social Charges</td>
<td>Overhead</td>
<td>Subtotal</td>
<td>Profit</td>
<td>Away from Home Office Allowance</td>
</tr>
<tr>
<td></td>
<td>Home Office</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Work in the Client’s Country</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1  Expressed as percentage of 1
2  Expressed as percentage of 4

* If more than one currency, add a table

---

Signature

Name and Title: ____________________________

Date

---

8-100
IV. Appendices

APPENDIX D: FORM OF ADVANCE PAYMENTS GUARANTEE

[Note: See Clause GCC 41.2.1 and SCC 41.2.1]

[Insert Guarantor Letterhead or SWIFT Identifier code]

Bank Guarantee for Advance Payment

Guarantor: [Insert commercial Bank’s Name, and Address of issuing Branch or Office]

Beneficiary: [Name and address of Client]

Date: [Insert date]

ADVANCE PAYMENT GUARANTEE No.: [Insert number]

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

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

At the request of the Consultant, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of [Insert amount in figures] (_______) [Insert amount in words] upon our receipt of the Beneficiary’s complying demand supported by the Beneficiary’s written statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Consultant is in breach of their obligation under the Contract because the Consultant has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount that the Consultant has failed to repay.

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

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Consultant as indicated in certified statements or invoices marked as “paid” by the Client that shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of the payment certificate or paid invoice indicating that the Consultant has repaid the advance payment in accordance with the Contract conditions.

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

S-101
IV. Appendices

Lump Sum

has made full repayment of the amount of the advance payment, or on the ___ day of [month], ___(year),2 whichever is earlier. Consequently, we must receive any demand for payment under this guarantee at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 revision, ICC Publication No. 755.

[Signature(s)]

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

---

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

8-102
IV. Appendices

Lump Sum

(Optional) Appendix E: Summary of Total Contract

Insert the contract summary as a table with the total costs for remuneration, reimbursable expenses, provisional sums, contingency and taxes. The table shall be based on [Form FIN-2] of the Consultant’s Proposal and reflect any changes agreed upon at the Contract negotiations, if any.
Special Topics

EA-Administered Loan/Grant Selections Delegated to ADB

Appendix 9, para. 7 of the 2017 Procurement Regulations for ADB Borrowers:

“Where during the development of the procurement plan, especially in the context of fragile and conflict-affected situations, the assessment of the implementing agency’s capability to carry out the procurement or its resources and previous experience in procuring these types of activities indicate insufficient capacity to meet the challenges of the procurement without significant risk, ADB may agree to provide the borrower with extended procurement implementation support. In all cases, project execution remains the borrower’s responsibility and expanded implementation support does not result in ADB carrying out procurement on behalf of the borrower.”

Para. 5, Borrower-administered procurement of consulting services, Procurement Staff Instructions (Part II: Staff instruction on borrower-administered procurement of goods, works, nonconsulting, and consulting services)

“When the borrower requests ADB in writing to take responsibility for selecting a consultant, the user unit consults PPFD and submits the request to the user unit's head of department or office for approval. The borrower should adequately justify such a request and explain its necessity. ADB's proposed participation in the recruitment should be set out in the procurement plan and the RRP or TA report. If the request is made after the loan, grant, or delegated TA is approved, it will be regarded as a change in implementation arrangements and will be dealt with in accordance with PAI 5.02 (Change Loan and/or Grant Funded Projects) or 5.09 (Administering Grant-Financed Technical Assistance), as the case may be. If approved, PPFD informs ADB's Board of Directors and Management of the change in implementation arrangements in the quarterly portfolio update. In all such cases, ADB takes responsibility only for selecting the consultant, and the EA retains the responsibility for negotiating and signing the contract with the consultant, issuing the notice to proceed, and supervising the consultant’s services.”

Additional references for processing delegated selections available at the ADB PPFD website/intranet page (accessible by ADB staff):

- Briefing/Presentation
- Key Steps for recruiting firms via CMS
- Standard RFP adapted for CMS
- Sample Joint Responsibility Matrices (Firm Recruitment, Individual Consultant Recruitment)
- Consultant Recruitment Activity Monitoring (CRAM) in CMS

14 https://www.adb.org/documents/procurement-regulations-adb-borrowers
Summary of Tax Provisions in the RFP

Responsibility for Tax Liabilities

Instructions to Consultant (ITC) 16.3 – The Consultant and its Sub-Consultants and Experts are responsible for meeting all tax obligations arising out of the Contract in accordance with the instructions in the Data Sheet.

ITC 25 – Except as set out in the Data Sheet, all taxes are deemed included in the Consultant’s Financial proposal, and, therefore, included in the evaluation.

DS 16.3 and DS 25 combined – Provision must be finalized by the EA during RFP preparation

Taxes – Exemption
[If the Client has obtained a tax exemption applicable to the Contract, insert

“The Client has obtained an exemption for the Consultant from payment of ___________ [insert the tax description] in the Client’s country as per [insert reference to the applicable official source that issued an exemption].

If there is no tax exemption in the Client’s country, delete above.

Taxes – Reference

“Information on the Consultant’s tax obligations in the Client’s country can be found [insert reference to the appropriate official source].”

Taxes – Evaluation

(ITC 25) Except as set out below, all taxes are deemed included in the Consultant’s Financial proposal, and, therefore, included in the evaluation.

The Client does not take into account the following taxes during financial proposal evaluation. Therefore, the Consultant shall not include the following taxes in its Financial Proposal:

(a) all local identifiable indirect taxes such as sales tax, excise tax, VAT, or similar taxes levied on the contract invoices; and

(b) all additional local tax on the remuneration of services rendered by non-resident experts of the Consultant in the Client’s country.

If the Consultant nevertheless includes the above taxes in its Financial Proposal, no adjustments will be made by the Client for the purposes of evaluation.

Taxes – Negotiation

At contract negotiations, the above-described local taxes will be discussed and agreed (using the itemized list as guidance) and added to the contract amount in separate lines, as needed, also indicating which taxes shall be paid by the Consultant and which are withheld and paid by the Client on behalf of the Consultant.
Request for Proposals (RFP) Stage

It is prudent that the EA remind the consulting firm that it is their responsibility to validate the tax liability on the consulting services selection during the proposal preparation stage.

Tax and Duties Provisions in the Contract Form

Special Conditions of Contract (SCC) 43.1 and 43.2 (Time-Based)/SCC 39.1 and 39.2 (Lump Sum) of the Contract Form states that:

“The Bank leaves it to the Client to decide whether the Consultant
(i) should be exempted from indirect local taxes and other local taxes in accordance with GCC 43.2,
or
(ii) should be reimbursed by the Client for any such tax they might have to pay
or
that the Client would pay such tax on behalf of the Consultant”

Under this provision, EA is responsible for the payment of the local taxes, not unless there is a specific arrangement indicated in the loan agreement that local taxes will be paid from the loan proceeds.

For specific examples, please refer to the User’s Guide sections on DS and SCC above.
User’s Guide on the Selection of Consulting Services for Borrowers

Standard Request for Proposals

This user’s guide is intended to provide guidance to borrowers on how to prepare a bidding document for the procurement of consulting services using the Asian Development Bank’s Standard Request for Proposals.

About the Asian Development Bank

ADB is committed to achieving a prosperous, inclusive, resilient, and sustainable Asia and the Pacific, while sustaining its efforts to eradicate extreme poverty. Established in 1966, it is owned by 68 members—49 from the region. Its main instruments for helping its developing member countries are policy dialogue, loans, equity investments, guarantees, grants, and technical assistance.