



Government of the Republic of Trinidad and Tobago  
**Ministry of Public Utilities**

**REQUEST FOR PROPOSAL: 250kW SOLAR PHOTOVOLTAIC (PV) SYSTEM AT  
FIVE RIVERS SECONDARY SCHOOL**

RFP Date: Monday 11<sup>th</sup> March 2024

---

*Address: Range Road, Five Rivers, Arouca*

*Site Visit – April 4<sup>th</sup> 2024 at 10:00 am*  
Closing Date – *Friday 26<sup>th</sup> April 2024 at 4:00pm*

*MINISTRY OF PUBLIC UTILITIES*

---

**TABLE OF CONTENTS**

**Contents**

Part A: Letter of Invitation..... 3

Checklist of Documents to Accompany the Proposal..... 5

Part B: Instruction to Bidders ..... 6

Part C: Terms of Reference ..... 16

Part D: Draft Contract ..... 23

Part E: Sample Forms ..... 76

    A. Sample Forms - Technical Proposal..... 76

    B. Sample Forms – Commercial Proposal..... 94

## Part A: Letter of Invitation

*Monday 11<sup>th</sup> January 2024*

Dear Sir/Madam,

Re: 250kW Solar PV System at Five Rivers Secondary

---

Reference is made to the captioned matter.

*The Ministry of Public Utilities* hereby invites Proposals for *Design, Procurement, Installation, Commissioning, Training and Maintenance of the 250kW Solar Photovoltaic (PV) system at the Five Rivers Secondary School*. The provision of the services will be governed by the terms and conditions of the draft Contract contained in Part 'D' of the RFP documents.

A copy of the **Request for Proposal** ("RFP") is attached to this Letter for your careful review and consideration in preparation for submission of your Proposal.

### A. Acknowledgement of Invitation

Bidders are asked to email their acknowledgment to this RFP invitation using the *RFP Acknowledgement Form (Appendix I)* to [Procurement@mpu.gov.tt](mailto:Procurement@mpu.gov.tt) by *(Tuesday 2<sup>nd</sup> April, 2024, by 4:00pm)* (AST).

### B. Submission of Proposal

One (1) original, one (1) hard copy and one (1) PDF copy on a flash drive or other electronic media, of the Technical Proposal and the Commercial Proposal must be placed into **separate sealed envelopes**, labelled in accordance with *Instructions to Bidders*, Clause 15 of the RFP documents, and delivered into the appropriately labelled Tender Box located at the address below, by **no later than (Friday 26<sup>th</sup> April 2024, at 4:00pm)**:

#1 Alexandra Place  
Alexandra Street  
St. Clair  
Newtown, 190129

A Bidder requiring clarification of the contents of these RFP Documents must notify the [Ministry of Public Utilities \(MPU\)](#) in writing by email to the following email address [Procurement@mpu.gov.tt](mailto:Procurement@mpu.gov.tt).

The Bidder's requests for clarifications must be titled "QUERY – REQUEST FOR CLARIFICATION - SOLAR PV SYSTEM AT FIVE RIVERS SECONDARY SCHOOL". The request must be specific, must refer to the project title, specific section and clause and must be sequentially numbered. Inquiries must be received by no later than [Friday 12<sup>th</sup> April 2024, at 4:00pm.](#)

The [Ministry of Public Utilities](#) does not bind itself to accept the lowest cost or any proposal.

Yours respectfully,  
[Ministry of Public Utilities](#)  
[Permanent Secretary.](#)

## Checklist of Documents to Accompany the Proposal

Bidders are to place a tick in the checkbox for each item that is included in the Proposals

Title Page	<input type="checkbox"/>
Table of Contents	<input type="checkbox"/>
Letter of Transmittal	<input type="checkbox"/>
Company Profile	<input type="checkbox"/>
Form 1A: Technical Proposal Form	<input type="checkbox"/>
Form 2A: Work Experience	<input type="checkbox"/>
Form 3A: Comments on the TOR	<input type="checkbox"/>
Form 4A: Methodology and Workplan	<input type="checkbox"/>
Form 5A: Team Composition	<input type="checkbox"/>
Form 6A: Curriculum Vitae	<input type="checkbox"/>
Form 7A: Proposed Project Plan / Time Schedule	<input type="checkbox"/>
Form 8A: Bidder's Declaration Form	<input type="checkbox"/>
Form 9A: Confidentiality Agreement	<input type="checkbox"/>
Form 10A: Sample Banker's Reference Letter	<input type="checkbox"/>
Client Reference Forms	<input type="checkbox"/>
Qualification Certificates	<input type="checkbox"/>
Certification of Incorporation / Continuance / Registration	<input type="checkbox"/>
Return of Beneficial Interest Form	<input type="checkbox"/>
Valid Income Tax Clearance Certificate	<input type="checkbox"/>
Valid Value Added Tax Clearance Certificate	<input type="checkbox"/>
Valid National Insurance Board Compliance Certificate	<input type="checkbox"/>
Sample Letter of Engagement/Service Level Agreement	<input type="checkbox"/>
OSH Documents	<input type="checkbox"/>
Evidence of Insurance (e.g. Professional Indemnity)	<input type="checkbox"/>
Form 1B: Commercial Proposal Submission Form	<input type="checkbox"/>
Form 2B: Price Schedule	<input type="checkbox"/>
Form 3B: Breakdown of price per activity.	<input type="checkbox"/>
Form 4B: Breakdown of remuneration per activity.	<input type="checkbox"/>
Form 5B: Reimbursable and Miscellaneous Expenses.	<input type="checkbox"/>

## Part B: Instruction to Bidders

### 1. INTRODUCTION

*The Ministry of Public Utilities (MPU)* is seeking to engage a suitably qualified firm with which it can enter into a contract for the *Design, Procurement, Installation, Commissioning, Training and Maintenance of the 250kW Solar Photovoltaic (PV) System at Five Rivers Secondary School*.

Bidders are hereby invited to submit a **Technical Proposal and a Commercial Proposal in separate sealed envelopes**. The Proposals will form the basis for contract negotiations and ultimately for a signed contract.

Bidders are responsible for examining with care all the documents and information provided in this Request for Proposal (RFP) and will also be responsible for informing themselves of all relevant conditions, which may in any way affect their Proposal.

All costs incurred by the Bidder associated with preparation of Responses and/or participation in this RFP are entirely the responsibility of the Bidder and shall not be chargeable in any manner to *MPU*.

### 2. BIDDERS' REPRESENTATIVE

Bidders must advise the *MPU* representative of the name, business address, telephone number and email address of an individual who is designated as the Bidder's representative for the purpose of this RFP.

### 3. CONFLICT OF INTEREST

Bidders shall not have a conflict of interest. Bidders shall hold the *MPU's* interest paramount, without any consideration for future work, and strictly avoid conflicts with other assignments or their own corporate interests. Bidders shall not qualify for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of not being able to carry out the assignment in the best interests of *MPU*.

Any Bidders who is found to have a conflict of interest with one or more parties in this RFP process shall be disqualified. A Bidders may be considered to have a conflict of interest with one or more parties in this RFP process if:

- a) It has, directly or indirectly, controlling shareholders or partners in common; or
- b) Its legal representatives are the same as or have a common party in their executive boards or management, or when the decision-making quorum of their shareholders at assemblies or meetings belongs directly or indirectly to the same natural persons or entities; or
- c) It has a relationship, directly or through common third parties, that puts it in a position where they have access to information or can influence other Proposals or the

- decision of *MPU* regarding this RFP process; or
- d) It submits more than one (1) application for this RFP process.
  - e) It has participated directly or indirectly, in any capacity, in the preparation of the design, feasibility studies, terms of reference, or technical specifications of the works or related services that are the subject of this RFP process.

In particular, any effort by Bidders to influence *MPU* in the process of examination, clarification, evaluation and comparison of Proposals will result in the rejection of the respective Bidder's bid.

In addition, proposals may be rejected if:

- i. The Bidders fails to provide the relevant documents requested in this RFP which supports its ability to successfully complete the services specified herein.
- ii. The Bidders has pending litigation which may adversely affect its ability to provide the services contained in this RFP.

#### **4. WAIVER AND ALLOCATION OF RISK**

The Bidders acknowledges and agrees that it is solely responsible for obtaining its own commercial, legal, accounting, engineering, and other advice with respect to the contents of this RFP or any such information as is described in this paragraph. The Bidders who submits a Proposal to *MPU* is deemed to have released *MPU* from, and waived any action, cause of action, claim, liability, demand, loss, damage, cost or expense, of every kind, in any way connected or arising out of the contents of this RFP or any such information as is described in this paragraph.

*A Bidders who submits a Proposal is deemed to have agreed that it is solely responsible for and liable to ensure that it has obtained and considered all information necessary to enable it to understand the requirements of this RFP, and of the project, and to prepare and submit its Proposal.*

#### **5. CONFIDENTIALITY**

All information supplied by *MPU* in connection with this Request for Proposal shall be treated as confidential by the Bidders save for such information that may be disclosed so far as necessary for the purpose of obtaining sureties, guarantees and quotations necessary for the preparation and submissions of the Proposals.

All information supplied by Bidders in response to this Request for Proposal shall be treated as confidential by *MPU*, unless disclosure is required by law.

**6. MODIFICATION AND WITHDRAWAL OF BIDS**

Bidders may modify or withdraw their Proposals after submission provided that the modification or notice of withdrawal is received in writing by the [MPU](#) prior to the prescribed deadline for the submission of Proposals.

**7. CHANGE TO PROPOSAL DOCUMENTS**

Any clarification or change to these Proposal Documents, prior to the Closing date specified herein will be made only by written addenda issued by [MPU](#) to each potential Bidders collecting these Proposal documents as at the date the clarification or change was made.

[MPU](#) will not be held responsible for any interpretations made by Bidders as a result of information received by any means other than by written addenda.

Each addendum, when issued, is to become a part of these Proposal Documents and each Bidders is required to acknowledge receipt of all addenda to [MPU](#) by email to [Procurement@mpu.gov.tt](mailto:Procurement@mpu.gov.tt).

**8. CANCELLATION OF THE RFP PROCESS**

[MPU](#) reserves the right to cancel the RFP process in its entirety or even partially for any reason without defraying any costs incurred by any company/firm/joint venture/partnership/consortium. Notice of such cancellation will be communicated to all participating firms.

**9. BID REJECTION**

Notwithstanding anything to the contrary which may be contained or implied in this RFP, the [MPU](#) does not bind itself to accept the lowest Proposal and further reserves the right to reject any and all parts of any and all Proposals. [MPU](#) reserves the right to reject any Proposal which is judged to be in violation of the spirit and intent of this RFP.

**10. EVALUATION OF PROPOSALS**

Proposals received shall be subjected to a combination of pass/fail or yes/no and weighted evaluation criteria. Bidders will be required to demonstrate that they meet the minimum criteria outlined in [\(Section 6 of the Terms of Reference\)](#), on a pass or fail basis.

The evaluation of Proposals will be conducted in the following stages:

**A. PRELIMINARY EXAMINATION**

Proposals that are received will be reviewed to ensure that all documents and information requested in the RFP documents are included in the submission. At this point, incomplete submissions may be deemed non-responsive to the requirements outlined in the RFP and will not be considered further.



In addition, the Proposals will be examined, on a **yes or no** or **pass or fail** basis to ensure that the mandatory minimum criteria outlined in [\(Section 6 of the Terms of Reference\)](#) have been met. Proposals that are deemed substantially non-responsive and/or that fail to meet the minimum mandatory criteria contained therein shall not be further considered.

## B. EVALUATION OF TECHNICAL SPECIFICATIONS

Each submission deemed substantially responsive during the preliminary examination stage and that meets the mandatory minimum criteria shall be subjected to a technical evaluation to ensure that the proposed *Design, Procurement, Installation, Commissioning, Training and Maintenance of the 250kW Solar PV System at Five Rivers Secondary School*, meets the requirements outlined in the RFP documents. The technical evaluation shall be conducted on a pass/fail basis.

## C. QUALIFICATIONS EVALUATION CRITERIA

Proposals that are deemed successful following the evaluation of technical specifications stage will be evaluated against the following pre-determined evaluation criteria and scoring system.

Bidders are required to achieve a minimum score at least 60% of the overall score attainable, to be deemed technically qualified to be considered for the award of contract.

**Table 1: Technical Evaluation Criteria and Scoring System**

No.	Qualification Criteria	Max Score
1.	Proven experience of the Bidders as evidenced by its number of years' experience and projects completed of a similar nature and complexity: <ul style="list-style-type: none"> <li>a) Firm's experience in constructing Solar PV Rooftop Systems <b>(3 pts)</b></li> <li>b) Experience with constructing Solar PV Rooftop Systems locally or regionally <b>(2 pts)</b></li> <li>c) Firm's experience in providing energy conservation training <b>(2 pts)</b></li> <li>d) Completion of a minimum of 2 projects of similar scope in last 5 years <b>(3 pts)</b></li> </ul>	10
2.	Suitability of Proposed Design <ul style="list-style-type: none"> <li>a) Concept Design – Electrical works <b>(15 pts)</b></li> <li>b) Technical /Single Line Drawings <b>(10 pts)</b></li> <li>c) Proposed equipment based on design <b>(5 pts)</b></li> </ul>	30
3.	Methodology <ul style="list-style-type: none"> <li>a) Methodological approach to the assignment <b>(10 pts)</b>, such as:               <ul style="list-style-type: none"> <li>o Scope Definition</li> <li>o Work Breakdown Structure (WBS)</li> </ul> </li> <li>b) Effectiveness of work plan<b>(10 pts)</b>:</li> </ul>	30

No.	Qualification Criteria	Max Score
	<p>(e.g. O&amp;M, Testing, Commissioning, Training, HSE, Customized Risk Assessment, Contingency, quality assurance, COVID-19,)</p> <p>c) Proposed project milestones and timelines <b>(10 pts)</b>, such as:</p> <ul style="list-style-type: none"> <li>o Activity Sequencing (using graphical tools such as Network Diagrams),</li> <li>o Activity Resource Estimating</li> <li>o Activity Duration Estimation</li> <li>o Schedule development (using tools such as Gantt Charts and Milestone Charts)</li> </ul>	
4.	<p>Qualifications and experience of the key personnel to be assigned to the contract</p> <p>a) Team Composition, Roles &amp; Organizational Chart <b>(3 pts)</b></p> <p>b) Resumes/CVs for all Project Team members <b>(3 pts)</b></p> <p>c) Certification in <b>one of the following or its equivalent (2 pts)</b>:</p> <ul style="list-style-type: none"> <li>• NABCEP PV Installation Professional (PVIP) Board Certification</li> <li>• NABCEP PV Design Specialist (PVDS) Board Certification</li> <li>• NABCEP PV Installer Specialist (PVIS) Board Certification</li> <li>• NABCEP PV Commissioning &amp; Maintenance Specialist (PVCMS) Board Certification</li> <li>• NABCEP Photovoltaic Associate</li> <li>• Photovoltaic Installer - Level 1 (PV1)</li> <li>• Photovoltaic Installer/Designer (PV2)</li> <li>• Level 3 NVQ in Electrical Installations (Building Structures).</li> <li>• Level 3 Apprenticeship as a Low Carbon Heating Technician.</li> <li>• OSHA Construction Safety</li> </ul> <p>d) Demonstrated experience in solar PV installations with at least 2 years completing projects of similar scope. <b>(2 pts)</b></p>	10
5.	<p>Installation, Repair and Maintenance Training Plan</p> <p>a) Training plan for five (5) employees from the Educational Facilities Planning &amp; Procurement Division (EFPPD). <b>(8 pts)</b></p>	8
6.	<p>Energy Conservation Awareness Training &amp; Knowledge Transfer Plan</p> <p>a) Training Plan for occupants of Five Rivers Secondary School. <b>(8 pts)</b></p>	8
7.	<p>Client References</p> <p>a) Two (2) completed Reference forms with contact information for projects completed with a similar scope.</p>	4
	<b>Total</b>	<b>100</b>

## EVALUATION OF COMMERCIAL PROPOSALS

The Proposals of the Bidders that pass the qualifications evaluation stage (having earned at least the **60%** overall) during the qualifications evaluation will be accepted for further evaluation. On completion of the qualifications evaluation, the Commercial Proposal of Bidders that passed that stage of the evaluation process will be opened and evaluated. The Commercial Proposals of the Bidders that do not pass the qualification evaluation stage will be returned unopened after the contract has been awarded.

The Commercial Proposal of all Bidders that passed the qualification evaluation stage will be reviewed to ensure that all activities required in the scope of services were priced, and that there are no arithmetical errors in the Bidders' Commercial Proposals. In the event of discrepancies between words and figures, the written words will prevail. In the event of discrepancies between unit prices and total amounts, unit prices will prevail.

**Table 2: Commercial Evaluation Criteria and Scoring System**

No.	Qualification Criteria	Max Score
1.	Price a) Payment Schedule (20 pts) b) Financial Capability (20 pts) c) Price (60 pts)	100
	<b>Total</b>	<b>100</b>

### 11. NEGOTIATION OF CONTRACT

**MPU** reserves the right to enter into discussion, and as appropriate, negotiate with the top-ranked Bidders to clarify, among other things, the scope of services and the deliverables of the assignment. The objective of the negotiations will be for **MPU** to achieve best value for money. Should negotiations with the top-ranked Bidders fail, the discussions would be formally terminated. The Commercial Proposal of the next ranked Bidders will be opened and evaluated. Negotiations will be conducted with the next ranked Bidders, and so on until the contract can be successfully negotiated.

### 12. AWARD OF CONTRACT

The contract will be executed following successful negotiations with the top-ranked, or subsequent Bidders, and the fulfilment of **MPU's** requirements for the creation of binding legal relations, including its internal approval process.

The successful Bidders and **MPU** shall make every effort to execute the formal contract within fourteen (14) days from the date of the Letter of Award.

Unsuccessful Bidders will be so notified as soon as possible after the award of contract.

### 13. PROPOSAL REQUIREMENTS

All Proposals must be made in accordance with the instructions/specifications given herein. The Technical Proposal Forms and Commercial Proposal Forms are to be completed, duly signed and and/or notarised by the Bidder's Authorised Representative and submitted in the appropriately labelled Proposal envelopes. Failure to submit all requested documentation may result in the Proposals not being considered for evaluation, or in Bidders failing to achieve maximum scores during the evaluation of Proposals.

#### A. Technical Qualification Proposal

The Technical Proposal shall contain the following Forms, duly completed and where applicable signed and notarised by the Bidder's Authorised Representative, and other documents required to provide evidence of the Bidder's qualifications and experience:

- 1) Form 1A: Technical Proposal Submission Form
- 2) Form 2A: Work Experience
- 3) Form 3A: Comments and Suggestions of Consultants on the Terms of Reference and on the Data, Services and Facilities to be Provided by [MPU](#)
- 4) Form 4A: Description of the Methodology and Work Plan for Performing the Assignment
- 5) Form 5A: Team Composition and Task Assignments
- 6) Form 6A: Format of Curriculum Vitae (CV) for Proposed Key Professional to be assigned to the Project (Please complete as required. Do not complete with "See Attached Resume")
- 7) Qualification (academic, technical, training) certificates of proposed key staff
- 8) Form 7A: Proposed Project Plan / Time Schedule for completing the assignment
- 9) Form 8A: Bidder's Declaration Form
- 10) Form 9A: Confidentiality Agreement
- 11) Form 10A: Sample Banker's Reference Letter
- 12) Brief Company Profile (if applicable)
- 13) Certificate of Incorporation and (where applicable continuance) pursuant to the Companies Act 1995, as amended
- 14) Certificate of Registration (if applicable)
- 15) Copy of the completed Return of Beneficial Interest in the Shares of a Company Form (Form 45 of the Companies Act, Chapter 81:01 (Section 337C(6), 337D)) (where applicable)
- 16) Copy of Income Tax and Value Added Tax Clearance valid as at the deadline date for submission of proposals, or a letter of exemption from the Board of Inland Revenue
- 17) Copy of National Insurance Scheme Compliance Certificate valid as at the deadline date for submission of Proposals, or a letter of exemption from the National Insurance Board
- 18) Audited Financial Statements or Management Accounts signed by the Company's directors for the financial years ([2018](#), [2019](#), [2020](#))

- 19) Statement of compliance with the OSH Act 2004 (as amended) in the form of OSH requirements and OSH Policy Statement, as applicable
- 20) Statement of compliance with the Minimum Wages Act 1998 and any amendments thereto. *Refer to Form 8A – Bidder’s Declaration Form*
- 21) Disclosure of any or all criminal or civil matters that the Bidders has had for the past ten (10) years. *Refer to Form 8A – Bidder’s Declaration Form*
- 22) Sample Letter of Engagement/Service Level Agreement
- 23) Any additional information the Bidders deems necessary.

#### **B. Commercial Proposal**

The Bidder’s Commercial Proposal shall detail an estimate of fees for the services to be provided which will form the basis of a fixed contract price between the parties. Fees for any additional projects and/or services must be mutually agreed upon by the Bidders and *MPU* prior to the commencement of any such project and/or services.

#### **14. PREPARATION AND SUBMISSION OF PROPOSALS**

The Bidders shall bear all costs associated with the preparation and submission of its Proposal and *MPU* will in no way be responsible or liable for such costs, regardless of the conduct or the outcome of the evaluation process.

The Proposal submitted by Bidders and all correspondence and documents exchanged shall be written in the English Language.

The Proposal shall be signed by the Bidders or by his duly authorised representative. There shall be no erasures or correction fluid applied to the Proposal. All changes shall be “crossed off”, corrected and initialled by the Bidder’s duly authorised representatives.

Proposals should be as thorough and detailed as possible so that *MPU* may properly evaluate the bidder’s capabilities to provide the required services. **The Technical and Commercial Proposals shall be submitted in separate, sealed envelopes.**

#### **A. Technical Proposal Submission**

Bidders are required to submit the following items as a complete Technical Proposal:

- a) Title Page showing the RFP subject, the name of the Bidder’s firm, local address, telephone number, the name of a contact person, and the date.
- b) Table of Contents.
- c) Letter of Transmittal.
- d) Checklist of documents submitted in the Proposal.
- e) The documents and completed forms listed in Section 13A: Qualifications Proposal, above.

**B. Commercial Proposal Submission**

The forms listed below must be completed and submitted with the Bidder's Commercial Proposal:

- 1) Form 1B: Commercial Proposal Submission Form
- 2) Form 2B: Price Schedule
- 3) Form 3B: Breakdown of price per activity
- 4) Form 4B: Breakdown of remuneration per activity
- 5) Form 5B: Reimbursable and Miscellaneous Expenses

(The information provided in these forms will provide a detailed estimate of the provision of the services, and the Bidder's proposed payment terms.)

**15. SUBMISSIONS AND DUE DATE**

The Bidder is required to submit One (1) Original, One (1) Hard copy and One (1) PDF copy on a flash drive or other electronic media, of its **separate** Technical and Commercial Proposal, by *Friday 26<sup>th</sup> April, 2024* addressed to:

Proposal – For *250kW Solar PV System at Five Rivers Secondary School*  
The Ministry of Public Utilities  
#1 Alexandra Place  
Alexandra Street  
St. Clair  
Newtown, 190129

The sealed envelopes should be labelled "TECHNICAL PROPOSAL", "COMMERCIAL PROPOSAL", "ORIGINAL" or "COPY", as appropriate and clearly labelled to the back of EACH envelope with:

[NAME OF BIDDER]  
[ADDRESS]  
[CONTACT PHONE NUMBERS]

The Dimensions of the Proposal Box's slot opening is  $15\frac{3}{8}" \times 3\frac{1}{4}"$  Bidders are asked to take account of these dimensions in the packaging of their Proposals and submissions can be packaged separately so that they fit in the Proposal box. Proposals that cannot be deposited into the designated Proposal box will not be accepted.

The *MPU*, may at its sole discretion, extend the deadline stated above by issuing an amendment, in which case all Bidders would be notified in writing and shall therefore be subject to the new deadline as extended.

***Proposals received after the deadline date shall be rejected and immediately returned unopened to the Bidders.***

After the deadline for submission of Proposals, only Proposals marked 'Technical Proposal' shall be opened. All Proposals marked 'Commercial Proposal' shall remain unopened and shall be date-stamp and set aside and subsequently lodged with the **Procurement Unit** for safekeeping. These Commercial Proposals shall be securely stored in a locked Tender Box and shall only be opened, in accordance with the guidelines set out in the solicitation documents.

Submissions may be withdrawn by bidders in keeping with the procedures in the solicitation document and shall be returned unopened to the Bidders. In this regard, envelopes marked 'Withdrawal' or 'Withdrawn' shall be read out and recorded, and proposals submitted by those firms shall remain unopened and set aside. The original and all copies of the bid will be returned unopened to the bidder.

Each envelope marked 'Modification' shall be opened immediately following the corresponding Proposal from the bidder making the modified submission.

#### **16. VALIDITY PERIOD**

Proposals shall be valid for a period not less than One Hundred and Twenty (120) Days from the closing date for the submission of Proposals. The **MPU**, in exceptional circumstances, reserves the right to request all Bidders to extend the validity period of their Proposals. Any Bidders who extends the validity period in compliance with the **MPU's** request will not be permitted to otherwise modify its Proposal.

## Part C: Terms of Reference

### CONTRACTOR SERVICES FOR 250kW SOLAR PV SYSTEM AT FIVE RIVERS SECONDARY SCHOOL

#### 1. BACKGROUND

The Ministry of Public Utilities (MPU) has continued its efforts to implement Energy Conservation and Energy Efficiency (EC&EE) initiatives in fulfilment of its mandate in the EC&EE Policy and Action Plan. This project is part of the overall EC&EE drive to reduce overall greenhouse gas (GHG) emissions by 15% by the year 2030; thus embracing a low carbon future.

In this regard, the Ministry of Public Utilities (MPU) will be the “Awarding Authority” for this Request for Proposals. The Solar PV System is designed to ensure there is a reduction in electricity consumption of the Five Rivers Secondary School and to instill behavioural change in the occupants through Energy Conservation Awareness Training.

#### 2. OBJECTIVES OF THE REQUEST FOR PROPOSAL

MPU wishes to enter into a contract with a suitably qualified and resourced service provider capable of providing Design, Procurement, Installation, Commissioning, Training and Maintenance services for a 250kW Solar PV System at the Five Rivers Secondary School. Energy Conservation Awareness Training and Capacity Building sessions will also be conducted for occupants, to ensure energy conservation measures are employed and effectively maximized. Installation and Maintenance Training shall also be conducted for members of the Educational Facilities Planning and Procurement Division (EFPPD) who will shadow the installation process and maintenance services for the purpose of capacity building and transfer of green energy knowledge and skills.

The desired outcomes of this project are to:

- Reduce electricity consumption for Five Rivers Secondary School
- Integrate renewable energy sources to provide sustainable power for the operations of Five Rivers Secondary School.

#### 3. RFP Timeline

The timeline of this project will be based on the major milestone dates for this RFP process as shown in Table 1 below. The Awarding Authority may adjust the schedule at its discretion.



**Table 1: Major milestone dates for RFP.**

Event	Target Dates
RFP Issued	March 11 <sup>th</sup> 2024
RFP Questions Due No Later Than	April 12 <sup>th</sup> 2024
Mandatory Site Visit/Review of Five Rivers Secondary School	April 4 <sup>th</sup> 2024 at 10:00am
Closure of RFP Bids	April 26 <sup>th</sup> 2024 at 4:00pm

Site Visit prior to submission of Proposal

- The day of the site visit will be articulated on the advertisement. All Bidders **MUST ATTEND** the site visit as a requirement of the bidding process. Failure to, Bidders will be denied eligibility.
- Before submitting a proposal, Bidders must ascertain the size, design, material, labour, location and fencing requirements of the solar PV system based on site visit findings.

#### 4. SCOPE OF SERVICES

The bidder should be reminded that international best practice should be applied for the Design, Procurement, Installation, Commissioning, Training and Maintenance Services for the Solar Photovoltaic (PV) system at Five Rivers Secondary School. The MPU, MOE and other stakeholders reserve the right to not accept the works performed if this overarching criteria are not met.

The Scope of the project is as follows:

- Provide a fully functional “turnkey” solar PV system.
- Size, design, procure, install, commission and maintain a stand-alone solar PV system at the Five Rivers Secondary School.
- Development of a detailed work plan for implementation of the Solar PV System at Five Rivers Secondary School.
- Include a battery storage system in the design. The battery system must be (deep cycle batteries) sized to power 50% of the load and provide power for a minimum of 6 continuous hours.
- Incorporate a power management system to monitor and control:
  - Overvoltage that can affect the inverter, load and battery system by including surge protection devices;
  - The inverter’s output for grid integration with T&TEC’s national grid;
  - The State of Charge (SoC) of the battery storage system; and
  - When the load switches to the PV system or Utility system.

- F. Identify a secure area for the battery storage system with suitable ventilation away from thoroughfare.
- G. Install anti-theft mechanisms for all components of the system.
- H. Apply corrosion resistant coating to the PV system's supporting structures.
- I. Provide operation and maintenance manuals for the entire system inclusive of each individual component.
- J. Provide training for five (5) employees of EFPPD, who shall shadow the installation process, for the purpose of capacity building and transfer of green energy knowledge and skills to locals on the island. Training must also encompass maintenance of the solar PV system.

Bidders can include the following optional PV system components in the cost proposal:

- A monitoring system for the solar panel array, composed of temperature and irradiance sensors, to facilitate data acquisition and troubleshooting, and.
- A Smart Metering system which records and facilitates communication of the current, voltage and power output of the PV system to T&TEC when connected to the grid.
- Solar LED perimeter lighting to the school's car park.

### **Design Requirements and guidelines for Solar PV system**

The PV system must include solar panels, smart inverters, charge controllers, batteries, electrical conduits, an automatic transfer switch (ATS), a disconnect switch, weather and temperature sensors, performance and monitoring units, mounting racks and all other appurtenances necessary for a fully functional system.

- Proposals are to include a design for a lithium-ion battery bank with their corresponding costs and other technical information. The lithium-ion battery design should allow for a maximum Depth of Discharge (DoD) of 80%.
- Incorporate a power management system to monitor and control:
  - The input to the inverter, from the battery and solar panel array, which must be maintained at 250kW;
  - Overvoltage that can affect the inverter, load and battery system by including surge protection devices;
  - The inverter's output for grid integration with T&TEC's national grid;
  - The State of Charge (SoC) of the battery storage system; and
  - When the load switches to the PV system or Utility system.
- A battery rack or enclosure that can safely store the batteries and meets NEC 2017 electrical code is to be provided and installed.
- Bidders may choose to submit an AC coupled design as most of the activities of the school takes place during sunlight/daytime hours. Please note that an AC coupled design is not mandatory.
- Inverter requirements are as follows:
  - Power output of 250 kW

- Output voltage is 120 VAC / 240 VAC
  - Software that facilitates communication with a remote monitoring system for monitoring and acquisition of:
    - Incoming and output voltage
    - Incoming and output current
    - Incoming and output power
    - Output frequency
    - The battery system State of Charge (SoC)
    - Operation Mode
    - Status (system error, system producing/not producing)
    - Daily Solar Radiation
  - Frequency correction to 60 Hz (wave smoothing of sinusoidal wave)
  - Voltage correction
- The solar panels shall meet the following requirements:
  - The determined size based on site visit findings
  - Solar PV modules should be of the mono-crystalline type ONLY.
  - Panels must be rated to perform at peak efficiency for temperature ranges that are in keeping with local weather conditions;
  - The panels' orientation or azimuth must be aligned to extract optimum solar energy and maximize energy production (based on roof orientation, site latitude and wind conditions);
  - Panels must be edge sealed; and
  - Panels must be procured from Tier 1 suppliers.
  - A disconnect switch shall be placed between the PV solar array and inverter to facilitate safe maintenance activities.
- Bidders shall provide a single line diagram showing details of the solar PV system interconnected with the grid and interconnected to the school's electrical system.
- Cut sheets on the PV system's components must be provided including details of the brand, model, and country of manufacture.
- The design of the solar PV system must be modular allowing for future add-ons.
- Bidders shall provide a proposed layout of the solar PV system on the school's compound.
- For roof mounted:
  - The mounting system shall have sealed roof penetrations to prevent possible leakage and shall be fully ballasted, bolted and anchored to withstand torrential rainfall and wind speeds of 100km/h.
  - On a slanted roof, the highest part of the PV system shall not be higher than the highest part of the roof to which it is attached.
  - On a flat roof, the highest point of the PV system shall be 1.8m above the roof to which it is attached.
  - The PV system should not extend more than 450mm beyond the roof slope.

- There shall be adequate room to facilitate servicing or maintenance of the panels. Roof access points shall be secured.
  - The mounting system design needs to meet applicable local building code requirements with respect to wind, rainfall, flood, hurricanes (category 2/3), earthquakes, salt, and sea blast factors.
- The entire system design and its individual components must comply with NEC 2020 electrical code and the local TTS 171-3:2011, Trinidad and Tobago Electrical Wiring Code – Part 3: Renewable Energy Systems and Interconnection Requirements.

**Bidders can include the following options in the cost proposal:**

- Solar LED perimeter lighting for the Five Rivers Secondary School;
- A monitoring system for the solar panel array, composed of temperature and irradiance sensors, to facilitate data acquisition and troubleshooting, and;
- A Smart Metering system which records and facilitates communication of the current, voltage and power output of the PV system to T&TEC when connected to the grid.
- Subsequent to the site visit, the bidder may propose a reduced size for the Solar PV System subject to approval by the awarding authority, if space limitations are identified.

*The Awarding Authority will determine whether the optional components can be included based on the proposed cost by the Bidder.*

**Electrical Guidelines**

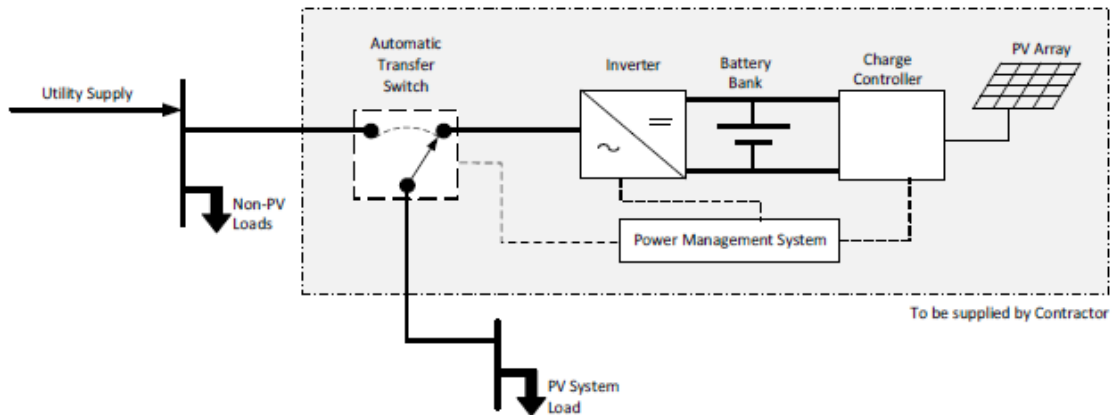
The general guidelines for the solar PV system are as follows:

- The electrical wiring system must be neat and protected with trunking;
- Areas where wiring passes through ceilings, walls or other areas of the school from the electric/control panel shall be well restored, booted, sealed and returned to their original condition;
- All electrical components, source and destination wiring, PV system components including the AC disconnect (ATS) and the DC disconnect switch for the PV system must be clearly labelled; and
- Ensure all paperwork for project permitting, construction, and interconnection are in compliance with all applicable laws, regulations, ordinances, and best industry practices.

The functional components of the system supplied by the Contractor shall include the following, or their functional equivalents:

- A PV array;
- A battery bank;
- A charge controller;
- A power inverter;
- An automatic transfer switch; and
- A power management system having supervisory control over the system.

The essential functional relationship between system components shall be as illustrated in Figure 1.



**Figure 1. Functional relationship between system components.**

System operating principles shall be as follows:

- The PV system shall be designed such that it will provide power to the load in Section 2.1. It shall also be functional such that it can manually transfer to the utility supply by means of the automatic transfer switch for maintenance purposes of the PV system. Additionally, it must also transfer to the utility supply when the battery system SoC is below the minimum set point.
- The power output of the PV array shall, normally, via the charge controller, power the specified PV system load and simultaneously charge the batteries. When the battery bank is fully charged, the charge controller shall maintain a float battery charging current.
- The power management system shall manage the battery state based on defined and programmed battery bank State of Charge (SoC) limits as follows:
- Where the battery bank would otherwise be discharged below its minimum SoC limit by the PV system load and the utility supply is available, the PV system loads shall be automatically transferred to the utility power supply by means of the automatic transfer switch.
- Where the battery bank would otherwise be discharged below its minimum SoC limit by the PV system load and the utility supply is not available, the PV system load shall be de-energized. In this state, should the utility supply become available before the battery bank becomes sufficiently charged to permit energization of the PV system load from the PV system, the PV system load shall be automatically transferred to the utility power supply by means of the automatic transfer switch.

## 5. CODES, STANDARDS AND PRACTICES

The solar PV system installed for the solar project at the Charlottesville Methodist School shall meet the undermentioned codes, which shall include but are not limited to:

- IEC 60364-7-712 - Electrical installations of buildings - Part 7-712: Requirements for special installations or locations - Solar photovoltaic (PV) power supply system.
- IEC 61194 - Characteristic parameters of stand-alone photovoltaic (PV) systems.
- TTS 171-3:2011 – Trinidad and Tobago Electrical Wiring Code – part 3: Renewable Energy Systems and Interconnection Requirements. Trinidad & Tobago and TTS 171: Part 1:2015: Low Voltage Installations.
- IEEE 1562-2007-IEEE: Guide for array and battery sizing in standalone photovoltaic (PV) systems.
- NFPA 70 – National Electric Code and NFPA 1 – Fire Code.
- Wind – SEI/ASCE 7.

## 6. LICENCE AND INSPECTION

The following are required for the commissioning of the PV system:

1. An inspection certificate from the Government Electrical Inspectorate at the Division of Infrastructure, Quarries, and the Environment (DIQE) which must be obtained by the Bidder on behalf of the school.
2. A RE licence obtained from the Ministry of Public Utilities. The Five Rivers Secondary School shall apply for the RE licence and pay all requisite licence fees.

## 7. MAINTENANCE

The successful Bidder will provide operation and maintenance (O&M) services once every three (3) months for the period of two (2) years. Maintenance activities shall include:

- Management of grass and weeds that may grow on, under or around the solar panels;
- Regular cleaning of the Solar Panel Array; and
- Any activity including fixing, replacing or upgrading of system components that would ensure the solar PV system continues to function according to design specifications and power output.

Note: After the initial period of 2 years maintenance by the successful bidder, the Awarding Authorities reserve the right to enter into a separate O&M service contract for extended service.

## 8. MPU'S PROVISIONS

The [MPU](#) will liaise with the Ministry of Education (MoE) to provide the bidders with the following:

1. Access to the Five Rivers Secondary School for the site visit
2. Access to the Five Rivers Secondary School for the winning bidder to execute the works for the 250kW Solar PV System.

**Part D: Draft Contract****The Republic of Trinidad and Tobago**

**THIS AGREEMENT** is made in triplicate this      day of      Two Thousand and Twenty Four Between ..... Permanent Secretary, Ministry of Public Utilities, having its Head Office situated at No.1 Alexandra Street St Clair, Port of Spain (hereinafter referred to as “**the Permanent Secretary**” which expression shall mean and include the person or persons for the time being carrying on the duties of Permanent Secretary in the said Ministry) acting herein for and on the behalf of the Government of the Republic of Trinidad and Tobago (in this Agreement called “**the Client**”) **of the One Part and** ....., with its registered office situated at ..... hereinafter referred to as “**the Contractor**” which expression shall include its successors or assigns) **of the Other Part.**

**NOW THEREFORE THE PARTIES** hereby agree as follows:

**1. Contract Documents**

The documents forming all parts of the Contract are to be taken as mutually explanatory of one another. For the purposes of interpretation the priority with the following sequence:

- (a) The Contract Agreement
- (b) The Letter of Award hereto annexed at **Appendix I**;
- (c) The Conditions of Contract hereto annexed at **Appendix II**
- (d) The Request for Proposals for Solar Pilot Project dated the.....hereto annexed at **Appendix III**; and
- (e) The Contractor’s Proposal hereto annexed at **Appendix IV**

**2. Commencement, Term and Expiry of the Contract**

- (a) Subject to the terms and conditions of this Contract and save an except for the Contractor’s obligations as it relates to defect liability, confidentiality and maintenance, the Parties hereby agree that the term of this Contract shall be for a period of **THREE (3) MONTHS** and shall commence from the.....For the avoidance of doubt the works to be provided under this contract shall be completed on or before.....
- (b) Except as otherwise required for the safety or protection of persons, or the work or property on the site or adjacent thereto, all work on the site shall be performed between the hours of 7:00 a.m. and 5:30 p.m. Monday through Friday unless otherwise provided in writing by the Permanent Secretary, such consent not to be unreasonably withheld.
- (c) If it becomes apparent that the works will not be completed by the completion date identified in **Clause 2 (a)** above, for reasons beyond the control of the Contractor, then

the Parties to this Contract may agree to extend the term of the Contract to facilitate the completion of the works. Any such agreement for an extension of time for completion, shall not be valid unless it is approved by the Permanent Secretary, reduced into writing and signed by both Parties.

- (d) If the works are not completed by the extension date referred to above in **Clause 2 (a)** hereof, then the Contractor shall pay to the Client Liquidated Damages as agreed by the parties and prescribed in this the Conditions for Contract at **Appendix II**.

### **3. Contract Fee and Payment**

- (a) The Contractor acknowledges that the total consideration for this Contract shall not exceed the sum of .....said sum being inclusive of Materials, Labour and Maintenance of the Works over **two (2) years**. The payment of the Contract Fee shall be undertaken in the following manner:-
- (b) The Contractor shall be deemed to (a) have satisfied himself as to the correctness and sufficiency of the Contract Fee set out in this Contract Agreement and (b) based the Contract Fee on the data, inspection and examination of the site and necessary information.

### **4. Termination by the Client**

- (a) The Client shall be entitled to terminate this Contract immediately if the Contractor:
- (i) becomes bankrupt or insolvent, goes into liquidation, has a receiving or administration order made against him, compounds with his creditors, or carries on business under a receiver, trustee or manager for the benefit of his creditors or if any act is done or event occurs which has a similar effect to any of these acts or events;
  - (ii) gives or offers to give (directly or indirectly) to any person any bribe, gift or gratuity, commission or other thing of value, as an inducement or reward for doing or forbearing to do any action in relation to this Contract or for showing or forbearing to show favour or disfavour to any person in relation to this Agreement; and
  - (iii) subcontracts the whole of the works or assigns this Contract without the written consent of the Client first had and obtained;
- (b) The Client shall be entitled to terminate this Contract by **Fourteen (14) Days** written notice where the Contractor:
- (i) abandons the Works or otherwise plainly demonstrates the intention not to continue performance of his obligations under this Contract;



- (ii) without reasonable excuse fails to proceed with the works in accordance with the date for commencement;
  - (iii) without reasonable excuse fails to comply with a notice to undertake repair or remedial works **fourteen (14) days** after receipt of such notice.
  - (iv) persistently fails to execute the Contract in accordance with the Contract or persistently neglects to carry out its obligations under the Contract without just cause; and
  - (v) refuses or is unable to provide sufficient materials, services or labour to complete the works to be completed pursuant to this Contract and at the agreed rate of progress
- (c) The Client may by notice sent to the Contractor, terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Client's convenience, the extent to which performance of the Contractor under the contract is terminated, and the date upon which such termination becomes effective.
- (d) Contracted works that have been delivered to the Client before receipt of the Client's notice under **Clause 4 (c)** shall be accepted by the Client at the terms and prices set out in the Contract.
- (e) Where the Client terminates this Contract the Contractor shall:-
  - (i) Cease all further work, except for such work as the Client may specify in the notice of termination for the sole purpose of protecting that part of the Facilities already executes or any work required to leave the Site in a clean and safe condition;
  - (ii) Terminate all subcontracts;
  - (iii) Remove all of the Contractor's Equipment from the Site, remove from the Site all rubbish, wreckage, debris of any kind and leave the whole of the Site in a clean and safe condition;
  - (iv) Deliver any and all goods and materials purchased under this Agreement and design documents to the Client;
  - (v) To the extent legally possible, assign to the Client all title and benefit of the Contractor to the Facilities and to the Plant as of the date of termination; and

- (vi) Deliver to the Client all non-proprietary drawings, specifications and other documents prepared by the Contractor or Sub Contractors as of the date of termination. The Client after termination may the

#### 5. Termination by the Contractor

(a) The Contractor shall be entitled to terminate this Contract by **Fourteen (14) Days** written notice where:

- (i) The Client substantially fails to perform its obligations under the contract; and
- (ii) The whole of the Works or any part thereof have been suspended by the Client for more than **ninety (90) days**.

#### 6. Liability of the Permanent Secretary

The Permanent Secretary shall in no way be held personally liable for anything arising under this Agreement;

#### 7. Entire Agreement

This Contract Agreement together with all the annexes and appendices, embodies and sets forth the entire contract and understanding of the Parties and supersedes all prior oral and written agreements, understandings or arrangements relating to the subject matter of this Contract, and neither Party shall be entitled to rely on any agreement, understanding or arrangement which is not expressly set forth in this Contract.

**IN WITNESS WHEREOF** the Parties to this Agreement have set their hands the day and year first written above.

Signed by ..... )  
Permanent Secretary )  
For and on behalf of the )  
Ministry of Public Utilities )  
In the presence of )

Signed by )  
For and on Behalf of )  
**United Independent Petroleum Marketing Company** )  
**Limited** )  
In the presence of )

## Conditions of Contract

### **1. General Provisions**

#### **1.1 Definitions**

In the Conditions of Contract (“these Conditions”), the following words and expressions shall have the meanings stated. Words indicating persons or parties include corporations and other legal entities, except where the context requires otherwise.

##### **1.1.1 The Contract**

1.1.1.1 “Contract” means the Contract Agreement, the Letter of Award, these General Conditions, the Request for Proposals and the Contractor’s Proposal.

1.1.1.2 “Contract Agreement” means the contract agreement referred to in Clause 1.1.1.1

##### **1.1.2 Parties and Persons**

1.1.2.1 “Party” means the Client or the Contractor, as the context requires.

1.1.2.2 “Client” means the Permanent Secretary, Ministry of Public Utilities;

1.1.2.3 “Contractor” means the .....

1.1.2.4 “Project Manager” means the.....

1.1.2.5 “Subcontractor” means any person named in the Contract as a subcontractor, or any person appointed as a subcontractor, for a part of the Facilities, including preparation of any design or supply of any Plant, and the legal successors in title to each of these persons.

##### **1.1.3 Dates, Tests, Periods and Completion**

1.1.3.1 “Commencement Date” means the date set out in the Contract Agreement

1.1.3.2 “Completion” means that the Facilities are operationally and structurally completed and the Site has been put in a tight and clean condition by the Contractor.

- 1.1.3.3 “Time for Completion” means the time within which Completion of the Facilities as a whole is to be attained.
- 1.1.3.4 “Acceptance Test” means the tests (if any) which are specified in the Contract and which are carried out for the purpose of issuing the “Operational Acceptance”.
- 1.1.3.5 “Operational Acceptance” means a certificate issued under Clause 4.9 (Commissioning and Operational Acceptance).
- 1.1.3.6 “day” means a calendar day and “year” means 365 days.
- 1.1.4 Money and Payments**
- 1.1.4.1 “Contract Fee” means the sum set out in the Contract Agreement
- 1.1.5 Works and Goods**
- 1.1.5.1 “Contractor’s Equipment” means all facilities, apparatus, machinery, vehicles and other things required for the execution and completion of the Works and the remedying of any defects. However, Contractor’s Equipment excludes Temporary Works, Client’s Equipment (if any), Plant, Materials and any other things intended to form or forming part of the Permanent Plant.
- 1.1.5.2 “Materials” means things of all kinds (other than Plant) intended to form or forming part of the Facilities, including the supply-only materials (if any) to be supplied by the Contractor under the Contract.
- 1.1.5.3 “Plant” means all materials, articles and things to be provided by the Contractor and incorporated into the Facilities by the Contractor under this Contract including but not limited to solar panels, inverters, charge controllers, lithium batteries, smart metering system, solar ac fuses, cable channels, storage racks, forty (40) gallon thermosiphon water heater and all items set out in the Contractor’s Bill of Quantities for Proposal Two in its Bid Submission at Appendix IV, (including the spare parts to be supplied by the Contractor), but does not include Contractor’s Equipment.

- 1.1.5.4** “Installation Services” means all those services ancillary to the supply of the Plant for the Facilities, to be provided by the Contractor under the Contract, such as transportation and provision of marine or other similar insurance, inspection, expediting, site preparation works (including the provision and use of Contractor’s Equipment and the supply of all construction materials required), installation, testing, precommissioning, commissioning, operations, maintenance, the provision of operations and maintenance manuals, training, etc... as the case may require.
- 1.1.6** Other Definitions
- 1.1.6.1** “Contractor’s Documents” means the calculations, computer programs and other software, drawings, manuals, models and other documents of a technical nature (if any) supplied by the Contractor under the Contract.
- 1.1.6.2** “Site” means the .....
- 1.2** Interpretation
- 1.2.1** Interpretation In the Contract, except where the context requires otherwise:
- words indicating one gender include all genders;
- words indicating the singular also include the plural and words indicating the plural also include the singular;
- provisions including the word “agree”, “agreed” or “agreement” require the agreement to be recorded in writing;
- “written” or “in writing” means hand-written, type-written, printed or electronically made, and resulting in a permanent record;
- the word “tender” is synonymous with “bid” and “tenderer” with “bidder” and the words “tender documents” with “bidding documents”.
- 1.2.2** The marginal words and other headings shall not be taken into consideration in the interpretation of these Conditions.

**1.2.3** Amendment

No amendment or other variation of the Contract shall be effective unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each Party hereto.

**1.2.4** Independent Contractor

The Contractor shall be an independent contractor performing the Contract. The Contract does not create any agency, partnership, joint venture or other joint relationship between the Parties hereto. Subject to the provisions of the Contract, the Contractor shall be solely responsible for the manner in which the Contract is performed. All employees, representatives or Subcontractors engaged by the Contractor in connection with the performance of the Contract shall be under the complete control of the Contractor and shall not be deemed to be employees of the Client, and nothing contained in the Contract or in any subcontract awarded by the Contractor shall be construed to create any contractual relationship between any such employees, representatives or Subcontractors and the Client.

**1.2.5** Non-Waiver

No relaxation, forbearance, delay or indulgence by either Party in enforcing any of the terms and conditions of the Contract or the granting of time by either Party to the other shall prejudice, affect or restrict the rights of that Party under the Contract, nor shall any waiver by either Party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

Any waiver of a Party's rights, powers or remedies under the Contract must be in writing, must be dated and signed by an authorized representative of the Party granting such waiver, and must specify the right and the extent to which it is being waived.

**1.2.6** Severability

If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

**1.3** Communications

- 1.3.1**        Wherever these Conditions provide for the giving or issuing of approvals, certificates, consents, determinations, notices, requests and discharges, these communications shall be:
- in writing and delivery by hand (against receipt), sent by mail or courier, or transmitted using an agreed system of electronic transmission; and
- delivered, sent or transmitted to the address for the recipient's communications;
- if the recipient gives notice of another address, communications shall thereafter be delivered accordingly; and
- if the recipient has not stated otherwise when requesting an approval or consent it may be sent to the address from which the request was issued
- Approvals, certificates, consents and determinations shall not be unreasonably withheld or delayed. When a certificate is issued to a Party, the certifier shall send a copy to the other Party.
- 1.3.2**        When a notice is issued to a Party, by the other Party or the Project Manager, a copy shall be sent to the Project Manager or the other Party, as the case may be.
- 1.4**        Law and Language
- 1.4.1**        The Contract shall be governed by the laws of Trinidad and Tobago.
- 1.5**        Assignment
- 1.5.1**        The Contractor shall not assign the whole or any part of the Contract or any benefit or interest in or under the Contract without the prior written consent of the Client.
- 1.6**        License/Use of Technical Information

- 1.6.1** For the operation and maintenance of the Plant, the Contractor hereby grants a non-exclusive and non-transferable license (without the right to sub-license) to the Client and the Project Manager under the patents, utility models or other industrial property rights owned by the Contractor or by a third Party from whom the Contractor has received the right to grant licenses thereunder, and shall also grant to the Client a non-exclusive and non-transferable right (without the right to sub-license) to use the know-how and other technical information disclosed to the Client and the Project Manager under the Contract. Nothing contained herein shall be construed as transferring ownership of any patent, utility model, trademark, design, copyright, know-how or other intellectual property right from the Contractor or any third Party to the Client or the Project Manager.
- 1.6.2** The copyright in all drawings, documents and other materials containing data and information furnished to the Client by the Contractor herein shall remain vested in the Contractor or, if they are furnished to the Client directly or through the Contractor by any third Party, including suppliers of materials, the copyright in such materials shall remain vested in such third Party.
- 1.7** Contractor's Use of Client's Documents
- 1.7.1** As between the Parties, the Client shall retain the copyright and other intellectual property rights in the Specification, the Drawings and other documents made by (or on behalf of) the Client. The Contractor may, at his cost, copy, use, and obtain communication of these documents for the purposes of the Contract. They shall not, without the Client's consent, be copied, used or communicated to a third party by the Contractor, except as necessary for the purposes of the Contract.
- 1.8** Confidential Details
- 1.8.1** The Contractor's and the Client's Personnel shall disclose all such confidential and other information as may be reasonably required in order to verify the Contractor's compliance with the Contract and allow its proper implementation.

Each of them shall treat the details of the Contract as private and confidential, except to the extent necessary to carry out their respective obligations under the Contract or to comply with applicable Laws. Each of them shall not publish or disclose any particulars of the Plant prepared by the other Party without the previous agreement of the other Party. However, the Contractor shall be permitted to disclose any publicly available information, or information otherwise required to establish his qualifications to compete for other projects.



- 1.8.2** Notwithstanding the above, the Contractor may furnish to its Subcontractor(s) such documents, data and other information it receives from the Client to the extent required for the Subcontractor(s) to perform its work under the Contract, in which event the Contractor shall obtain from such Subcontractor(s) an undertaking of confidentiality similar to that imposed on the Contractor under this Clause.
- 1.9** Compliance with Laws
- 1.9.1** The Contractor shall, in performing the Contract, comply with applicable Laws.
- 1.9.2** Unless otherwise stated:
- the Contractor shall acquire and pay for all permits, approvals and/or licenses from all local, state or national government authorities or public service undertakings in the country where the Site is located which such authorities or undertakings require the Contractor to obtain in its name and which are necessary for the performance of the Contract, including, without limitation, visas for the Contractor's and Subcontractor's personnel and entry permits for all imported Contractor's Equipment.
- 1.10** Joint and Several Liability
- 1.10.1** If the Contractor is a joint venture, consortium, or association (JVCA) of two or more persons, all such persons shall be jointly and severally bound to the Client for the fulfilment of the provisions of the Contract, unless otherwise specified in the PC, and shall designate one of such persons to act as a leader with authority to bind the JVCA. The composition or the constitution of the JVCA shall not be altered without the prior consent of the Client.
- 2.** Subject Matter of Contract
- 2.1** Scope of Facilities

- 2.1.1** Unless otherwise expressly limited in the Client's Requirements, the Contractor's obligations cover the provision of all Plant and the performance of all Installation Services required for the design, and the manufacture (including procurement, quality assurance, construction, installation, associated civil works, Precommissioning and delivery) of the Plant, and the installation, completion and commissioning of the Facilities in accordance with the plans, procedures, specifications, drawings, codes and any other documents as agreed on between the parties. Such installation services to include the provision of training to six (6) persons nominated by the Project Manager in the maintenance and operation of the Facilities.

The Contractor shall also for a period of two (2) years after the completion of the facilities undertake periodic routine maintenance of the Facilities in accordance with a maintenance schedule approved by the Client and the Project Manager. Such schedule to be submitted to the Client and Project Manager for approval at the date of completion of the Facilities.

- 2.1.2** The Contractor shall, unless specifically excluded in the Contract, perform all such work and/or supply all such items and materials not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for attaining Completion of the Facilities as if such work and/or items and materials were expressly mentioned in the Contract.

- 2.1.3** The Contractor agrees to supply spare parts required for the operation and maintenance of the Facilities for the period of eighteen (18) months. However, the identity, specifications and quantities of such spare parts and the terms and conditions relating to the supply thereof are to be agreed between the Client, Project Manager and the Contractor.

**2.2** Time for Commencement and Completion

- 2.2.1** The Contractor shall commence work on the Facilities within the period specified in the Contract Agreement and, the Contractor shall thereafter proceed with the Facilities in accordance with the agreed time schedule.

- 2.2.2** The Contractor shall attain Completion of the Facilities or within such extended time to which the Contractor shall be entitled under Clause 7.2.1.

**2.3** Contractor's Responsibilities

- 2.3.1** The Contractor shall design, manufacture including associated purchases and/or subcontracting, install and complete the Facilities in accordance with the Contract. When completed, the Facilities should be fit for the purposes for which they are intended as defined in the Contract.
- 2.3.2** The Contractor confirms that it has entered into this Contract on the basis of a proper examination of the data relating to the Facilities including any data as to boring tests provided by the Client, and on the basis of information that the Contractor could have obtained from a visual inspection of the Site and of other data readily available to it relating to the Facilities. The Contractor acknowledges that any failure to acquaint itself with all such data and information shall not relieve its responsibility for properly estimating the difficulty or cost of successfully performing the Facilities.
- 2.3.3** The Contractor shall acquire all other permits, approvals and/or licenses that are not the responsibility of the Client and that are necessary for the performance of the Contract.
- 2.3.4** The Contractor shall comply with all laws in force in the country where the Facilities are to be implemented. The Contractor shall indemnify and hold harmless the Client from and against any and all liabilities, damages, claims, fines, penalties and expenses of whatever nature arising or resulting from the violation of such laws by the Contractor or its personnel, including the Subcontractors and their personnel.
- 2.3.5** Any Plant and Installation Services that will be incorporated in or be required for the Facilities and other supplies shall have their origin as specified.
- 2.3.6** If the Contractor is a joint venture, consortium, or association (JVCA) of two or more persons, all such persons shall be jointly and severally bound to the Client for the fulfilment of the provisions of the Contract, unless otherwise specified in the PC, and shall designate one of such persons to act as a leader with authority to bind the JVCA. The composition or the constitution of the JVCA shall not be altered without the prior consent of the Client.
- 2.4** Client's Responsibilities
- 2.4.1** All information and/or data to be supplied by the Client as shall be deemed to be accurate, except when the Client expressly states otherwise.
- 2.4.2** The Client through the Project Manager shall provide legal and physical possession of the Site and access thereto, and for providing possession of and access to all other areas reasonably required for the proper execution of the Contract.

- 2.4.3** If requested by the Contractor, the Client shall use its best endeavours to assist the Contractor in obtaining in a timely and expeditious manner all permits, approvals and/or licenses necessary for the execution of the Contract from all government authorities or public service undertakings that such authorities or undertakings require the Contractor or Subcontractors or the personnel of the Contractor or Subcontractors, as the case may be, to obtain.
- 2.4.4** The Client and the Project Manager shall be responsible for the continued operation of the Facilities after Completion, and shall be responsible for facilitating the Guarantee Test(s) for the Facilities, in accordance with Clause 4.9.
- 2.4.5** All costs and expenses involved in the performance of the obligations under this Clause 2.4 shall be the responsibility of the Client.
- 3.** Payment
- 3.1** Terms of Payment
- 3.1.1** No payment made by the Client herein shall be deemed to constitute acceptance by the Client of the Facilities or any part(s) thereof.
- 3.2** Taxes and Duties
- 3.2.1** Except as otherwise specifically provided in the Contract, the Contractor shall bear and pay all taxes, duties, levies and charges assessed on the Contractor, its Subcontractors or their employees by all government authorities in connection with the Facilities in and outside of the country where the Site is located.
- 3.2.2** If any tax exemptions, reductions, allowances or privileges may be available to the Contractor in the country where the Site is located, the Client shall use its best endeavours to enable the Contractor to benefit from any such tax savings to the maximum allowable extent.
- 4** Execution of the Facilities
- 4.1** Representatives

**4.1.1**      **Project Manager**

The Project Manager shall represent and act for the Client at all times during the performance of the Contract. All notices, instructions, orders, certificates, approvals and all other communications under the Contract shall be given by the Project Manager, except as herein otherwise provided.

All notices, instructions, information and other communications given by the Contractor to the Client under the Contract shall be given to the Project Manager, except as herein otherwise provided.

**4.1.2**      **Contractor's Representative & Construction Manager**

If the Contractor's Representative is not named in the Contract, then within seven (7) days of the date of commencement of the Contract, the Contractor shall appoint the Contractor's Representative and shall request the Client in writing to approve the person so appointed. If the Client makes no objection to the appointment within seven (7) days, the Contractor's Representative shall be deemed to have been approved. If the Client objects to the appointment within seven (7) days giving the reason there for, then the Contractor shall appoint a replacement within seven (7) days of such objection.

**4.1.3**      The Contractor's Representative shall represent and act for the Contractor at all times during the performance of the Contract and shall give to the Project Manager all the Contractor's notices, instructions, information and all other communications under the Contract.

All notices, instructions, information and all other communications given by the Client or the Project Manager to the Contractor under the Contract shall be given to the Contractor's Representative or, in its absence, its deputy, except as herein otherwise provided.

The Contractor shall not revoke the appointment of the Contractor's Representative without the Client's prior written consent, which shall not be unreasonably withheld.

- 4.1.4** The Contractor's Representative may, subject to the approval of the Client which shall not be unreasonably withheld, at any time delegate to any person any of the powers, functions and authorities vested in him or her. Any such delegation may be revoked at any time. Any such delegation or revocation shall be subject to a prior notice signed by the Contractor's Representative, and shall specify the powers, functions and authorities thereby delegated or revoked. No such delegation or revocation shall take effect unless and until a copy thereof has been delivered to the Client and the Project Manager.

Any act or exercise by any person of powers, functions and authorities so delegated to him or her in accordance with Clause 4.1.4 shall be deemed to be an act or exercise by the Contractor's Representative.

- 4.1.5** From the commencement of installation of the Facilities at the Site until Completion, the Contractor's Representative shall appoint a suitable person as the Construction Manager. The Construction Manager shall supervise all work done at the Site by the Contractor and shall be present at the Site throughout normal working hours except when on leave, sick or absent for reasons connected with the proper performance of the Contract. Whenever the Construction Manager is absent from the Site, a suitable person shall be appointed to act as the Construction Manager's deputy.

- 4.1.6** The Client may by notice to the Contractor object to any representative or person employed by the Contractor in the execution of the Contract who, in the reasonable opinion of the Client may behave inappropriately, may be incompetent or negligent, or may commit a serious breach of the Site regulations. The Client shall provide evidence of the same, whereupon the Contractor shall remove such person from the Facilities.

- 4.1.7** If any representative or person employed by the Contractor is removed in accordance with Clause 4.1.6, the Contractor shall, where required, promptly appoint a replacement.

- 4.2** Work Programme

**4.2.1**      Program of Performance

Within seven (7) days after the date of commencement of the Contract, the Contractor shall submit to the Project Manager a revised detailed program of performance of the Contract, made in a form acceptable to the Project Manager and showing the sequence in which it proposes to design, manufacture, transport, assemble, install and precommission the Facilities, as well as the date by which the Contractor reasonably requires that the Client shall have fulfilled its obligations under the Contract so as to enable the Contractor to execute the Contract in accordance with the program and to achieve Completion, Commissioning and Acceptance of the Facilities in accordance with the Contract. The Contractor shall update and revise the program as and when appropriate or when required by the Project Manager, but without modification in the time for completion set out in the Contract Agreement and any extension granted in accordance with this Contract and shall submit all such revisions to the Project Manager.

**4.2.2**      Progress Report

The Contractor shall monitor progress of all the activities specified in the program referred to in Clause 4.2.1 above, and supply a progress report to the Project Manager every month.

The progress report shall be in a form acceptable to the Project Manager and shall indicate:

- (a) percentage completion achieved compared with the planned percentage completion for each activity; and
- (b) where any activity is behind the program, giving comments and likely consequences and stating the corrective action being taken.

**4.2.3**      Progress of Performance

If at any time the Contractor's actual progress falls behind the program referred to in GC Clause 4.2.1, or it becomes apparent that it will so fall behind, the Contractor shall, at the request of the Client or the Project Manager, prepare and submit to the Project Manager a revised program, taking into account the prevailing circumstances, and shall notify the Project Manager of the steps being taken to expedite progress so as to attain Completion of the Facilities within the Time for Completion and any extension as may otherwise be agreed upon between the Client and the Contractor.

**4.2.4**      Procedures

The Contract shall be executed in accordance with the Contract Documents including the procedures given in the Forms and Procedures of the Client's Requirements.

The Contractor may execute the Contract in accordance with its own standard project execution plans and procedures to the extent that they do not conflict with the provisions contained in the Contract.

**4.3**      Design and Engineering**4.3.1**      Specifications and Drawings

The Contractor shall execute the basic and detailed design and the engineering work in compliance with the design and drawings submitted by the Contractor in its proposal at Appendix IV.

The Contractor shall be responsible for any discrepancies, errors or omissions in the specifications, drawings and other technical documents that it has prepared, whether such specifications, drawings and other documents have been approved by the Project Manager or not, provided that such discrepancies, errors or omissions are not because of inaccurate information furnished in writing to the Contractor by or on behalf of the Client.

**4.4.2**      The Contractor shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designated by or on behalf of the Client by giving a notice of such disclaimer to the Project Manager.

**4.4.3**      Codes and Standards

The Contractor agrees to adhere to the codes set out in the Client's Request for Proposals dated the 6<sup>th</sup> May 2022 and which is attached as Appendix III.

Wherever references are made in the Contract to codes and standards in accordance with which the Contract shall be executed, the edition or the revised version of such codes and standards current at the date twenty-eight (28) days prior to date of bid submission shall apply unless otherwise specified. During Contract execution, any changes in such codes and standards shall be applied subject to approval by the Client.



**4.4.4** Approval/ Review of Technical Documents by the Project Manager

Within fourteen (14) days after receipt by the Project Manager of any document requiring the Project Manager's approval the Project Manager shall either return one copy thereof to the Contractor with its approval endorsed thereon or shall notify the Contractor in writing of its disapproval thereof and the reasons thereof and the modifications that the Project Manager proposes.

If the Project Manager fails to take such action within the said fourteen (14) days, then the said document shall be deemed to have been approved by the Project Manager.

**4.4.6** The Project Manager shall not disapprove any document, except on the grounds that the document does not comply with the Contract or that it is contrary to good engineering practice.**4.4.7** If the Project Manager disapproves the document, the Contractor shall modify the document and resubmit it for the Project Manager's approval in accordance with Clause 4.4.5. If the Project Manager approves the document subject to modification(s), the Contractor shall make the required modification(s), whereupon the document shall be deemed to have been approved.**4.4.8** If any dispute or difference occurs between the Client and the Contractor in connection with or arising out of the disapproval by the Project Manager of any document and/or any modification(s) thereto that cannot be settled between the Parties within a reasonable period, then such dispute or difference may be referred to mediation.

If such dispute or difference is referred to mediation the Project Manager shall give instructions as to whether and if so, how, performance of the Contract is to proceed. The Contractor shall proceed with the Contract in accordance with the Project Manager's instructions, provided that if the Mediator upholds the Contractor's view on the dispute and if the Client has not given notice, then the Contractor shall be reimbursed by the Client for any additional costs incurred by reason of such instructions and shall be relieved of such responsibility or liability in connection with the dispute and the execution of the instructions as the Mediator shall decide, and the Time for Completion shall be extended accordingly.

**4.4.9** The Project Manager's approval, with or without modification of the document furnished by the Contractor, shall not relieve the Contractor of any responsibility or liability imposed upon it by any provisions of the Contract except to the extent that any subsequent failure results from modifications required by the Project Manager.

**4.4.10** The Contractor shall not depart from any approved document unless the Contractor has first submitted to the Project Manager an amended document and obtained the Project Manager's approval thereof, pursuant to the provisions of Clause 4.4.

If the Project Manager requests any change in any already approved document and/or in any document based thereon, the provisions of Clause 7.1 shall apply to such request.

**4.5** Procurement

**4.5.1** Plant

The Contractor shall procure and transport all Plant in an expeditious and orderly manner to the Site.

**4.5.2** Transportation

The Contractor shall at its own risk and expense transport all the materials and the Contractor's Equipment to the Site by the mode of transport that the Contractor judges most suitable under all the circumstances.

**4.5.3** Unless otherwise provided in the Contract, the Contractor shall be entitled to select any safe mode of transport operated by any person to carry the materials and the Contractor's Equipment.

**4.5.4** Upon dispatch of each shipment of materials and the Contractor's Equipment, the Contractor shall notify the Client by telex, cable, facsimile or electronic means, of the description of the materials and of the Contractor's Equipment, the point and means of dispatch, and the estimated time and point of arrival in the country where the Site is located, if applicable, and at the Site. The Contractor shall furnish the Client with relevant shipping documents to be agreed upon between the Parties.

**4.5.5** The Contractor shall be responsible for obtaining, if necessary, approvals from the authorities for transportation of the materials and the Contractor's Equipment to the Site. The Client and Project Manager shall use its best endeavours in a timely and expeditious manner to assist the Contractor in obtaining such approvals, if requested by the Contractor. The Contractor shall indemnify and hold harmless the Client and Project Manager from and against any claim for damage to roads, bridges or any other traffic facilities that may be caused by the transport of the materials and the Contractor's Equipment to the Site.

**4.5.6** Customs Clearance

The Contractor shall, at its own expense, handle all imported materials and Contractor's Equipment at the point(s) of import and shall handle any formalities for customs clearance. In the event of delays in customs clearance that are not the fault of the Contractor, the Contractor may be entitled to an extension in the Time for Completion.

**4.6** Installation

**4.6.1** Setting Out/Supervision

Bench Mark: The Contractor shall be responsible for the true and proper setting-out of the Facilities in relation to bench marks, reference marks and lines provided to it in writing by or on behalf of the Client

If, at any time during the progress of installation of the Facilities, any error shall appear in the position, level or alignment of the Facilities, the Contractor shall forthwith notify the Project Manager of such error and, at its own expense, immediately rectify such error to the reasonable satisfaction of the Project Manager. If such error is based on incorrect data provided in writing by or on behalf of the Client, the expense of rectifying the same shall be borne by the Client.

**4.6.2** Contractor's Supervision: The Contractor shall give or provide all necessary superintendence during the installation of the Facilities, and the Construction Manager or its deputy shall be constantly on the Site to provide full-time superintendence of the installation. The Contractor shall provide and employ only technical personnel who are skilled and experienced in their respective callings and supervisory staff who are competent to adequately supervise the work at hand.

**4.6.3**      Labour:

## Engagement of Staff and Labour

The Contractor shall make arrangements for the engagement of all staff and labour, local or otherwise, and for their payment, housing, feeding and transport.

The Contractor shall provide and employ on the Site in the installation of the Facilities such skilled, semi-skilled and unskilled labour as is necessary for the proper and timely execution of the Contract. The Contractor is encouraged to use local labour that has the necessary skills.

**4.6.4**      Persons in the Service of Client

The Contractor shall not recruit, or attempt to recruit, staff and labour from amongst the Client's Personnel.

**4.6.5**      Labour Laws

The Contractor shall comply with all the relevant labour Laws applicable to the Contractor's Personnel, including Laws relating to their employment, health, safety, welfare, immigration and emigration, and shall allow them all their legal rights.

The Contractor shall at all times during the progress of the Contract use its best endeavours to prevent any unlawful, riotous or disorderly conduct or behaviour by or amongst its employees and the labour of its Subcontractors.

The Contractor shall, in all dealings with its labour and the labour of its Subcontractors currently employed on or connected with the Contract, pay due regard to all recognized festivals, official holidays, religious or other customs and all local laws and regulations pertaining to the employment of labour.

**4.6.6**      Rates of Wages and Conditions of Labour

The Contractor shall pay rates of wages, and observe conditions of labour, which are not lower than those established for the trade or industry where the work is carried out. If no established rates or conditions are applicable, the Contractor shall pay rates of wages and observe conditions which are not lower than the general level of wages and conditions observed locally by Clients whose trade or industry is similar to that of the Contractor.

The Contractor shall inform the Contractor's Personnel about their liability to pay personal income taxes in the Country in respect of such of their salaries, wages and allowances as are chargeable under the Laws for the time being in force, and the Contractor shall perform such duties in regard to such deductions thereof as may be imposed on him by such Laws.

**4.6.7**      Working Hours

No work shall be carried out on the Site on locally recognized days of rest, or outside the normal working hours , unless:

- (a)      otherwise stated in the Contract,
- (b)      the Project Manager gives consent, or
- (c)      the work is unavoidable, or necessary for the protection of life or property or for the safety of the Works, in which case the Contractor shall immediately advise the Project Manager.

If and when the Contractor considers it necessary to carry out work at night or on public holidays so as to meet the Time for Completion and requests the Project Manager's consent thereto, the Project Manager shall not unreasonably withhold such consent.

This Clause shall not apply to any work which is customarily carried out by rotary or double-shifts.

**4.6.8**      Facilities for Staff and Labour

The Contractor shall provide and maintain all necessary accommodation and welfare facilities for the Contractor's Personnel.

The Contractor shall not permit any of the Contractor's Personnel to maintain any temporary or permanent living quarters within any structure on the Site.

**4.6.9**      Records of Contractor's Personnel

The Contractor shall keep accurate records of the Contractor's personnel, including the number of each class of Contractor's Personnel on the Site and the names, ages, genders, hours worked and wages paid to all workers. These records shall be available for inspection by the Project Manager until the Contractor has completed all work.

**4.6.10**      Supply of Water

The Contractor shall, having regard to local conditions, provide on the Site an adequate supply of drinking and other water for the use of the Contractor's Personnel.

**4.6.11**      Measures against Insect and Pest Nuisance

The Contractor shall at all times take the necessary precautions to protect the Contractor's Personnel employed on the Site from insect and pest nuisance, and to reduce their danger to health. The Contractor shall comply with all the regulations of the local health authorities, including use of appropriate insecticide.

**4.6.12**      Alcoholic Liquor or Drugs

The Contractor shall not, otherwise than in accordance with the Laws of the Country, import, sell, give barter or otherwise dispose of any alcoholic liquor or drugs, or permit or allow importation, sale, gift barter or disposal by Contractor's Personnel.

**4.6.13**      Arms and Ammunition

The Contractor shall not give, barter, or otherwise dispose of, to any person, any arms or ammunition of any kind, or allow Contractor's Personnel to do so.

**4.6.14**      Prohibition of All Forms of Forced or Compulsory Labour

The contractor shall not employ "forced or compulsory labour" in any form. "Forced or compulsory labour" consists of all work or service, not voluntarily performed, that is extracted from an individual under threat of force or penalty.

**4.6.15**      Prohibition of Harmful Child Labour

The Contractor shall not employ any child to perform any work that is economically exploitative, or is likely to be hazardous to, or to interfere with, the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development.

**4.6.16**      Contractor's Equipment

All Contractor's Equipment brought by the Contractor onto the Site shall be deemed to be intended to be used exclusively for the execution of the Contract. The Contractor shall not remove the same from the Site without the Project Manager's consent that such Contractor's Equipment is no longer required for the execution of the Contract.

Unless otherwise specified in the Contract, upon completion of the Facilities, the Contractor shall remove from the Site all Equipment brought by the Contractor onto the Site and any surplus materials remaining thereon.

**4.6.17**      Site Regulations and Safety

The Client and the Contractor shall establish Site regulations setting out the rules to be observed in the execution of the Contract at the Site and shall comply therewith. The Contractor shall if requested prepare and submit to the Client, with a copy to the Project Manager, proposed Site regulations for the Client's approval, which approval shall not be unreasonably withheld.

Such Site regulations shall include, but shall not be limited to, rules in respect of security, safety of the Facilities, gate control, sanitation, medical care, and fire prevention.

**4.6.18**      Emergency Work

If, by reason of an emergency arising in connection with and during the execution of the Contract, any protective or remedial work is necessary as a matter of urgency to prevent damage to the Facilities, the Contractor shall immediately carry out such work.

If the Contractor is unable or unwilling to do such work immediately, the Client may do or cause such work to be done as the Client may determine is necessary in order to prevent damage to the Facilities. In such event the Client shall, as soon as practicable after the occurrence of any such emergency, notify the Contractor in writing of such emergency, the work done and the reasons therefore. If the work done or caused to be done by the Client is work that the Contractor was liable to do at its own expense under the Contract, the reasonable costs incurred by the Client in connection therewith shall be paid by the Contractor to the Client. Otherwise, the cost of such remedial work shall be borne by the Client.

**4.6.19**      Site Clearance

Site Clearance in Course of Performance: In the course of carrying out the Contract, the Contractor shall keep the Site reasonably free from all unnecessary obstruction, store or remove any surplus materials, clear away any wreckage, rubbish or temporary works from the Site, and remove any Contractor's Equipment no longer required for execution of the Contract.

Clearance of Site after Completion: After Completion of all parts of the Facilities, the Contractor shall clear away and remove all wreckage, rubbish and debris of any kind from the Site, and shall leave the Site and Facilities in a clean and safe condition.

**4.6.20**      Watching and Lighting

The Contractor shall provide and maintain at its own expense all lighting, fencing, and watching when and where necessary for the proper execution and the protection of the Facilities, or for the safety of the owners and occupiers of adjacent property and for the safety of the public.

**4.7**            Test and Inspection**4.7.1**            The Contractor shall at its own expense carry out on the Site all such tests and/or inspections of the Plant and any part of the Facilities as are specified in the Contract.



- 4.7.2** The Client and the Project Manager or their designated representatives shall be entitled to attend the aforesaid test and/or inspection, provided that the Client shall bear all costs and expenses incurred in connection with such attendance including, but not limited to, all travelling and board and lodging expenses.
- 4.7.3** Whenever the Contractor is ready to carry out any such test and/or inspection, the Contractor shall give a reasonable advance notice of such test and/or inspection and of the place and time thereof to the Project Manager. The Contractor shall obtain from any relevant third Party or manufacturer any necessary permission or consent to enable the Client and the Project Manager or their designated representatives to attend the test and/or inspection.
- 4.7.4** The Contractor shall provide the Project Manager with a certified report of the results of any such test and/or inspection.
- If the Client or Project Manager or their designated representatives fails to attend the test and/or inspection, or if it is agreed between the Parties that such persons shall not do so, then the Contractor may proceed with the test and/or inspection in the absence of such persons, and may provide the Project Manager with a certified report of the results thereof.
- 4.7.5** The Project Manager may require the Contractor to carry out any test and/or inspection not required by the Contract, provided that the Contractor's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of work on the Facilities and/or the Contractor's performance of its other obligations under the Contract, due allowance will be made in respect of the Time for Completion and the other obligations so affected.
- 4.7.6** If any Plant or any part of the Facilities fails to pass any test and/or inspection, the Contractor shall either rectify or replace such Plant or part of the Facilities and shall repeat the test and/or inspection upon giving a notice under Clause 4.7.3.
- 4.7.8** If any dispute or difference of opinion shall arise between the Parties in connection with or arising out of the test and/or inspection of the Plant or part of the Facilities that cannot be settled between the Parties within a reasonable period of time, it may be referred to mediation.

- 4.7.9** The Contractor shall afford the Client and the Project Manager, at the Client's expense, access at any reasonable time to any place where the Plant are being manufactured or the Facilities are being installed, in order to inspect the progress and the manner of manufacture or installation, provided that the Project Manager shall give the Contractor a reasonable prior notice.
- 4.7.10** The Contractor agrees that neither the execution of a test and/or inspection of Plant or any part of the Facilities, nor the attendance by the Client or the Project Manager, nor the issue of any test certificate pursuant to Clause 4.7.4, shall release the Contractor from any other responsibilities under the Contract.
- 4.8** Completion of the Facilities
- 4.8.1** As soon as the Facilities or any part thereof has, in the opinion of the Contractor, been completed operationally and structurally and put in a tight and clean condition, excluding minor items not materially affecting the operation or safety of the Facilities, the Contractor shall so notify the Client in writing.
- 4.8.2** Within seven (7) days after receipt of the notice from the Contractor under Clause 4.8.1, the Client and the Project Manager shall supply the operating and maintenance personnel for Precommissioning of the Facilities or any part thereof.
- The Client shall also provide, within the said seven (7) day period, the raw materials, utilities, lubricants, chemicals, catalysts, facilities, services and other matters required for Precommissioning of the Facilities or any part thereof.
- 4.8.3** As soon as reasonably practicable after the operating and maintenance personnel have been supplied by the Client and the raw materials, utilities, lubricants, chemicals, catalysts, facilities, services and other matters have been provided by the Client, the Contractor shall commence Precommissioning of the Facilities or the relevant part thereof in preparation for Commissioning, subject to Clause 4.9.12.
- 4.8.4** As soon as all works in respect of Precommissioning are completed and, in the opinion of the Contractor, the Facilities or any part thereof is ready for Commissioning, the Contractor shall so notify the Project Manager in writing.

- 4.8.5** The Project Manager shall, within seven (7) days after receipt of the Contractor's notice under Clause 4.8.4, either issue a Completion Certificate stating that the Facilities or that part thereof have reached Completion as of the date of the Contractor's notice or notify the Contractor in writing of any defects and/or deficiencies.

If the Project Manager notifies the Contractor of any defects and/or deficiencies, the Contractor shall then correct such defects and/or deficiencies, and shall repeat the procedure described in Clause 4.8.4.

If the Project Manager is satisfied that the Facilities or that part thereof have reached Completion, the Project Manager shall, within seven (7) days after receipt of the Contractor's repeated notice, issue a Completion Certificate stating that the Facilities or that part thereof have reached Completion as of the date of the Contractor's repeated notice.

If the Project Manager is not so satisfied, then it shall notify the Contractor in writing of any defects and/or deficiencies within seven (7) days after receipt of the Contractor's repeated notice, and the above procedure shall be repeated.

- 4.8.6** If the Project Manager fails to issue the Completion Certificate and fails to inform the Contractor of any defects and/or deficiencies within fourteen (14) days after receipt of the Contractor's notice under Clause 4.8.4 or within seven (7) days after receipt of the Contractor's repeated notice under Clause 4.8.5, or if the Client makes use of the Facilities or part thereof, then the Facilities or that part thereof shall be deemed to have reached Completion as of the date of the Contractor's notice or repeated notice, or as of the Client's use of the Facilities, as the case may be.

- 4.8.7** As soon as possible after Completion, the Contractor shall complete all outstanding minor items so that the Facilities are fully in accordance with the requirements of the Contract, failing which the Client will undertake such completion and deduct the costs thereof from any monies owing to the Contractor.

- 4.8.8** Upon Completion, the Client shall be responsible for the care and custody of the Facilities or the relevant part thereof, together with the risk of loss or damage thereto, and shall thereafter take over the Facilities or the relevant part thereof.

- 4.9** Commissioning and Operational Acceptance

**4.9.1**      Commissioning

Commissioning of the Facilities or any part thereof shall be commenced by the Contractor immediately after issue of the Completion Certificate by the Project Manager, or immediately after the date of the deemed Completion.

**4.9.2**      The Client shall supply the operating and maintenance personnel and all raw materials, utilities, lubricants, chemicals, catalysts, facilities, services and other matters required for Commissioning.

**4.9.3**      The Contractor's and Project Manager's advisory personnel shall attend the Commissioning, including the Guarantee Test, and shall advise and assist the Client.

**4.9.4**      Guarantee Test

The Guarantee Test and repeats thereof shall be conducted by the Contractor during Commissioning of the Facilities or the relevant part thereof to ascertain whether the Facilities or the relevant part can attain the level of output agreed by the parties. The Client shall promptly provide the Contractor with such information as the Contractor may reasonably require in relation to the conduct and results of the Guarantee Test and any repeats thereof.

**4.9.5**      If for reasons not attributable to the Contractor, the Guarantee Test of the Facilities or the relevant part thereof cannot be successfully completed within the period from the date of Completion or any other period agreed upon by the Client and the Contractor, the Contractor shall be deemed to have fulfilled its obligations with respect to the level of output.

**4.9.6**      Operational Acceptance

Subject to Clause 4.9.5 above, Operational Acceptance shall occur in respect of the Facilities or any part thereof when

- (a) the Guarantee Test has been successfully completed and the agreed level of output attained; or
- (b) the Guarantee Test has not been successfully completed or has not been carried out for reasons not attributable to the Contractor within the period from the date of Completion or any other period agreed upon by the Client and the Contractor; or
- (c) the Contractor has paid the liquidated damages specified in Clause 5.3.3 hereof; and
- (d) any minor items mentioned relevant to the Facilities or that part thereof have been completed.

**4.9.7** At any time after any of the events set out in Clause 4.9.6 have occurred, the Contractor may give a notice to the Project Manager requesting the issue of an Operational Acceptance Certificate in respect of the Facilities or the part thereof specified in such notice as of the date of such notice.

**4.9.8** The Project Manager shall, after consultation with the Client, and within seven (7) days after receipt of the Contractor's notice, issue an Operational Acceptance Certificate.

**4.9.9** If within seven (7) days after receipt of the Contractor's notice, the Project Manager fails to issue the Operational Acceptance Certificate or fails to inform the Contractor in writing of the justifiable reasons why the Project Manager has not issued the Operational Acceptance Certificate, the Facilities or the relevant part thereof shall be deemed to have been accepted as of the date of the Contractor's said notice.

**4.9.12**      Delayed Precommissioning and/or Guarantee Test

In the event that the Contractor is unable to proceed with the Precommissioning of the Facilities or with the Guarantee Test for reasons attributable to the Client either on account of non-availability of other facilities under the responsibilities of other contractor(s), or for reasons beyond the Contractor's control, the provisions leading to "deemed" completion of activities such as Completion, Operational Acceptance, and Contractor's obligations regarding Defect Liability Period, agreed level of output, and Care of Facilities and Suspension, shall not apply.

**4.9.13**

When the Contractor is notified by the Project Manager that he will be unable to proceed with the activities and obligations pursuant to above Clause 7.3, the Contractor shall be entitled to the following:

- (a) the Time of Completion shall be extended for the period of suspension without imposition of liquidated damages pursuant to Clause 5.1.2;
- (b) payments due to the Contractor in accordance with the provision specified in the Appendix to the Contract Agreement titled Terms and Procedures of Payment, which would not have been payable in normal circumstances due to non-completion of the subject activities, shall be released to the Contractor against submission of a security in the form of a bank guarantee of equivalent amount acceptable to the Client, and which shall become null and void when the Contractor will have complied with its obligations regarding those payments, subject to the provision of Clause 4.9.14 below;
- (c) the expenses towards the above security and extension of other securities under the contract, of which validity needs to be extended, shall be reimbursed to the Contractor by the Client;
- (d) the additional charges towards the care of the Facilities pursuant to Clause 6.2.1 shall be reimbursed to the Contractor by the Client for the period between the notification mentioned above and the notification mentioned in Clause 4.9.15 below. The provision of Clause 5.4.2 shall apply to the Facilities during the same period.

**4.9.14**

When the Contractor is notified by the Project Manager that the plant is ready for Precommissioning, the Contractor shall proceed without delay in performing Precommissioning.

**4.9.15****Training**

During the period of Commissioning the Contractor shall train a maximum of six (6) persons nominated by the Project Manager in the operation and maintenance of the Plant and Facilities. Such training to be undertaken by duly qualified personnel of the Contractor on Site and for a minimum period of three (3) days.

**4.9.16**

The Contractor shall provide all written materials and manuals necessary for the conduct of the training.

**4.9.17**      **Maintenance**

The Contractor on the completion of the facilities shall submit to the Client and the Project Manager a plan and a schedule for the maintenance of the facilities for a period of two (2) years after the Facilities have been certified as complete. Such maintenance shall include periodic inspections, routine and scheduled repairs, replacement of parts as needed and emergency repairs when the facilities break down unexpectedly.

**4.9.18**      The Contractor shall be responsible for all repairs necessary to maintain the facilities in a safe, reliable and operative condition at all times. The Contractor must ensure that its servicing staff shall carry out the necessary repairs by utilizing manufacturer's original replacement parts and recommended instructions.

**4.9.19**      The Contractor for two (2) years after the date the facilities have been certified complete shall within three (3) days from receipt of the request, respond to any and all of requests from the Client or Project Manager to perform emergency repairs.

**5**              Guarantees and Liabilities**5.1**            Completion Time Guarantee

**5.1.1**          The Contractor guarantees that it shall attain Completion of the Facilities within the Time for Completion specified in the Contract Agreement or within such extended time to which the Contractor and Client agree.

- 5.1.2** If the Contractor fails to attain completion of the Facilities or any part thereof within the time for completion or any extension thereof, the Contractor shall pay to the Client liquidated damages ..... The aggregate amount of such liquidated damages shall in no event exceed..... Once this maximum is reached the Client may consider termination of the Contract.

Such payment shall completely satisfy the Contractor's obligation to attain completion of the Facilities or the relevant part thereof within the Time for Completion or any extension thereof. The Contractor shall have no further liability whatsoever to the Client in respect thereof.

However, the payment of liquidated damages shall not in any way relieve the Contractor from any of its obligations to complete the facilities or from any other obligations and liabilities of the Contractor under the Contract.

Save for liquidated damages payable under Clause 5.1.2 the failure by the Contractor to attain any milestone or other act, matter or things by any date and/or other program of work prepared pursuant to Clause 4.2.2 shall not render the Contractor liable for any loss or damage thereby suffered by the Client.

**5.2** Defect Liability

- 5.2.1** The Contractor warrants that the Facilities or any part thereof shall be free from defects in the design, engineering, materials and workmanship of the Plant supplied and of the work executed.



**5.2.2** The Defect Liability Period shall be eighteen (18) months from the date of Completion of the Facilities.

If during the Defect Liability Period any defect should be found in the design, engineering, materials and workmanship of the Plant supplied or of the work executed by the Contractor, the Contractor shall promptly, in consultation and agreement with the Client regarding appropriate remedying of the defects, and at its cost, repair, replace or otherwise make good as the Contractor shall determine at its discretion, such defect as well as any damage to the Facilities caused by such defect. The Contractor shall not be responsible for the repair, replacement or making good of any defect or of any damage to the Facilities arising out of or resulting from any of the following causes:

- (a) improper operation or maintenance of the Facilities by the Client;
- (b) operation of the Facilities outside specifications provided in the Contract; or
- (c) normal wear and tear.

**5.2.3** The Contractor's obligations under this Clause 5.2 shall not apply to:

- (a) any materials that are supplied by the Client, or are normally consumed in operation, or have a normal life shorter than the Defect Liability Period stated herein;
- (b) any designs, specifications or other data designed, supplied or specified by or on behalf of the Client or any matters for which the Contractor has disclaimed responsibility herein; or
- (c) any other materials supplied or any other work executed by or on behalf of the Client, except for the work executed by the Client under Clause 5.2.7.

**5.2.4** The Client shall give the Contractor a notice stating the nature of any such defect together with all available evidence thereof, promptly following the discovery thereof. The Client shall afford all reasonable opportunity for the Contractor to inspect any such defect.

**5.2.5** The Client shall afford the Contractor all necessary access to the Facilities and the Site to enable the Contractor to perform its obligations under this Clause 5.2.

The Contractor may, with the consent of the Client, remove from the Site any Plant or any part of the Facilities that are defective if the nature of the defect, and/or any damage to the Facilities caused by the defect, is such that repairs cannot be expeditiously carried out at the Site.

- 5.2.6** If the repair, replacement or making good is of such a character that it may affect the efficiency of the Facilities or any part thereof, the Client may give to the Contractor a notice requiring that tests of the defective part of the Facilities shall be made by the Contractor immediately upon completion of such remedial work, whereupon the Contractor shall carry out such tests.
- If such part fails the tests, the Contractor shall carry out further repair, replacement or making good, as the case may be, until that part of the Facilities passes such tests. The tests shall be agreed upon by the Client and the Contractor.
- 5.2.7** If the Contractor fails to commence the work necessary to remedy such defect or any damage to the Facilities caused by such defect within a reasonable time (which shall in no event be considered to be less than fifteen (15) days), the Client may, following notice to the Contractor, proceed to do such work, and the reasonable costs incurred by the Client in connection therewith shall be paid to the Client by the Contractor or may be deducted by the Client from any monies due the Contractor or claimed under the Performance Security.
- 5.2.8** If the Facilities or any part thereof cannot be used by reason of such defect and/or making good of such defect, the Defect Liability Period of the Facilities or such part, as the case may be, shall be extended by a period equal to the period during which the Facilities or such part cannot be used by the Client because of any of the aforesaid reasons.
- 5.2.9** Except as provided in Clauses 5.2 and 5.4, the Contractor shall be under no liability whatsoever and howsoever arising, and whether under the Contract or at law, in respect of defects in the Facilities or any part thereof, the Plant, design or engineering or work executed that appear after Completion of the Facilities or any part thereof, except where such defects are the result of the gross negligence, fraud, or criminal or wilful action of the Contractor.
- 5.2.10** In addition, any such component of the Facilities, and during the period of time as may be specified in the PC, shall be subject to an extended defect liability period. Such obligation of the Contractor shall be in addition to the defect liability period specified under Clause 5.2.2.
- 5.3** Functional Guarantees
- 5.3.1** The Contractor guarantees that during the Guarantee Test, the Facilities and all parts thereof shall attain the agreed level of output.

- 5.3.2** If, for reasons attributable to the Contractor, the minimum level of agreed output are not met either in whole or in part, the Contractor shall at its cost and expense make such changes, modifications and/or additions to the Plant or any part thereof as may be necessary to meet at least the minimum level of such agreed output. The Contractor shall notify the Client upon completion of the necessary changes, modifications and/or additions, and shall request the Client to repeat the Guarantee Test until the minimum level of agreed output has been met. If the Contractor eventually fails to meet the minimum level of agreed output, the Client may consider termination of the Contract.
- 5.3.3** If, for reasons attributable to the Contractor, the agreed level of output are not attained either in whole or in part, but the minimum level of output is met, the Contractor shall, at the Contractor's option, either
- (a) make such changes, modifications and/or additions to the Facilities or any part thereof that are necessary to attain the agreed level of output at its cost and expense, and shall request the Client to repeat the Guarantee Test or
  - (b) pay liquidated damages to the Client in respect of the failure to meet the agreed level of output.
- 5.3.4** The payment of liquidated damages under Clause 5.3.3, up to the limitation of liability shall completely satisfy the Contractor's guarantees under Clause 5.3.1, and the Contractor shall have no further liability whatsoever to the Client in respect thereof. Upon the payment of such liquidated damages by the Contractor, the Project Manager shall issue the Operational Acceptance Certificate for the Facilities or any part thereof in respect of which the liquidated damages have been so paid.
- 5.4** Patent Indemnity

- 5.4.1** The Contractor shall, subject to the Client's compliance with Clause 5.4.2, indemnify and hold harmless the Client and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, which the Client may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright or other intellectual property right registered or otherwise existing at the date of the Contract by reason of: (a) the installation of the Facilities by the Contractor or the use of the Facilities in the country where the Site is located; and (b) the sale of the products produced by the Facilities in any country.

Such indemnity shall not cover any use of the Facilities or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Contract, any infringement resulting from the use of the Facilities or any part thereof, or any products produced thereby in association or combination with any other equipment, plant or materials not supplied by the Contractor, pursuant to the Contract Agreement.

- 5.4.2** If any proceedings are brought or any claim is made against the Client arising out of the matters referred to in Clause 5.4.1, the Client shall promptly give the Contractor a notice thereof, and the Contractor may at its own expense and in the Client's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

If the Contractor fails to notify the Client within fourteen (14) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Client shall be free to conduct the same on its own behalf. Unless the Contractor has so failed to notify the Client within the fourteen (14) day period, the Client shall make no admission that may be prejudicial to the defence of any such proceedings or claim.

The Client shall, at the Contractor's request, afford all available assistance to the Contractor in conducting such proceedings or claim, and shall be reimbursed by the Contractor for all reasonable expenses incurred in so doing.

- 5.4.3** The Client shall indemnify and hold harmless the Contractor and its employees, officers and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, which the Contractor may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Client.
- 5.5** Limitation of Liability
- 5.5.1** Except in cases of criminal negligence or wilful misconduct,
- (a) neither Party shall be liable to the other Party, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, which may be suffered by the other Party in connection with the Contract, other than specifically provided as any obligation of the Party in the Contract, and
- (b) the aggregate liability of the Contractor to the Client, whether under the Contract, in tort or otherwise, shall not exceed the amount resulting from the application of the multiplier specified in the PC, to the Contract Price or, if a multiplier is not so specified, the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the Contractor to indemnify the Client with respect to patent infringement.
- 6** Risk Distribution
- 6.1** Transfer of Ownership
- 6.1.1** Ownership of the Plant (including spare parts) to be imported into the country where the Site is located shall be transferred to the Client upon loading on to the mode of transport to be used to convey the Plant from the country of origin to that country.
- 6.1.2** Ownership of the Plant (including spare parts) procured in the country where the Site is located shall be transferred to the Client when the Plant are brought on to the Site.
- 6.1.3** Ownership of the Contractor's Equipment used by the Contractor and its Subcontractors in connection with the Contract shall remain with the Contractor or its Subcontractors.

- 6.1.4** Ownership of any Plant in excess of the requirements for the Facilities shall revert to the Contractor upon Completion of the Facilities or at such earlier time when the Client and the Contractor agree that the Plant in question are no longer required for the Facilities.
- 6.1.5** Notwithstanding the transfer of ownership of the Plant, the responsibility for care and custody thereof together with the risk of loss or damage thereto shall remain with the Contractor pursuant to Clause 6.2 (Care of Facilities) hereof until Completion of the Facilities or the part thereof in which such Plant are incorporated.
- 6.2** Care of Facilities
- 6.2.1** The Contractor shall be responsible for the care and custody of the Facilities or any part thereof until the date of Completion of the Facilities, and shall make good at its own cost any loss or damage that may occur to the Facilities or the relevant part thereof from any cause whatsoever during such period. The Contractor shall also be responsible for any loss or damage to the Facilities caused by the Contractor or its Subcontractors in the course of any work carried out, pursuant to Clause 5.2. Notwithstanding the foregoing, the Contractor shall not be liable for any loss or damage to the Facilities or that part thereof caused by reason of any of the matters specified or referred to in paragraphs (a), (b) and (c) of Clauses 6.2.2.

- 6.2.2** If any loss or damage occurs to the Facilities or any part thereof or to the Contractor's temporary facilities by reason of
- (a) insofar as they relate to the country where the Site is located, nuclear reaction, nuclear radiation, radioactive contamination, pressure wave caused by aircraft or other aerial objects, or any other occurrences that an experienced contractor could not reasonably foresee, or if reasonably foreseeable could not reasonably make provision for or insure against, insofar as such risks are not normally insurable on the insurance market and are mentioned in the general exclusions of the policy of insurance, including War Risks and Political Risks, taken out under Clause 6.4 hereof; or
  - (b) any use or occupation by the Client or any third Party other than a Subcontractor, authorized by the Client of any part of the Facilities; or
  - (c) any use of or reliance upon any design, data or specification provided or designated by or on behalf of the Client, or any such matter for which the Contractor has disclaimed responsibility herein,
- the Client shall pay to the Contractor all sums payable in respect of the Facilities executed, notwithstanding that the same be lost, destroyed or damaged, and will pay to the Contractor the replacement value of all temporary facilities and all parts thereof lost, destroyed or damaged. If the Client requests the Contractor in writing to make good any loss or damage to the Facilities thereby occasioned, the Contractor shall make good the same at the cost of the Client in accordance with Clause 7.1. If the Client does not request the Contractor in writing to make good any loss or damage to the Facilities thereby occasioned, the Client shall either request a change in accordance with Clause 7.1, excluding the performance of that part of the Facilities thereby lost, destroyed or damaged, or, where the loss or damage affects a substantial part of the Facilities, the Client shall terminate the Contract pursuant to Clause 7.4.1 hereof.
- 6.2.3** The Contractor shall be liable for any loss of or damage to any Contractor's Equipment, or any other property of the Contractor used or intended to be used for purposes of the Facilities, except as mentioned in Clause 6.2.2.
- 6.3** Loss of or Damage to Property; Accident or Injury to Workers; Indemnification

- 6.3.1** Subject to Clause 6.3.3, the Contractor shall indemnify and hold harmless the Client and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, in respect of the death or injury of any person or loss of or damage to any property other than the Facilities whether accepted or not, arising in connection with the supply and installation of the Facilities and by reason of the negligence of the Contractor or its Subcontractors, or their employees, officers or agents, except any injury, death or property damage caused by the negligence of the Client, its contractors, employees, officers or agents.
- 6.3.2** If any proceedings are brought or any claim is made against the Client that might subject the Contractor to liability under Clause 6.3.1, the Client shall promptly give the Contractor a notice thereof and the Contractor may at its own expense and in the Client's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.
- If the Contractor fails to notify the Client within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Client shall be free to conduct the same on its own behalf. Unless the Contractor has so failed to notify the Client within the twenty-eight (28) day period, the Client shall make no admission that may be prejudicial to the defence of any such proceedings or claim.
- The Client shall, at the Contractor's request, afford all available assistance to the Contractor in conducting such proceedings or claim, and shall be reimbursed by the Contractor for all reasonable expenses incurred in so doing.
- 6.3.3** The Client shall indemnify and hold harmless the Contractor and its employees, officers and Subcontractors from any liability for loss of or damage to property of the Client, other than the Facilities not yet taken over, that is caused by fire, explosion or any other perils, in excess of the amount recoverable from insurances procured under Clause 6.4, provided that such fire, explosion or other perils were not caused by any act or failure of the Contractor.
- 6.3.4** The Party entitled to the benefit of an indemnity under this Clause 6.3 shall take all reasonable measures to mitigate any loss or damage which has occurred. If the Party fails to take such measures, the other Party's liabilities shall be correspondingly reduced.
- 6.4** Insurance



**6.4.1** The Contractor shall at its expense take out and maintain in effect, or cause to be taken out and maintained in effect, during the performance of the Contract, the insurances set forth below. The identity of the insurers and the form of the policies may be subject to the approval of the Client, who should not unreasonably withhold such approval.

(a) Cargo Insurance During Transport

Covering loss or damage occurring while in transit from the Contractor's or Subcontractor's works or stores until arrival at the Site, to the Plant (including spare parts thereof) and to the Contractor's Equipment.

(b) Installation All Risks Insurance

Covering physical loss or damage to the Facilities at the Site, occurring prior to Completion of the Facilities, with an extended maintenance coverage for the Contractor's liability in respect of any loss or damage occurring during the Defect Liability Period while the Contractor is on the Site for the purpose of performing its obligations during the Defect Liability Period.

(c) Third Party Liability Insurance

Covering bodily injury or death suffered by third Parties including the Client's personnel, and loss of or damage to property occurring in connection with the supply and installation of the Facilities.

(d) Automobile Liability Insurance

Covering use of all vehicles used by the Contractor or its Subcontractors, whether or not owned by them, in connection with the execution of the Contract.

(e) Workers' Compensation

In accordance with the statutory requirements applicable in any country where the Contract or any part thereof is executed.

(f) Client's Liability

In accordance with the statutory requirements applicable in any country where the Contract or any part thereof is executed.

(g) Other Insurances

Such other insurances as may be specifically agreed upon by the Parties hereto as listed in the Appendix to the Contract Agreement titled Insurance Requirements.

- 6.4.4** The Contractor shall ensure that, where applicable, its Subcontractor(s) shall take out and maintain in effect adequate insurance policies for their personnel and vehicles and for work executed by them under the Contract, unless such Subcontractors are covered by the policies taken out by the Contractor.
- 6.4.7** Unless otherwise provided in the Contract, the Contractor shall prepare and conduct all and any claims made under the policies effected by it pursuant to this Clause 6.4, and all monies payable by any insurers shall be paid to the Contractor. The Client shall give to the Contractor all such reasonable assistance as may be required by the Contractor. With respect to insurance claims in which the Client's interest is involved, the Contractor shall not give any release or make any compromise with the insurer without the prior written consent of the Client. With respect to insurance claims in which the Contractor's interest is involved, the Client shall not give any release or make any compromise with the insurer without the prior written consent of the Contractor.
- 6.5** Unforeseen Conditions

**6.5.1** If, during the execution of the Contract, the Contractor shall encounter on the Site any physical conditions other than climatic conditions, or artificial obstructions that could not have been reasonably foreseen prior to the date of the Contract Agreement by an experienced contractor on the basis of reasonable examination of the data relating to the Facilities including any data as to boring tests, provided by the Client, and on the basis of information that it could have obtained from a visual inspection of the Site if access thereto was available, or other data readily available to it relating to the Facilities, and if the Contractor determines that it will in consequence of such conditions or obstructions incur additional cost and expense or require additional time to perform its obligations under the Contract that would not have been required if such physical conditions or artificial obstructions had not been encountered, the Contractor shall promptly, and before performing additional work or using additional Plant or Contractor's Equipment, notify the Project Manager in writing of

- (a) the physical conditions or artificial obstructions on the Site that could not have been reasonably foreseen;
- (b) the additional work and/or Plant and/or Contractor's Equipment required, including the steps which the Contractor will or proposes to take to overcome such conditions or obstructions;
- (c) the extent of the anticipated delay; and
- (d) the additional cost and expense that the Contractor is likely to incur.

On receiving any notice from the Contractor under this Clause 6.5.1, the Project Manager shall promptly consult with the Client and Contractor and decide upon the actions to be taken to overcome the physical conditions or artificial obstructions encountered. Following such consultations, the Project Manager shall instruct the Contractor, with a copy to the Client, of the actions to be taken.

**6.5.2** Any reasonable additional cost and expense incurred by the Contractor in following the instructions from the Project Manager to overcome such physical conditions or artificial obstructions referred to in Clause 6.5.1 shall be paid by the Client to the Contractor as an addition to the Contract Fee

**6.5.3** If the Contractor is delayed or impeded in the performance of the Contract because of any such physical conditions or artificial obstructions referred to in Clause 6.5.1, the Time for Completion shall be extended in accordance with Clause 7.2.

**6.7** Force Majeure

**6.7.1** “Force Majeure” shall mean any event beyond the reasonable control of the Client or of the Contractor, as the case may be, and which is unavoidable notwithstanding the reasonable care of the Party affected, and shall include, without limitation, the following:

- (a) war, hostilities or warlike operations whether a state of war be declared or not, invasion, act of foreign enemy and civil war
- (b) rebellion, revolution, insurrection, mutiny, usurpation of civil or military government, conspiracy, riot, civil commotion and terrorist acts
- (c) confiscation, nationalization, mobilization, commandeering or requisition by or under the order of any government or de jure or de facto authority or ruler or any other act or failure to act of any local state or national government authority
- (d) strike, sabotage, lockout, embargo, import restriction, port congestion, lack of usual means of public transportation and communication, industrial dispute, shipwreck, shortage or restriction of power supply, epidemics, quarantine and plague
- (e) earthquake, landslide, volcanic activity, fire, flood or inundation, tidal wave, typhoon or cyclone, hurricane, storm, lightning, or other inclement weather condition, nuclear and pressure waves or other natural or physical disaster
- (f) shortage of labour, materials or utilities where caused by circumstances that are themselves Force Majeure.

**6.7.2** If either Party is prevented, hindered or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances thereof within fourteen (14) days after the occurrence of such event.

**6.7.3** The Party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such Party’s performance is prevented, hindered or delayed. The Time for Completion shall be extended in accordance with Clause 7.2.

**6.7.4** The Party or Parties affected by the event of Force Majeure shall use reasonable efforts to mitigate the effect thereof upon its or their performance of the Contract and to fulfil its or their obligations under the Contract, but without prejudice to either Party’s right to terminate the Contract.

**6.7.5** No delay or non-performance by either Party hereto caused by the occurrence of any event of Force Majeure shall

(a) constitute a default or breach of the Contract, or

(b) give rise to any claim for damages or additional cost or expense occasioned thereby, subject to Clauses 6.2.2, 6.8.3 and 6.8.4

if and to the extent that such delay or non-performance is caused by the occurrence of an event of Force Majeure.

**6.7.6** If the performance of the Contract is substantially prevented, hindered or delayed for a single period of more than thirty (30) days or an aggregate period of more than sixty (60) days on account of one or more events of Force Majeure during the currency of the Contract, the Parties will attempt to develop a mutually satisfactory solution, failing which either Party may terminate the Contract by giving a notice to the other, but without prejudice to either Party's right to terminate the Contract.

**6.7.7** In the event of termination pursuant to Clause 6.7.6, the rights and obligations of the Client and the Contractor shall be as specified in Clauses 7.4.2 and 7.4.3.

**6.7.8** Notwithstanding Clause 6.7.5, Force Majeure shall not apply to any obligation of the Client to make payments to the Contractor herein.

## **7** Change in Contract Elements

### **7.1** Change in the Facilities

#### **7.1.1** Introducing a Change

Subject to Clauses 7.1.9 and 7.1.11, the Client shall have the right to propose, and subsequently require, that the Project Manager order the Contractor from time to time during the performance of the Contract to make any change, modification, addition or deletion to, in or from the Facilities hereinafter called "Change", provided that such Change falls within the general scope of the Facilities and does not constitute unrelated work and that it is technically practicable, taking into account both the state of advancement of the Facilities and the technical compatibility of the Change envisaged with the nature of the Facilities as specified in the Contract.

**7.1.2** The Contractor may from time to time during its performance of the Contract propose to the Client with a copy to the Project Manager, any Change that the Contractor considers necessary or desirable to improve the quality, efficiency or safety of the Facilities. The Client may at its discretion approve or reject any Change proposed by the Contractor, provided that the Client shall approve any Change proposed by the Contractor to ensure the safety of the Facilities.

**7.1.3** Notwithstanding Clauses 7.1.1 and 7.1.2, no change made necessary because of any default of the Contractor in the performance of its obligations under the Contract shall be deemed to be a Change, and such change shall not result in any adjustment of the Contract Fee or the Time for Completion.

**7.1.4** The procedure on how to proceed with and execute Changes is specified in Clauses 7.1.5 and 7.1.12.

**7.1.5** Changes Originating from Client

If the Client proposes a Change pursuant to Clause 7.1.1, it shall send to the Contractor a "Request for Change Proposal," requiring the Contractor to prepare and furnish to the Project Manager as soon as reasonably practicable a "Change Proposal," which shall include the following:

- (a) brief description of the Change
- (b) effect on the Time for Completion
- (c) estimated cost of the Change
- (d) effect on the agreed level of output (if any)
- (e) effect on the Facilities
- (f) effect on any other provisions of the Contract.

**7.1.6** Prior to preparing and submitting the “Change Proposal,” the Contractor shall submit to the Project Manager an “Estimate for Change Proposal,” which shall be an estimate of the cost of preparing and submitting the Change Proposal.

Upon receipt of the Contractor’s Estimate for Change Proposal, the Client shall do one of the following:

- (a) accept the Contractor’s estimate with instructions to the Contractor to proceed with the preparation of the Change Proposal
- (b) advise the Contractor of any part of its Estimate for Change Proposal that is unacceptable and request the Contractor to review its estimate
- (c) advise the Contractor that the Client does not intend to proceed with the Change.

**7.1.7** Upon receipt of the Client’s instruction to proceed under Clause 7.1.6 (a), the Contractor shall, with proper expedition, proceed with the preparation of the Change Proposal, in accordance with Clause 7.1.5.

**7.1.8** The pricing of any Change shall, as far as practicable, be calculated in accordance with the rates and prices included in the Contract. If such rates and prices are inequitable, the Parties thereto shall agree on specific rates for the valuation of the Change.

**7.1.9** If before or during the preparation of the Change Proposal it becomes apparent that the aggregate effect of compliance therewith and with all other Change Orders that have already become binding upon the Contractor under Clause 7.1 would be to increase or decrease the Contract Fee by more than fifteen percent (15%), the Contractor may give a written notice of objection thereto prior to furnishing the Change Proposal as aforesaid. If the Client accepts the Contractor’s objection, the Client shall withdraw the proposed Change and shall notify the Contractor in writing thereof.

The Contractor’s failure to so object shall neither affect its right to object to any subsequent requested Changes or Change Orders herein, nor affect its right to take into account, when making such subsequent objection, the percentage increase or decrease in the Contract Price that any Change not objected to by the Contractor represents.

- 7.1.10** Upon receipt of the Change Proposal, the Client and the Contractor shall mutually agree upon all matters therein contained. Within seven (7) days after such agreement, the Client shall, if it intends to proceed with the Change, issue the Contractor with a Change Order.
- If the Client is unable to reach a decision within seven (7) days, it shall notify the Contractor with details of when the Contractor can expect a decision.
- If the Client decides not to proceed with the Change for whatever reason, it shall, within the said period of seven (7) days, notify the Contractor accordingly. .
- 7.1.11** If the Client and the Contractor cannot reach agreement on the price for the Change, an equitable adjustment to the Time for Completion, or any other matters identified in the Change Proposal, the Client may nevertheless instruct the Contractor to proceed with the Change by issue of a "Pending Agreement Change Order."
- Upon receipt of a Pending Agreement Change Order, the Contractor shall immediately proceed with effecting the Changes covered by such Order. The Parties shall thereafter attempt to reach agreement on the outstanding issues under the Change Proposal.
- 7.1.12** Changes Originating from Contractor
- If the Contractor proposes a Change, the Contractor shall submit to the Project Manager a written "Application for Change Proposal," giving reasons for the proposed Change.
- Upon receipt of the Application for Change Proposal, the Parties shall follow the procedures outlined in Clauses 7.1.10 and 7.1.11. However, should the Client choose not to proceed, the Contractor shall not be entitled to recover the costs of preparing the Application for Change Proposal.
- 7.2** Extension of Time for Completion



- 7.2.1** The Time for Completion specified in the Contract Agreement shall be extended if the Contractor is delayed or impeded in the performance of any of its obligations under the Contract by reason of any of the following:
- (a) any Change in the Facilities; or
  - (b) any occurrence of Force Majeure, unforeseen conditions; or
  - (c) any suspension order given by the Client;
  - (d) delays attributable to the Client or caused by customs; or
  - (e) any other matter specifically mentioned in the Contract;
- by such period as shall be fair and reasonable in all the circumstances and as shall fairly reflect the delay or impediment sustained by the Contractor.
- 7.2.2** Except where otherwise specifically provided in the Contract, the Contractor shall submit to the Project Manager a notice of a claim for an extension of the Time for Completion, together with particulars of the event or circumstance justifying such extension as soon as reasonably practicable after the commencement of such event or circumstance. As soon as reasonably practicable after receipt of such notice and supporting particulars of the claim, the Client and the Contractor shall agree upon the period of such extension. In the event that the Contractor does not accept the Client's estimate of a fair and reasonable time extension, the Contractor shall be entitled to refer the matter to Mediation
- 7.2.3** The Contractor shall at all times use its reasonable efforts to minimize any delay in the performance of its obligations under the Contract.
- 7.2.4** In all cases where the Contractor has given a notice of a claim for an extension of time under the Contractor shall consult with the Project Manager in order to determine the steps (if any) which can be taken to overcome or minimize the actual or anticipated delay. The Contractor shall there after comply with all reasonable instructions which the Project Manager shall give in order to minimize such delay. If compliance with such instructions shall cause the Contractor to incur extra costs and the Contractor is entitled to an extension of time, the amount of such extra costs shall be added to the Contract Fee.
- 7.3** Suspension

- 7.3.1** The Client may request the Project Manager, by notice to the Contractor, to order the Contractor to suspend performance of any or all of its obligations under the Contract. Such notice shall specify the obligation of which performance is to be suspended, the effective date of the suspension and the reasons thereof. The Contractor shall thereupon suspend performance of such obligation, except those obligations necessary for the care or preservation of the Facilities, until ordered in writing to resume such performance by the Project Manager.
- If, by virtue of a suspension order given by the Project Manager, other than by reason of the Contractor's default or breach of the Contract, the Contractor's performance of any of its obligations is suspended for an aggregate period of more than sixty (60) days, then at any time thereafter and provided that at that time such performance is still suspended, the Contractor may terminate the Contract.
- 7.3.2** During the period of suspension, the Contractor shall not remove from the Site any Plant, any part of the Facilities or any Contractor's Equipment, without the prior written consent of the Client.
- 7.4** Assignment
- 7.4.1** Neither the Client nor the Contractor shall, without the express prior written consent of the other Party, which consent shall not be unreasonably withheld, assign to any third Party the Contract or any part thereof, or any right, benefit, obligation or interest therein or thereunder, except that the Contractor shall be entitled to assign either absolutely or by way of charge any monies due and payable to it or that may become due and payable to it under the Contract.
- 8** Claims, Disputes and Arbitration
- 8.1** Contractor's Claims
- 8.1.1** If the Contractor considers himself to be entitled to any extension of the Time for Completion and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall submit a notice to the Project Manager, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than seven (7) days after the Contractor became aware, or should have become aware, of the event or circumstance.
- If the Contractor fails to give notice of a claim within such period of seven (7) days, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional

payment, and the Client shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Clause shall apply.

The Contractor shall also submit any other notices which are required by the Contract, and supporting particulars for the claim, all as relevant to such event or circumstance.

The Contractor shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at another location acceptable to the Project Manager. Without admitting the Client's liability, the Project Manager may, after receiving any notice under this Clause, monitor the record-keeping and/or instruct the Contractor to keep further contemporary records. The Contractor shall permit the Project Manager to inspect all these records, and shall (if instructed) submit copies to the Project Manager.

## 8.2 Disputes and Arbitration

### 8.2.1 Amicable Settlement

The Client and the Contractor shall make every effort to resolve amicably or by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract. Should the meeting fail to result in a settlement within fourteen (14) days of the meeting then the dispute shall be submitted for third party mediation in accordance with CEDR Mediation Procedure through the Dispute Resolution Centre in Trinidad.

In the absence of an amicable settlement after twenty eight (28) days of the commencement of mediation the dispute may be submitted by either party for settlement by arbitration. Arbitration proceedings shall be conducted in accordance with the Arbitration Act of Trinidad and Tobago, Chapter 5, No.1 or any modifications thereof. In any arbitration the decision of the Arbitrator shall be final and binding and shall be enforceable in any court of competent jurisdiction and the parties hereby waive any objections to any claims of immunity in respect of such enforcement.

## Part E: Sample Forms

### A. Sample Forms - Technical Proposal

Form 1A:	Technical Proposal submission form.
Form 2A:	Bidder's Work Experience
Form 3A:	Comments and suggestions of Consultants on the Terms of Reference and on data, services, and facilities to be provided by the Client.
Form 4A:	Description of the methodology and Work Plan for performing the assignment.
Form 5A:	Team composition and task assignments.
Form 6A:	Format of curriculum vitae (CV) for proposed professional staff.
Form 7A:	Proposed Project Plan / Time schedule for completing the assignment
Form 8A:	Bidder's Declaration Form
Form 9A:	Confidentiality Agreement
Form 10A:	Sample Banker's Letter
Appendix I	RFP Acknowledgement Form
Appendix 2	Client Reference Form

**Note:** The Bidders must fill in the appropriate information in the enclosed forms and submit these forms with the Proposal. In addition, the Bidders may include any other form(s), which in his opinion will assist in presenting, clearly and concisely, pertinent information relevant to the Work Plan and time schedule. ***Failure to submit these forms, completed as instructed in the RFP, may result in the Bidder's submission not being considered, or not achieving maximum scores during the evaluation of Proposals.***

**FORM 1A: TECHNICAL PROPOSAL SUBMISSION FORM**

[Address, Date]

To: The Ministry of Public Utilities  
#1 Alexandra Place  
Alexandra Street  
St. Clair

Sir:

We, the undersigned, offer to provide \_\_\_\_\_ *Design, Procurement, Installation, Commissioning, Training and Maintenance Services for a 250kW Solar PV System at Five Rivers Secondary School* \_\_\_\_\_ in accordance with your Request for Proposal dated *Monday 11<sup>th</sup> March, 2024* and subsequent Addenda (*Appendix I & II*). We are hereby submitting our Proposal which includes this Technical Proposal, and a Commercial Proposal sealed under a separate envelope.

If negotiations are held during the period of validity of the Proposal of one hundred and twenty (120) days, we undertake to negotiate on the basis of the proposed staff. Our Proposal is binding upon us and subject to the modifications resulting from Contract negotiations.

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

We remain,

Yours sincerely,

Authorised Signature:  
Name and Title of Signatory:  
Address:

**FORM 2A: BIDDER'S WORK EXPERIENCE****Relevant Services Carried Out in the Last Three Years  
That Best Illustrate Qualifications**

Using the format below, provide information on assignments of similar nature and complexity completed by your firm/entity i.e. three (3) contracts for the provision of *Design, Procurement, Installation, Commissioning, Training and Maintenance Services for a Solar PV System at Five Rivers Secondary School*, over the past three (3) years. Bidders are advised that all fields must be completed, as the information provided therein is required to ensure the achievement of maximum points during the evaluation of Proposals.

Contract of similar size and nature	
Contract Name	
Award Date	Completion Date
Total Contract Value	
Client information	
Client Name	
Client Address	
Contact Name (Client Representative)	
Telephone (Fixed and Mobile)	
Email	
Description of contract similarity	
<ul style="list-style-type: none"> <li>- Description of services provided</li> <li>- Contract Duration</li> <li>- Number of professional and support staff assigned to the engagement</li> <li>- Proposed and actual start and end dates</li> <li>- Contract variance (amount and reasons)</li> </ul>	

**FORM 3A: COMMENTS AND SUGGESTIONS OF BIDDERS ON THE TERMS OF REFERENCE AND ON DATA, SERVICES, AND FACILITIES TO BE PROVIDED BY THE MINISTRY OF PUBLIC UTILITIES.**

---

On the Terms of Reference:

- 1.
- 2.
- 3.

On the data, services, and facilities to be provided by the (name of the public body):

- 1.
- 2.
- 3.
- 4.
- 5.

RFP Ref#: \_\_\_\_\_

RFP Name: 250kW Solar PV System at Five Rivers Secondary School

RFP Date: 11/03/24

---

**FORM 4A. DESCRIPTION OF THE METHODOLOGY AND WORK PLAN FOR PERFORMING THE ASSIGNMENT**

---



## FORM 5A: TEAM COMPOSITION AND TASK ASSIGNMENTS

1. Technical/Managerial Staff		
Name	Position	Task

2. Support Staff		
Name	Position	Task

**FORM 6A: FORMAT OF CURRICULUM VITAE (CV) FOR PROPOSED KEY PERSONNEL**

Proposed Position: \_\_\_\_\_

Name of Firm: \_\_\_\_\_

Name of Staff: \_\_\_\_\_

Profession: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Years with Firm/Entity: \_\_\_\_\_ Nationality: \_\_\_\_\_

Membership in Professional Societies: \_\_\_\_\_

\_\_\_\_\_

Detailed Tasks Assigned: \_\_\_\_\_

\_\_\_\_\_

**Key Qualifications:**

*[Give an outline of staff member's experience and training most pertinent to tasks on assignment. Describe degree of responsibility held by staff member on relevant previous assignments and give dates and locations. Use about half a page.]*

\_\_\_\_\_

**Education:**

*[Summarise college/university and other specialised education of staff member, giving names of schools, dates attended, and degrees obtained. Use about one quarter of a page.]*

\_\_\_\_\_

**Employment Record:**

*[Starting with present position, list in reverse order every employment position held. List positions held by staff member, giving dates, names of employing organisations, titles of positions held, and locations of assignments. Be succinct.]*

RFP Ref#: \_\_\_\_\_

RFP Name: 250kW Solar PV System at Five Rivers Secondary School

RFP Date: 11/03/24

---

---

**Languages:**

*[For each language (if applicable) indicate proficiency: excellent, good, fair, or poor in speaking, reading, and writing.]*

---

**Certification:**

I, the undersigned, certify that to the best of my knowledge and belief, these data correctly describe me, my qualifications, and my experience.

\_\_\_\_\_  
*[Signature of staff member and authorised representative of the firm]* Date: \_\_\_\_\_  
Day/Month/Year

Full name of staff member: \_\_\_\_\_

Full name of authorised representative: \_\_\_\_\_

RFP Ref#: \_\_\_\_\_

RFP Name: 250kW Solar PV System at Five Rivers Secondary School

RFP Date: 11/03/24

FORM 7A: PROPOSED PROJECT PLAN / TIME SCHEDULE FOR COMPLETING THE ASSIGNMENT

[illegible]

**FORM 8A: BIDDER'S DECLARATION FORM****A. LITIGATION**

1. Have you ever been convicted of any criminal offence in any jurisdiction?  
☐ Yes ☐ No
2. Has any of the director(s) ever had a professional license suspended or revoked?  
☐ Yes ☐ No
3. Has your organisation ever been the subject of any petition for bankruptcy?  
☐ Yes ☐ No
4. Has your organisation ever had any civil judgment against you?  
☐ Yes ☐ No
5. Does your organisation have any pending civil litigation matters?  
☐ Yes ☐ No
6. Does your organisation have any pending criminal matters before the court?  
☐ Yes ☐ No
7. Has your organisation, or any organisation which you have had control over, ever been the subject of any inquiry or investigation?  
☐ Yes ☐ No

If you checked **Yes** to any of the above questions, kindly provide the key facts and decisions, including dates, relating to these matters on a separate page to be annexed to this document.

**B. STATUTORY COMPLIANCE**

1. Is your organisation in compliance with the **OSH Act 2004** (as amended) in the form of OSH requirement applicable to your organisation? Kindly provide details of the compliance with the most recent supporting documents.  
☐ Yes ☐ No ☐ Not applicable

If no or not applicable is selected, please provide details:

---

2. Is your organisation in compliance with the **Minimum Wages Act, Chap 88:04** (as amended)?  
☐ Yes ☐ No ☐ Not applicable

If no or not applicable is selected, please provide details:

\_\_\_\_\_  
I/We.....make this declaration conscientiously believing the same to be true, and I/we am/are aware that if there is any statement in this declaration which is false in fact, which I/we know or believe to be false or do not believe to be true, I/we may be disqualified from the Tendering process or if awarded the Tender, the contract will be immediately terminated.

.....  
Declarant Name

.....  
Declarant Signature

.....  
Date

Position: .....

Company Seal:



**FORM 9A: CONFIDENTIALITY AGREEMENT**

**THIS AGREEMENT** is made in triplicate this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ **BETWEEN NICOLETTE DUKE** Permanent Secretary (Ag.), Ministry of Public Utilities, having its Head Office situated at #1 Alexandra Street St Clair, Port of Spain (hereinafter referred to as "the Permanent Secretary" which expression shall mean and include the person or persons for the time being carrying on the duties of Permanent Secretary in the said Ministry) acting herein for and on the behalf of the Government of the Republic of Trinidad and Tobago and.....  
 .....  
 ..... (hereinafter referred to as "the Contractor") of the Other Part.

1. The *MPU* is considering seeking Proposals in anticipation of awarding a Contract (hereinafter called the "Contract") for the provision of *Design, Procurement, Installation, Commissioning, Training and Maintenance Services of a 250kW Solar Photovoltaic (PV) System*.
2. The Contractor wishes to submit a Proposal for the said Contract.
3. Whereas, the Parties intend to exchange information and in the course of such activities it is anticipated that the Parties may wish to disclose to each other proprietary information, which information the Parties regard as confidential.

NOW IT IS HEREBY AGREED as follows:

**Definitions**

1. In this Agreement, the following words shall have the meanings hereby assigned to them:

"Agent", in relation to any office or other person includes its/his employees, directors, contractors, sub-contractors, advisers, consultants, legal representatives, accountants and auditors.

"The *MPU*" means the Ministry of Public Utilities

"Disclose" includes but is not limited to any act of divulging, releasing, communicating, transmitting, broadcasting or otherwise transferring or imparting Material Information by any means whatsoever to any person, whether individual or corporate. "Disclosed", "disclosure" and "disclosing" shall be construed accordingly.

"Excepted Information", in relation to either party disclosing or otherwise using the same, means any Material Information which:

- a) at the time of Disclosure or use is, or has come to be, in the possession of that party lawfully and otherwise than in consequence of any improper conduct; or
- b) has been created, originated or supplied by that party and is not composed or derived from or dependent for its meaning or effect upon Material Information already created, originated or supplied by the other party or any of its Agents; or
- c) if obtained directly or indirectly from or through another person or persons, was or came to be (or is reasonably believed to have been or came to be) in the possession of such other person or persons lawfully and otherwise than in consequence of any breach of confidentiality owed by such other person or persons to *the MPU*; or
- d) is not the subject of any prior or concurrent obligation of confidentiality owed to *MPU* by the party disclosing or using the same or by any of its Agents to *MPU*; or
- e) Is, or subsequently becomes, otherwise than in consequence of improper conduct, a matter of common or public knowledge or record.

"Improper conduct" includes a breach of any express or implied term of this Agreement or of any other agreement between *MPU* and the Contractor or any of its Agents. Improper conduct also includes a breach of any other obligation of confidentiality owed by or to *MPU* to or by the Contractor or any of its Agents.

"Information" includes but is not limited to any information, facts, data, programs, formulae, opinions, comments or ideas expressed in communicable form.

"Material Information" means any information concerning any and all of the past, present or future business, activities, projects, policies, plans or contracts of the *MPU* or the Contractor.

"Relevant Period" means a period commencing on the date of this Agreement and expiring five years thereafter or, if within such period the Contract is awarded to the Contractor, a period commencing on the date of this Agreement and expiring five (5) years from the date on which the Contract is substantially completed or terminated early or abandoned.

### **The Contractor/Contractor/Consultant's undertakings**

- 2. In consideration of the undertakings by the *MPU*, the Contractor undertakes during the Relevant Period: -
  - a) not to cause or permit any third party to contravene or prejudice the requirements of this clause;
  - b) not to disclose any Material Information disclosed by or obtained from the *MPU*; and
  - c) not to use Material Information for any purpose except for: -
    - i. the preparation and submission of the Proposal and supporting documents



to the [MPU](#) for the Contract, and any necessary correspondence, discussions or negotiations with the [MPU](#) in anticipation of the award of such Contract;

- ii. the proper performance and observance of the Contract, if awarded to the Contractor together with any correspondence, discussions, negotiations, or other matters necessarily arising in connection with the Contract or with any modification or proposed modification thereof or with the ordering or carrying out of any variations or the placing or performance of any subcontract in connection therewith.

### **The Public Body's undertakings**

3. In consideration of the undertakings by the Contractor in clause 2 hereof and subject to clause 5 hereof, the [MPU](#) undertakes during the Relevant Period: -
  - a) to invite the Contractor to submit a Proposal for the Contract and to make available to the Contractor any Information, including Material Information that the [MPU](#) may consider necessary to enable the Contractor to prepare and submit the Proposal and to perform the Contract if awarded to the Contractor;
  - b) not to disclose any Material Information disclosed by or obtained from the Contractor except as permitted so to do by the Contract;
  - c) Not to cause or permit any third party to contravene or prejudice the requirements of this clause.

### **Exceptions**

4. Clauses 2 and 3(b) and 3(c) shall not apply to any Material Information that is: -
  - i. Excepted Information or disclosed or used with the prior consent in writing of the other party.
  - ii. Ordered or required to be disclosed by any applicable law or competent judicial, governmental or other authority or in accordance with the requirements of any stock exchange. Provided always that if such an order or requirement arises the party proposing to disclose shall give to the other party prompt written notice thereof.
5. Notwithstanding clause 2, hereof, the Contractor may disclose any Material Information disclosed by or obtained from the [MPU](#) to any of its Agents for a purpose or purposes for which the Contractor is entitled to use the same, provided that the Contractor undertakes

during the Relevant Period: -

- i. to ensure that all persons to whom Material Information is or may be disclosed are aware of the terms of this Agreement and will comply with the obligations of the Contractor as if party themselves to the Agreement; and
- ii. if so requested by the **MPU** by notice in writing, before making any or any further disclosure, procure the execution by any person or persons identified in the notice, of an agreement in writing (to be prepared by the **MPU** between the **MPU** and each such person containing substantially the same terms as those contained in this Agreement.

#### **Return or Destruction of Confidential Information**

6. If during the Relevant Period the Contractor receives from the **MPU** or any of its Agents, Material Information in any tangible form and either then or subsequently: -
  - a) submits an unsuccessful Proposal, or fails or is not invited to submit a Proposal, for the Contract; or
  - b) the Contract in connection with which the Material Information has been supplied to the Contractor is not proceeded with; or
  - c) the Contract, if awarded to the Contractor, is substantially completed or terminated early or abandoned; or
  - d) for any other reason the Contractor does not or is unlikely to have any further need of the Material Information

Then the Contractor undertakes, if the **MPU** requests by notice in writing, to return forthwith the Material Information to the **MPU** and/or its Agent and/or to destroy or procure the destruction of the Material Information, including any copies thereof or any part or parts thereof, which may be in the possession of the Contractor or any of its Agents and to certify in writing to the **MPU** that any destruction requested has been carried out, provided that:-

- i. The Contractor shall not be obliged to return or destroy or procure the destruction of any Material Information which is properly and necessarily held by the Contractor as formal documentation;
- ii. The Contractor shall not be obliged to return or destroy or procure the destruction of any Material Information, which the Contractor may otherwise reasonably require to retain for purposes of its own essential records in connection with the Contract or the performance of any of its obligations thereunder still outstanding,

or as evidence of the terms thereof in the event of any dispute, difference or doubt;

- iii. Where, pursuant to proviso (I) above, the Contractor does not return or destroy or procure the destruction of the Material Information, the Contractor undertakes without delay to send to the *MPU* a statement in writing giving particulars of:
    - a) the Material Information concerned;
    - b) the reasons why the Contractor considers it to be formal documentation;
    - c) The Contractor's reasons for not returning or destroying the same or procuring the destruction thereof.
  - iv. The Contractor also undertakes to supply any further particulars and/or take any steps for the continued security thereof during the remainder of the Relevant Period which the *MPU* may reasonably require.
7. Without prejudice to clause 6 above, if any Material Information whose return or destruction is requested is in the possession of any of the Contractor's Agents, the Contractor undertakes to do everything in its power to procure any action on the part of its Agents to enable the Contractor to comply with its obligations.

#### **Maintenance of regular exchange of information**

8. This Agreement shall not be construed as restricting any normal and/or regular interchange of information between the parties and/or their Agents which may be necessary in connection with the Contract.

#### **Security Measures**

9. Each party shall be fully and solely responsible for instituting, maintaining, implementing and enforcing all security or other measures to comply with its obligations under this Agreement. Each party undertakes to use its best endeavours to introduce, implement and enforce any specific security measures or any change in its existing security measures, which may be requested in writing by the other party, which are considered reasonable and practicable and likely to assist or improve the performance of its obligations.

#### **Governing Law**

10. This Agreement shall be governed by and construed in accordance with the laws of the Republic of Trinidad and Tobago and in the event of any dispute relating thereto the parties hereto submit to the exclusive jurisdiction of the High Court in the Republic of Trinidad and Tobago.

RFP Ref#: \_\_\_\_\_

RFP Name: 250kW Solar PV System at Five Rivers Secondary School

RFP Date: 11/03/24

---

IN WITNESS whereof the *MPU* and the Contractor have caused this Agreement to be signed for and on their behalf by the signatories hereto who have been duly authorised so to do by the *MPU* and the Contractor respectively.

For and on behalf of

*MPU*

Signature.....  
Name.....  
Title.....  
Date.....

Witness

Signature.....  
Name.....  
Title.....

For and on behalf of CONTRACTOR [Name]

Signature.....  
Name.....  
Title.....

Witness

Signature.....  
Name.....  
Title.....

**FORM 10A: SAMPLE BANKER'S REFERENCE LETTER**

Date: \_\_\_\_\_

PRIVATE AND CONFIDENTIAL

*Ministry of Public Utilities  
#1 Alexandra Place  
Alexandra Street  
St. Clair  
Newtown, 190129*

Dear Sir/Madam:

(Name of company)

The following information is provided at the request of our above-named customer, in strict confidence, without guarantee, for your private use and without responsibility on the part of this bank or its officials.

The captioned company is involved in (indicate nature of business) and has been banking with us since (year). Credit facilities in the (low, medium or high) (four, five or six) figure bracket have been marked for this account and are being handled to our satisfaction.

We consider the company good for normal contracting transactions and do not think that they would enter into any obligations they could not fulfil.

We hope that the foregoing report is suitable for your purposes.

Yours faithfully

(Signature) \_\_\_\_\_

(Position) \_\_\_\_\_

**B. Sample Forms – Commercial Proposal**

Form 1B: Commercial Proposal Submission Form.

Form 2B: Summary of Costs.

Form 3B: Breakdown of price per activity.

Form 4B: Breakdown of remuneration per activity.

Form 5B: Reimbursable and Miscellaneous Expenses.

Form 2B: Price Schedule. (Alternative, based on the requirements of the project)

**Note:** The Bidders must fill in the appropriate information in the enclosed forms and submit these forms with the Proposal. *Failure to submit these forms, completed as instructed in the RFP, may result in the Bidder's submission not being further considered.*

**FORM 1B: COMMERCIAL PROPOSAL SUBMISSION FORM**

[Address, Date]

To: Ministry of Public Utilities  
#1 Alexandra Place  
Alexandra Street  
St. Clair  
Newtown, 190129

Dear Madam:

We, the undersigned, offer to provide *Design, Procurement, Installation, Commissioning, Training and Maintenance Services for a 250kW Solar Photovoltaic (PV) system at Five Rivers Secondary School*, in accordance with your Request for Proposal dated 11<sup>th</sup> March 2024 and our Proposal (Technical and Commercial Proposals submitted in separate sealed envelopes). Our attached Commercial Proposal is proposed in the sum of [Amount in words and figures]. This amount is exclusive of 12.5% Value Added Tax, which we have calculated as [Amount(s) in words and figures].

Our Commercial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, up to expiration of the **(one hundred and twenty (120) days)** validity period of the Proposal.

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

We remain,

Yours sincerely,

Authorised Signature:  
Name and Title of Signatory:  
Name of Firm:  
Address:

RFP Ref#: \_\_\_\_\_

RFP Name: 250kW Solar PV System at Five Rivers Secondary School

RFP Date: 11/03/24

**FORM 2B: SUMMARY OF COSTS**

Costs	Amount(s)
_____	
_____	
_____	
_____	
Subtotal	
Value Added Tax (VAT)	
Total Amount of Commercial Proposal	_____

**Proposed payment terms**

**Bidders are required to provide their proposed payment terms for the provision of the services.**



RFP Ref#: \_\_\_\_\_

RFP Name: 250kW Solar PV System at Five Rivers Secondary School

RFP Date: 11/03/24

FORM 3B: BREAKDOWN OF PRICE PER ACTIVITY

Activity No.	Description	Person Hours	Amount (TT\$)
	Grand Total		

RFP Ref#: \_\_\_\_\_

RFP Name: 250kW Solar PV System at Five Rivers Secondary School

RFP Date: 11/03/24

**FORM 4B: BREAKDOWN OF REMUNERATION PER ACTIVITY**

Activity No. _____		Name: _____	
Names	Position	Input <sup>1</sup>	Amount
Regular staff			
Consultants			
Grand Total			_____

<sup>1</sup> Staff months, days, or hours as appropriate.

RFP Ref#: \_\_\_\_\_

RFP Name: 250kW Solar PV System at Five Rivers Secondary School

RFP Date: 11/03/24

**FORM 5B: REIMBURSABLE AND MISCELLANEOUS EXPENSES**

No.	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	TOTAL AMOUNT (TT\$ VAT EX)
1.	(PLEASE SPECIFY)				
2.					
	SUBTOTAL				
	VAT @12.5%				
	TOTAL AMOUNT (TT\$ VI)				

**FORM 2B: PRICE SCHEDULE (ALTERNATIVE, BASED ON REQUIREMENTS OF PROJECT)**

No.	Description	Unit of Measure	Quantity	Unit Cost (TT\$)	Extended Price (TT\$)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
Subtotal					
VAT at 12.5%					
Total					

Appendix IRFP ACKNOWLEDGEMENT FORM

*Ministry of Public Utilities  
#1 Alexandra Place  
Alexandra Street  
St. Clair  
Newtown, 190129*

**ATTENTION: Permanent Secretary**

Dear Permanent Secretary/Madam,

**Subject: Request for Proposal for the *Design, Procurement, Installation, Commissioning, Training and Maintenance Services of a 250kW Solar PV System at Five Rivers Secondary School.***

We acknowledge receipt of the above referenced Request for Proposal (RFP) and “will/will not” be submitting a Proposal by the due date.

We confirm that the Proposal that we will submit shall be valid for a period of **(one hundred and twenty (120) days)** from the closing date for the submission of the RFP.

Yours Faithfully

Signature \_\_\_\_\_

Date \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

All communications regarding this Request for Proposal should be sent to the undersigned who is responsible for our Tender.

Signature \_\_\_\_\_

Date \_\_\_\_\_

Name \_\_\_\_\_

Direct Tel No \_\_\_\_\_

Title \_\_\_\_\_

Email Address \_\_\_\_\_

Company \_\_\_\_\_

Co. Tel. No \_\_\_\_\_

Company \_\_\_\_\_

Mobile Tel \_\_\_\_\_

RFP Ref#: \_\_\_\_\_

RFP Name: 250kW Solar PV System at Five Rivers Secondary School

RFP Date: 11/03/24

Address \_\_\_\_\_

## Appendix II

### CLIENT REFERENCE FORM

#### PART A *(To be completed by the Bidders)*

Provider Name	
Project Location	
Project Description	
Reference Company	
Reference Name/Designation	
Reference Direct Contact Phone	
Reference Direct Contact Email Address	

#### PART B *(To be completed by the Bidders)*

Project Contract Scope	
Assignment Start Date	
Assignment Completion Date	
Reasons for Delays (project start and/or finish)	
Reasons for Variations (contractual changes)	

Signature (Bidder's Duly Authorised Representative): \_\_\_\_\_

Date

**PART C** *(To be completed by the Ministry of Public Utilities)*

Performance Indicators (Please tick appropriate box)	Poor	Fair	Satisfactory	Very Good	Excellent
How would you rate the quality of the services provided?					
How would you rate the quality of the finish product?					
How would you rate the provider's response time in addressing your requests or queries?					
How would you rate the provider's professional interaction with representatives of your organisation?					
How would you rate the overall performance of the service?					

General comments:

.....

.....

.....

Signature (Evaluation Committee Member(s)): \_\_\_\_\_

Date