



REPUBLIC OF MALAWI

MINISTRY OF AGRICULTURE

SHIRE VALLEY TRANSFORMATION PROGRAM-1

BIDDING DOCUMENTS

FOR

PROCUREMENT OF

**CONSTRUCTION OF SECONDARY PIPELINES= AND
REMAINING WORKS IN PHASE I AREA**

**PROJECT NAME: SHIRE VALLEY TRANSFORMATION
PROGRAM 1**

ICB No: MW-MOAIWD – 300926 – CW - RFB

EMPLOYER: MINISTRY OF AGRICULTURE

COUNTRY: MALAWI

Issued on: MAY 2023

**VOLUME III: CONTRACT CONDITIONS AND CONTRACT
FORMS**

PART 3 – CONDITIONS OF CONTRACT AND CONTRACT FORMS

Red Book:

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The Conditions of Contract are the “General Conditions” which form part of the “Conditions of Contract for Construction for Building and Engineering Works Designed by the Employer (“Red book”) Second edition 2017” published by the Federation Internationale Des Ingenieurs – Conseils (FIDIC) and the following “Particular Conditions” which comprise of the Bank’s COPA and the amendments and additions to such General Conditions.

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

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Section VIII. General Conditions (GC)

Section IX. Particular Conditions (PC)

The following Particular Conditions shall supplement the GC. Whenever there is a conflict, the provisions herein shall prevail over those in the GC.

Particular Conditions

Part A – Contract Data

Conditions	Sub-Clause	Data
Where the Contract allows for Cost Plus Profit, percentage profit to be added to the Cost	1.1.20	5 %
Employer's name and address	1.1.31	Ministry of Agriculture P.O. Box 30134 Capital Hill Lilongwe 3
Engineer's name and address	1.1.35	Korea Rural Community Corporation in Joint Venture with Dasan Company Ltd and ISAN Corporation Address: Plot No. LK 2174 Ring Road Gate No. 2 Namiwawa Blantyre. Email: krcjvonmalawi@gmail.com
Bank's name	1.1.89	<u>World Bank</u>
Borrower's name	1.1.90	<u>The Government of Malawi</u>
Time for Completion	1.1.84	720 days (24)
Defects Notification Period	1.1.27	365 days (one year)
Sections	1.1.73	Not applicable
Electronic transmission system	1.3 (a) (ii)	Not Applicable

Conditions	Sub-Clause	Data
Address of Employer for communications:	1.3(d)	<p>Project Coordinator</p> <p>Shire Valley Transformation Program-1</p> <p>11 Macleod Road, Opposite Glens</p> <p>Makata Industrial Area Road</p> <p>Private Bag 379</p> <p>Blantyre</p> <p>Email: skhaila.doi@svtp.gov.mw</p> <p>Copy: mmaoni.doi@svtp.gov.mw mtewete.doi@svtp.gov.mw</p> <p>Attention: Senior Procurement Specialist</p>
Address of Engineer for communications:	1.3(d)	<p>Plot No. LK 2174 Ring Road</p> <p>Gate No. 2</p> <p>Namiwawa</p> <p>Blantyre.</p> <p>Email: krcjvonmalawi@gmail.com</p>
Address of Contractor for communications:	1.3(d)	To be inserted
Governing Law	1.4	Laws of Malawi
Ruling language	1.4	English
Language for communications	1.4	English
Time for the Parties to sign a Contract Agreement	1.6	28 days after receipt of the Letter of Acceptance
Number of additional paper copies of Contractor's Documents	1.8	4 (Four)
Total liability of the Contractor to the Employer	1.15	Accepted Contract Amount

Conditions	Sub-Clause	Data
under or in connection with the Contract		
Site	1.1 74	Phase One Area of Shire Valley Irrigation Project
Time for access to the Site	2.1	No later than the Commencement Date
Engineer's Duties and Authority	3.2	All variations resulting in an increase of the Accepted Contract Amount shall require written consent of the Employer.
Performance Security	4.2	The Performance Security will be in the form of a "demand guarantee" in the amount(s) of Eight (8) percent of the Accepted Contract Amount and in the same currency (ies) of the Accepted Contract Amount
Environmental and Social (ES) Performance Security	4.2	The ES Performance Security will be in the form of a "demand guarantee" in the amount(s) of two (2) percent of the Accepted Contract Amount
Period for notification of errors in the items of reference	4.7.2(a)	28 days
Period of payment for temporary utilities	4.19	56 days
Number of additional paper copies of progress reports	4.20	4 (Four)
Maximum allowable accumulated value of work subcontracted (as a percentage of the Accepted Contract Amount)	5.1(a)	40%
Parts of the Works for which subcontracting is not permitted	5.1(b)	None

Conditions	Sub-Clause	Data
Normal working hours	6.5	The working hours shall be normal working hours as recognized in the laws of Malawi
Commencement Date	8.1	42 days after receipt of Acceptance Letter
Number of additional paper copies of program	8.3	Four (4)
Delay damages payable for each day of delay	8.8	<u>0.05</u>% of the Accepted Contract Amount, less provisional sum, for DAAB .
Maximum amount of delay damages	8.8	10% of the Accepted Contract Amount less provisional sum for DAAB.
Method of measurement	12.2	Measurement shall be made of the net actual quantity of each item of the Permanent Works and no allowance shall be made bulking, shrinkage or waste.
Percentage profit	12.3	5%
Percentage rate to be applied to Provisional Sums for overhead charges and profit	13.4 (b)(ii)	5 %
Total advance payment	14.2	<u>20</u>% Percentage of the Accepted Contract Amount payable in the currencies and proportions in which the Accepted Contract Amount is payable
Repayment of Advance payment	14.2.3	(a) exceeds 1% of the portion of the Accepted Contract Amount payable in that currency less Provisional Sums (b) deductions shall be made at the amortisation rate of 25% of the amount of each IPC
Period of payment	14.3	28 days
Number of additional paper copies of Statements	14.3(b)	6 (Six) Copies

Conditions	Sub-Clause	Data
Percentage of retention	14.3(iii)	5%
Limit of Retention Money (as a percentage of Accepted Contract Amount)	14.3(iii)	5%
Plant and Materials	14.5(b)(i)	If Sub-Clause 14.5 applies: Plant and Materials for payment when shipped: None.
	14.5(c)(i)	Plant and Materials for payment when delivered to the Site: Applicable
Minimum Amount of Interim Payment Certificates	14.6.2	2% of the Accepted Contract Amount.
Period of payment of Advance Payment to the Contractor	14.7(a)	28 days
Period for the Employer to make interim payments to the Contractor under Sub-Clause 14.6 (interim Payment)	14.7b(i)	56 days
Period for the Employer to make interim payments to the Contractor under Sub-Clause 14.13 (Final Payment)	14.7b(ii)	56 days
Period for the Employer to make final payment to the Contractor	14.7(c)	56 days

Conditions	Sub-Clause	Data
financing charges for delayed payment (percentage points above the average bank short-term lending rate as referred to under sub-paragraph (a))	14.8	<p>Financing charges shall be calculated at the annual rate of three percent (3%) above: The average bank short-term lending rate to prime borrowers prevailing for the currency of payment at the place of payment, or</p> <p>(b) where no such rate exists at that place, the same rate in the country of the currency of payment, or</p> <p>in the absence of such a rate at either place, the appropriate rate fixed by the law of the country of payment</p>
Number of additional paper copies of draft Final Statement	14.11.1(b)	Six (6) Copies
Forces of nature, the risks of which are allocated to the Contractor	17.2(d)	None
Permitted deductible limits	19.1	<p>insurance required for the Works: The Accepted Contract Amount insurance required for Goods: USD10,000</p> <p>insurance required for liability for breach of professional duty: USD10,000 insurance required against liability for fitness for purpose (if any is required): Not Applicable</p> <p>insurance required for injury to persons and</p> <p>damage to property: USD 5,000 and USD 10,000</p> <p>insurance required for injury to employees: USD5,000</p> <p>other insurances required by Laws and by local practice: Applicable Country Laws</p>

Conditions	Sub-Clause	Data
Additional amount to be insured (as a percentage of the replacement value, if less or more than 15%)	19.2.1(b)	None
List of Exceptional Risks which shall not be excluded from the insurance cover for the Works	19.2.1(iv)	None
Extent of insurance required for Goods	19.2.2	From the time the goods are delivered (or shipped) to the site Until they are no longer required for the Works.
Amount of insurance required for Goods		110% the cost of goods as delivered to the site.
amount of insurance required for liability for breach of professional duty	19.2.3(a)	100% the amount of the design agreement for the specific design obligation
Insurance required against liability for fitness for purpose	19.2.3(b)	The Contractor shall maintain this insurance for the whole period of the contract up to issuance of Performance Certificate.
Period of insurance required for liability for breach of professional duty	19.2.3	Up to issuance of Performance Certificate
Amount of insurance required for injury to persons and damage to property	19.2.4	Insurance required for injury to persons: USD100,000 Insurance required for injury to damage to property: USD200,000
Amount of insurance required for injury to Employees	19.2.5	The minimum insurance required for injury to employees shall be: USD100,000

Conditions	Sub-Clause	Data
Other insurances required by Laws and by local practice (give details)	19.2.6	In accordance with the statutory requirements applicable in Malawi Reserve Bank of Malawi Pension and Insurance Supervision (PISU) Department Postal Address Box 30063, Capital City, Lilongwe 3, Malawi Tel: (265) (0) 1 770 600/1 771 600 Fax: (265) (0) 1 772 752 /1 774 289 Email: reserve-bank@rbm.mw
Time for appointment of DAAB member (s)	21.1	42 days after signature by both parties of the Contract Agreement
The DAAB shall be comprised of	21.1	Three Members
List of proposed members of DAAB	21.1	Proposed by Employer 1. _Henry Musonda, Zambian Nationality 2. _ Dr Kumbwaeli Winglandumi, Tanzanian Nationality 3. Fortune Murata, Zimbabwean Nationality Proposed by Contractor [<i>Attach CVs to the Contract</i>] 1. _ To be advised _____ 2. _ To be advised _____ 3. _ To be advised _____ <i>be</i>
Appointment (if not agreed) to be made by	21.2	The President of FIDIC or person appointed by the President.

Conditions	Sub-Clause	Data
Rules of arbitration	21.6(a)	Sub-Clause 21.6(a) of PART B – Specific Provisions shall apply.
	21.6(b)	Sub-Clause 21.6(b) of PART B – Specific Provisions shall apply.
Place of arbitration	21.6	TBD (Any country which is neither the country of Employer nor of the Contractor)

Part B - Special Provisions

Sub-Clause 1.1.10 Contract	“the Contractor’s Proposal” is deleted.
Sub-Clause 1.1.49 Laws	The Sub-Clause is replaced with: “ Laws ” means all national (or state) legislation, statutes, ordinances and other laws, and regulations and by-laws of any legally constituted public authority.”
Sub-Clause 1.1.74 Site	The Sub-Clause is replaced with: “ Site ” means the places where the Permanent Works are to be executed, including storage and working area, and to which Plant and Materials are to be delivered, and any other places specified in the Contract as forming part of the Site.”
Sub-Clause 1.1.77 Statement	On the second line after “Payment Certificate under...”, add “Sub-Clause 14.2.1 [Advance Payment Guarantee] (if applicable),”.
Sub-Clause 1.1.81 Tender	“the Contractor’s Proposal” is deleted.
Sub-Clause 1.1.89 to 1.1.92 are added after Sub-Clause 1.1.88	
Sub-Clause 1.1.89 Bank	“ Bank ” means the financing institution (if any) named in the Contract Data.
Sub-Clause 1.1.90 Borrower	“ Borrower ” means the person (if any) named as the borrower in the Contract Data.
Sub-Clause 1.1.91 ES	“ ES ” means Environmental and Social (including Sexual Exploitation and Abuse (SEA), and Sexual Harassment (SH)).
Sub-Clause 1.1.92 Sexual Exploitation and Abuse (SEA), and Sexual Harassment (SH)	“ Sexual Exploitation and Abuse ” “ (SEA) ” stands for the following: Sexual Exploitation is defined as any actual or attempted abuse of position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another;

Sexual Abuse is defined as the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions; and

“Sexual Harassment” “(SH)” is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by the Contractor’s Personnel with other Contractor’s or Employer’s Personnel.

“SEA/SH Prevention and Response Obligations” means the Contractor’s obligations in regards to the prevention of and response to SEA/SH as set forth in Sub-Clauses 4.1, 4.20, 4.24, 5.1, 6.9, 6.27, and 6.28.

**Sub-Clause 1.2
Interpretation**

Sub-paragraph (a) is replaced with the following:

- (a) “Words indicating one gender include all genders; “he/she” is replaced with:” it”; “him/her” is replaced with “it”; “his” and “his/her” are replaced with: “its”; “himself/herself” are replaced with: “itself”.”

Further, “and” is deleted from the end of sub-paragraph (i) and added at the end of sub-paragraph (j).

sub-paragraph (k) is added:

- (k) “The word “tender” is synonymous with “bid” and the words “tender documents” with “bidding documents”, as applicable.

**Sub-Clause 1.5
Priority of Documents**

The following documents are added in the list of Priority Documents after (e):

- “(f) the Particular Conditions Part C- Fraud and Corruption;
(g) the Particular Conditions Part D- Environmental and Social (ES) Metrics for Progress Reports;”
(h) Particular Conditions- Part E- Sexual Exploitation and Abuse (SEA) and/or Sexual Harassment Performance Declaration for Subcontractors;”

and the list renumbered accordingly.

**Sub-Clause 1.6
Contract Agreement**

The last paragraph is replaced with:

“If the Contractor comprises a JV, the authorised representative of the JV shall sign the Contract Agreement

in accordance with Sub-Clause 1.14 (Joint and Several Liability).”

**Sub-Clause 1.12
Confidentiality**

The following is added at the end of the second paragraph: “The Contractor shall be permitted to disclose information required to establish its qualifications to compete for other projects.”

“or” at the end of (b) is deleted.

“or” at the end of (c) is added.

The following is then added as (d): “being provided to the Bank.”

**Sub-Clause 1.17
Inspections & Audit by the
Bank**

The following Sub-Clause is added after Sub-Clause 1.16:

“Pursuant to paragraph 1.16 (e) of Particular Conditions - Part C- Fraud and Corruption, the Contractor shall permit and shall cause its agents (where declared or not), subcontractors, subconsultants, service providers, suppliers, and personnel, to permit, the Bank and/or persons appointed by the Bank to inspect the site and/or the accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have such accounts, records and other documents audited by auditors appointed by the Bank. The Contractor’s and its Subcontractors’ and subconsultants’ attention is drawn to Sub-Clause 15.8 (Fraud and Corruption) which provides, inter alia, that acts intended to materially impede the exercise of the Bank’s inspection and audit rights constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to the Bank’s prevailing sanctions procedures).”

**Sub-Clause 2.4
Employer’s Financial
Arrangements**

The first paragraph is replaced with:

“The Employer shall submit, before the Commencement Date, reasonable evidence that financial arrangements have been made for financing the Employer’s obligations under the Contract.”

The following sub-paragraph is added at the end of Sub-Clause 2.4:

“In addition, if the Bank has notified to the Borrower that the Bank has suspended disbursements under its loan, which finances in whole or in part the execution of the Works, the Employer shall give notice of such suspension to the Contractor with detailed particulars, including the date of

such notification, with a copy to the Engineer, within 7 days of the Borrower having received the suspension notification from the Bank. If alternative funds will be available in appropriate currencies to the Employer to continue making payments to the Contractor beyond a date 60 days after the date of Bank notification of the suspension, the Employer shall provide reasonable evidence in its notice of the extent to which such funds will be available.”

Sub-Clause 2.7

SEA/SH Conference

The following new Sub-Clause is added

“The Employer shall organize and run a SEA/SH orientation conference as soon as possible after the constitution of the DAAB and prior to the commencement of any physical work. The SEA/SH orientation conference shall be attended by the Contractor, its Subcontractors, the Engineer, the DAAB members and all other relevant persons. The objective of the SEA/SH orientation conference shall be to ensure a common understanding of all SEA contractual requirements and remedies, including those available under Sub-Clause 21.9 [*SEA/SH Referrals*], Sub-Clause 21.10 [*Dissatisfaction with DAAB’s decision of SEA/SH Referrals*] and Sub-Clause 21.11 [*Bank’s disqualification of the Contractor and its Subcontractor/s*].

Sub-Clause 3.1

The Engineer

The following is added at the end of the first sub-paragraph:

“The Engineer’s staff shall include suitably qualified engineers and other professionals who are competent to carry out these duties. ”

Sub-Clause 3.2

Engineer’s Duties and Authority

The Engineer shall obtain the consent in writing of the Employer before taking action under the following Sub-Clauses of these Conditions:

- (a) Sub-Clause 13.1: Right to vary - instructing a variation, except;
 - (i) in an emergency situation as determined by the Engineer; or
 - (ii) (if such a Variation would increase the Accepted Contract Amount by less than the percentage specified in the Contract Data.
- (b) Sub-Clause 13.2 (Value Engineering): stating consent or otherwise to a value engineering proposal submitted by the Contractor in accordance with Sub-Clause 13.2.

Notwithstanding the obligation, as set out above, to obtain consent in writing, if, in the opinion of the Engineer, an emergency occurs affecting the safety of life or of the Works or of adjoining property, it may, without relieving the Contractor of any of his duties and responsibility under the Contract, instruct the Contractor to execute all such work or to do all such things as may, in the opinion of the Engineer, be necessary to abate or reduce the risk. The Contractor shall forthwith comply, despite the absence of consent of the Employer, with any such instruction of the Engineer. The Engineer shall determine an addition to the Contract Price, in respect of such instruction, and EOT if any, in accordance with Clause 13 and shall notify the Contractor accordingly, with a copy to the Employer.

Sub-Clause 3.3

Engineer's Representative

The following is added at the end of Sub-Clause 3.3:

“The Engineer shall obtain the consent of the Employer before appointing or replacing an Engineer's Representative.”

Sub-Clause 3.4

Delegation by the Engineer

The following is added at the end of the second paragraph:

“If any assistants are not fluent in this language, the Engineer shall make competent interpreters available during all working hours, in a number sufficient for those assistants to properly perform their assigned duties and/or exercise their delegated authority.”

Sub-Clause 3.6

Replacement of the Engineer

In the first paragraph, “42 days” is replaced with: “21 days”;

In the third para, “shall” is replaced with: “should”.

Sub-Clause 4.1

Contractor's General Obligations

The following is inserted after the paragraph “The Contractor shall provide the Plant (and spare parts, if any) ...”:

“All equipment, material, and services to be incorporated in or required for the Works shall have their origin in any eligible source country as defined by the Bank.”

The following is inserted after the paragraph “The Contractor shall, whenever required by the Engineer...”:

The Contractor shall not carry out mobilization to Site (e.g. limited clearance for haul roads, site accesses and work site establishment, geotechnical investigations or investigations to select ancillary features such as quarries and borrow pits) unless the Engineer gives a Notice of No-

objection to the Contractor, a Notice that shall not be unreasonably delayed, to the measures the Contractor proposes to manage the environmental and social risks and impacts, which at a minimum shall include applying the Management Strategies and Implementation Plans (MSIPs) and Code of Conduct for Contractor's Personnel submitted as part of the Bid and agreed as part of the Contract.

The Contractor shall submit, to the Engineer for Review and approval, any additional MSIPs as are necessary to manage the ES risks and impacts of ongoing Works (e.g. excavation, earth works, bridge and structure works, stream and road diversions, quarrying or extraction of materials, concrete batching and asphalt manufacture). These MSIPs collectively comprise the Contractor's Environmental and Social Management Plan (C-ESMP). The Contractor shall review the C-ESMP, periodically (but not less than every six (6) months), and update it as required to ensure that it contains measures appropriate to the Works. The updated C-ESMP shall be submitted to the Engineer for Review

The contents of the C-ESMP shall include details of the methods, equipment, resources, approach and training that the contractor will take to protect environmental and social receptors. As a minimum the C-ESMP shall include:

- (i) Layout of camp sites, including annotations showing the protection measures to be provided
- (ii) Fencing, guarding and protection of sites and working areas
- (iii) Waste management: collection, storage and disposal
- (iv) Wastewater management: collection, storage and disposal (disposal to water courses will not be permitted)
- (v) Measures to prevent the pollution of land or water
- (vi) Measures to control dust so it does not cause a nuisance to people and does not damage vegetation, including dust arising from roads as a result of their use by project vehicles
- (vii) Measures to prevent noise or light pollution to local communities or wildlife
- (viii) Measures to allow the collection of crops by farmers/landowners prior to land clearance by the Contractor

- (ix) Measures to prevent nuisance from falling objects during transportation.

The measures within the C-ESMP will reflect the approved Management Strategies and Implementation Plans approved as part of the tendering process. The C-ESMP and the Contractor's Code of Conduct shall be included as Contractor's Documents. The procedures for Review of the C-ESMP and its updates shall be as described in Sub-Clause 4.4.1 [*Preparation and Review*].

Sub-Clause 4.2

Performance Security and ES Performance Security

The first paragraph is replaced with:

“The Contractor shall obtain (at its cost) a Performance Security for proper performance and, if applicable, an Environmental and Social (ES) Performance Security for compliance with the Contractor's ES obligations, in the amounts stated in the Contract Data and denominated in the currency(ies) of the Contract or in a freely convertible currency acceptable to the Employer. If amounts are not stated in the Contract Data, this Sub-Clause shall not apply.”

In the following Sub-Clauses of the General Conditions, the term “Performance Security” is replaced with: “Performance Security and, if applicable, an Environmental and Social (ES) Performance Security”:

2.1- Right of Access to the Site;

14.2- Advance Payment;

14.6- Issue of IPC;

14.12- Discharge;

14.13- Issue of FPC;

14.14 Cessation of Employer's Liability;

15.2- Termination for Contractor's Default;

15.5- Termination for Employer's Convenience.

Sub-Clause 4.2.1

Contractor's obligations

The first paragraph is replaced with:

“The Contractor shall deliver the Performance Security and, if applicable, an ES Performance Security to the Employer within 28 days after receiving the Letter of Acceptance and shall send a copy to the Engineer. The Performance Security shall be issued by a reputable bank or financial institution selected by the Contractor and shall be in the form annexed to the Particular Conditions, as stipulated by the Employer in the Contract Data, or in another form approved by the

Employer. The ES Performance Security shall be issued by a reputable bank selected by the Contractor and shall be in the form annexed to the Particular Conditions, as stipulated by the Employer in the Contract Data, or in another form approved by the Employer.”

Thereafter, throughout Sub-Clause 4.2 “Performance Security” is replaced with: “Performance Security and, if applicable, ES Performance Security.”

Sub-Clause 4.2.2
Claims under the
Performance Security

The first paragraph is replaced in its entirety with: “The Employer shall not make a claim under the Performance Security, except for amounts for which the Employer is entitled under the Contract.”

Sub-Clause 4.2.3
Return of Performance
Security

In sub-paragraph (a) “21 days” is replaced with: “28 days”.

Sub-Clause 4.3
Contractor’s Representative

The following is added at the end of the last paragraph: “If any of these persons is not fluent in this language, the Contractor shall make competent interpreters available during all working hours in a number deemed sufficient by the Engineer.”

Sub-Clause 4.7
Setting out

In the second bullet-point of sub-paragraph (b) of Sub-Clause 4.7.3:

before “if the items of reference”, add: “when examining the items of reference within the period stated in sub-paragraph (a) of Sub-Clause 4.7.2” on the second and third lines, delete “and the contractor’s Notice is given after the period stated in sub-paragraph (a) of Sub-Clause 4.7.2”.

Sub-Clause 4.8
Health and Safety
Obligations

The second paragraph is replaced with the following:

“Subject to Sub-Clause 4.1, the Contractor shall submit to the Engineer for Review a health and safety manual which has been specifically prepared for the Works, the Site and other places (if any) where the Contractor intends to execute the Works. The procedures for Review of the health and safety manual and its updates shall be as described in Sub-Clause 4.4.1 [*Preparation and Review*].

The health and safety manual shall be in addition to any other similar document required under applicable health and safety regulations and Laws.

The health and safety manual shall set out all the health and safety requirements under the Contract,

- (a) which shall include at a minimum:
 - (i) the procedures to establish and maintain a safe working environment without risk to health at all workplaces, machinery, equipment and processes under the control of the Contractor, including control measures for chemical, physical and biological substances and agents;
 - (ii) details of the training to be provided, records to be kept;
 - (iii) the procedures for prevention, preparedness and response activities to be implemented in the case of an emergency event (i.e. an unanticipated incident, arising from both natural and man-made hazards, typically in the form of fire, explosions, leaks or spills, which may occur for a variety of different reasons including failure to implement operating procedures that are designed to prevent their occurrence, extreme weather or lack of early warning);
 - (iv) the measures to be taken to avoid or minimize the potential for community exposure to water-borne, water-based, water-related, and vector-borne diseases,
 - (v) the measures to be implemented to avoid or minimize the spread of communicable diseases (including transfer of Sexually Transmitted Diseases or Infections (STDs), such as HIV virus) and non-communicable diseases associated with the execution of the Works, taking into consideration differentiated exposure to and higher sensitivity of vulnerable groups. This includes taking measures to avoid or minimize the transmission of communicable diseases that may be associated with the influx of temporary or permanent Contract-related labour;

- (vi) the policies and procedures on the management and quality of accommodation and welfare facilities if such accommodation and welfare facilities are provided by the Contractor in accordance with Sub-Clause 6.6;

In addition to the contents of the OHSM required by GCC 4.8, the OHSM shall include:

- (i) Main hazards that are predicted because of the works, an assessment of the risks and the mitigation measures to be provided to manage these risks. The mitigation measures shall favour in the following order: elimination; substitution; engineering controls; administrative controls; PPE.
- (ii) Above the basic requirement of safety boots, high visibility clothing and hard hat, PPE shall only be accepted as a mitigation measure as a last resort. Where PPE is used, the standard and specification shall be set out in the OHSM, by reference to the ASTM, ANSI/ISEA or EN standard the PPE will meet
- (iii) The measures to be taken to establish a good Safety Culture, including the management focus, attitude, commitment, and empowerment that will be provided
- (iv) Measures for the safe movement of traffic (traffic management plan) to and from the Works, including measures to segregate vehicles from pedestrian movements, signage (including speed signs) and speed controls
- (v) Arrangements for the safe transportation of workers to and from the Works, including to and from local community centers, where workers are accommodated in local communities

- (vi) Prohibition of the use of project vehicles or trucks to pick up and transport workers, unless that vehicle has been specifically tasked for the transport of workers, and is provided with seats and safety belts for all riders.
- (vii) Prohibition of the use of project vehicles or trucks to pick up and transport anyone who is not an employee of the Project
- (viii) Undertaking checks to ensure drivers of all vehicles have valid licences for driving that type of vehicle and are competent and adequately trained in driving that vehicle
- (ix) Checks to ensure operators of heavy machinery have valid licences as required by law and are adequately trained and competent to operate the vehicles or machinery
- (x) All vehicles are maintained in accordance with manufacturers requirements and are in safe operating condition. Vehicles shall be fitted with flashing beacons and reversing alarms
- (xi) Ensuring all workers are properly informed of their rights and responsibilities related to OHS risks and management
- (xii) The minimum contents of the worker induction to be provided to all workers, and the mechanism for recognizing that all workers have received an up to date induction prior to entering the construction site. The general induction shall be repeated annually for all workers.
- (xiii) The mechanism for briefing workers on the safety aspects at the start of each works activity, and for providing additional training to workers exposed to specific types of OHS risks beyond basic construction.

(xiv) Contractors' proposals for monitoring health and safety performance during works, and for updating requirements should the performance fall short of contract requirements and

(xv) and

(b) any other requirements stated in the Specification.

The paragraph starting with: "In addition to the reporting requirement of..." is deleted and replaced with the addition to GC Sub-Clause 4.20 in Sub-Clause 4.20 of the Special Provisions.

Sub-Clause 4.18
Protection of the
Environment

The Contractor shall provide appropriate training to relevant Contractor's Personnel on ES aspects of the Contract, including appropriate sensitization on prohibition of SEA and SH, and health and safety training.

As stated in the Specification or as instructed by the Engineer, the Contractor shall also allow appropriate opportunities for the relevant Contractor's Personnel to be trained on ES aspects of the Contract by the Employer's Personnel.

The Contractor shall provide training on SEA and SH, including its prevention, to any of its personnel who has a role to supervise other Contractor's Personnel.

Before undertaking any blasting, the Contractor shall assess the risk to communities and infrastructures by doing a ground-truthing survey of wells, houses, churches, buildings, etc. Ground-truthing shall involve local authorities, Supervising Engineer and the PMT, and will require the contractor to obtain photographs of the condition of buildings and property that may be affected before and after blasting.

The method statement for blasting will be approved by the Supervising Engineer and will include the contractor's arrangements for providing advance warning to the local population through radio, public posters, churches and local authorities, and their proposals for undertaking safety

patrols immediate prior to blasting to ensure that all people are evacuated from the blast radius.

Any damage that is caused to property will be repaired to the satisfaction of the Supervising Engineer within 3 months of the occurrence of the damage at the Contractor's cost. Repairs will be to achieve the former condition.

Sub-Clause 4.20
Progress Reports

Replace "4.20 (g) with: "the Environmental and Social (ES) metrics set out in Particular Conditions - Part D"

The following is added at the end of the Sub-Clause:

"In addition to the reporting requirement of this subparagraph (g) of Sub-Clause 4.20 [*Progress Reports*], and subject to the specific requirement on handling allegations of SEA and/or SH in accordance with Sub-Clause 6.27, the Contractor shall inform the Engineer immediately of any allegation, incident or accident, which has or is likely to have a significant adverse effect on the environment, the affected communities, the public, Employer's Personnel or Contractor's Personnel. This includes, but is not limited to, any incident or accident causing fatality or serious injury; significant adverse effects or damage to private property; or any allegation of SEA and/or SH. In case of SEA and/or SH, while maintaining confidentiality as appropriate, the type of allegation (sexual exploitation, sexual abuse or sexual harassment), gender and age of the person who experienced the alleged incident should be included in the information.

The Contractor, upon becoming aware of the allegation, incident or accident, shall also immediately inform the Engineer of any such incident or accident on the Subcontractors' or suppliers' premises relating to the Works which has or is likely to have a significant adverse effect on the environment, the affected communities, the public, Employer's Personnel or Contractor's, its Subcontractors' and suppliers' personnel. The notification shall provide sufficient detail regarding such incidents or accidents. The Contractor shall provide full details of such incidents or accidents to the Engineer within the timeframe agreed with the Engineer.

The Contractor shall require its Subcontractors and suppliers (other than Subcontractors) to immediately notify the Contractor of any incidents or accidents referred to in this Sub-Clause.

**Sub-Clause 4.21
Security of the Site**

Sub-Clause 4.21 Security of the Site is replaced with:

“Sub-Clause 4.21 Security of the Site

The Contractor shall be responsible for the security of the Site, and:

- (a) for keeping unauthorised persons off the Site;
- (b) authorised persons shall be limited to the Contractor’s Personnel, the Employer’s Personnel, and to any other personnel identified as authorised personnel (including the Employer’s other contractors on the Site), by a Notice from the Employer or the Engineer to the Contractor.

Subject to Sub-Clause 4.1, the Contractor shall submit for the Engineer’s No-objection a security management plan that sets out the security arrangements for the Site.

The Contractor shall (i) conduct appropriate background checks on any personnel retained to provide security; (ii) train the security personnel adequately (or determine that they are properly trained) in the use of force (and where applicable, firearms), and appropriate conduct towards Contractor’s Personnel, Employer’s Personnel and affected communities; and (iii) require the security personnel to act within the applicable Laws and any requirements set out in the Specification.

The Contractor shall not permit any use of force by security personnel in providing security except when used for preventive and defensive purposes in proportion to the nature and extent of the threat.

In making security arrangements, the Contractor shall also comply with any additional requirements stated in the Specification.”

**Sub-Clause 4.22
Contractor’s Operations on
Site**

On the third line of the second paragraph before “4.17”, “Sub- Clause” is added.

**Sub-Clause 4.23
Archaeological
Geological Findings**

and

All fossils, coins, articles of value or antiquity, and structures and other remains or items of geological or archaeological interest found on the Site shall be placed under the care and authority of the Employer. The Contractor shall take all reasonable precautions to prevent Contractor’s Personnel or other persons from removing or

damaging any of these findings. The Contractor shall, as soon as practicable after discovery of any such finding, give a Notice to the Engineer in good time to give the Engineer opportunity to promptly inspect and/or investigate the finding before it is disturbed. This Notice shall describe the finding and the Engineer shall issue instructions for dealing with it. If the Contractor suffers delay and/or incurs Cost from complying with the Engineer's instructions, the Contractor shall be entitled subject to Sub-Clause 20.2 [Claims For Payment and/or EOT] to EOT and/or payment of such Cost.

The Contractor shall undertake checks for objects of archaeological or cultural heritage interest during the works (and particularly during excavation works) and implement the Chance Finds Procedure included in the specification.

The construction contractor must avoid construction-related impacts to known cultural resources such as graveyard, churches, etc.

Sub-Clause 4.24
Code of Conduct

The Contractor shall have a Code of Conduct for the Contractor's Personnel.

The Contractor shall take all necessary measures to ensure that each Contractor's Personnel is made aware of the Code of Conduct including specific behaviors that are prohibited, and understands the consequences of engaging in such prohibited behaviors.

These measures include providing instructions and documentation that can be understood by the Contractor's Personnel and seeking to obtain that person's signature acknowledging receipt of such instructions and/or documentation, as appropriate.

The Contractor shall also ensure that the Code of Conduct is visibly displayed in multiple locations on the Site and any other place where the Works will be carried out, as well as in areas outside the Site accessible to the local community and project affected people. The posted Code of Conduct shall be provided in languages comprehensible to Contractor's Personnel, Employer's Personnel and the local community.

The Contractor's Management Strategy and Implementation Plans shall include appropriate processes for the Contractor to verify compliance with these obligations.

Sub-Clause 4.25
Suppliers (other than Sub
contractors) of
construction materials

The Contractor shall have a Code of Conduct for the Contractor's Personnel.

The Contractor shall take all necessary measures to ensure that each Contractor's Personnel is made aware of the Code of Conduct including specific behaviors that are prohibited, and understands the consequences of engaging in such prohibited behaviors.

These measures include providing instructions and documentation that can be understood by the Contractor's Personnel and seeking to obtain that person's signature acknowledging receipt of such instructions and/or documentation, as appropriate.

The Contractor shall also ensure that the Code of Conduct is visibly displayed in multiple locations on the Site and any other place where the Works will be carried out, as well as in areas outside the Site accessible to the local community and project affected people. The posted Code of Conduct shall be provided in languages comprehensible to Contractor's Personnel, Employer's Personnel and the local community.

The Contractor's Management Strategy and Implementation Plans shall include appropriate processes for the Contractor to verify compliance with these obligations.

Suppliers (other than Sub-contractors) of construction materials shall be subject to inspections by the Contractor prior to first use and at least every 6 months thereafter. The inspections shall check for forced labor, child labor and serious safety issues, and shall be provided to the Supervising Engineer as an annex to the Contractor's monthly report for the month in which the inspection was undertaken. The Contractor shall provide a list of all suppliers of construction materials during each month.

As set out in Section IV of the Standard Procurement Documents, Bidders are required to confirm they will apply the provided Code of Conduct. For SVTP-II the Code of Conduct shall be amended to include the requirements that:

- (i) The contractor/developer shall have and enforce an alcohol and drug-free policy (in the work place and while driving vehicles and machinery).

- (ii) Workers and visitors should not make any disrespectful gestures or use any swearing words to anyone either in the community, or along the access road.
- (iii) No unlicensed person shall drive work vehicles. Drivers shall be tested prior to starting work on the project, and have a valid license. International workers shall be responsible to provide a translation into English of their driver license.
- (iv) Drivers shall follow designated routes that have been approved by the Construction Company and Supervising Engineer
- (v) Workers and visitors shall drive slowly when passing through villages that are very close to the access roadside or pedestrians walking along the side of the road.
- (vi) Drivers and passengers shall watch out for wild or domestic animals or people crossing the access road. In case of collision with any domestic animal, full compensation shall be paid in consultation with the village headman.
- (vii) It is forbidden for any construction worker to purchase bush meat, any animal parts, any living animals or any mineral (gold, stones). It is forbidden to fish, hunt or engage in trading activities in or outside the Project area.
- (viii) Wildlife capture, plant collection, or free-roaming pets (which could conflict with wildlife) is forbidden.

In addition, prior to the start of works that affects any village, PMT will introduce as a minimum the key staff member of the Contractor, including the Project Manager and Site Engineer, to the village headman to show his respect and present works and activities and to describe the safety risk.

Induction training about sexual harassment shall be mandatory for all workers. During these induction trainings, the local law enforcement will be present to explain the national laws that make sexual harassment and gender-based violence a punishable offence.

The project's grievance redress mechanism shall be actively supported by the Contractor, to the satisfaction of

the Supervising Engineer and PMT. The GRM allows the community to communicate with the construction contractor and project about their concerns and grievances, including regarding the behavior of workers. Contractors will provide a mailbox at the their camp sites to collect community grievances and provide a billboard close to the mail box so that communities can read answers from the contractor. The contractor shall attend meetings with village headmen and village community representatives as required, anticipated to be at the minimum once per month. The senior members of the Contractor team (including the Project Manager) will be expected to attend, as required.

The following is added at the beginning of the second paragraph.

Sub-Clause 5.1
Subcontractors

“The Contractor shall require that its Subcontractors execute the Works in accordance with the Contract, including complying with the relevant ES requirements and the SEA/SH Prevention and Response Obligations.

All subcontracts relating to the Works shall include a provision stipulating that the Subcontractor accepts that the Bank may disqualify the Subcontractor from being awarded a Bank financed contract for a period of two years if the Subcontractor is determined to have failed to comply with its SEA/SH Prevention and Response Obligations.”

The following is added after the first sentence of the fourth paragraph: “The Contractor’s submission to the Engineer shall also include such a Subcontractor’s declaration in accordance with the Particular Conditions- Part E- Sexual Exploitation and Abuse (SEA) and/or Sexual Harassment Performance Declaration for Subcontractors.”

The following is added at the end of the last paragraph of Sub-Clause 5.1:

“All subcontracts relating to the Works shall include provisions which entitle the Employer to require the subcontract to be assigned to the Employer under subparagraph (a) of Sub-Clause 15.2.3 [*After Termination*].

Where practicable, the Contractor shall give fair and reasonable opportunity for contractors from the Country to be appointed as Subcontractors.”

Sub-Clause 5.2.2
Objection to Nomination

In sub-paragraph (a), on the first line before “Subcontractor”, “nominated” is added.

In sub-paragraph (c):

“and” is deleted from the end of (i);

“.” at the end of (ii) is replaced with: “, and”.

The following is then added as (iii):

“(iii) be paid only if and when the Contractor has received from the Employer payments for sums due under the Subcontract referred to under Sub-Clause 5.2.3 [*Payment to nominated Subcontractors*].”

Sub-Clause 6.1
Engagement of Staff and Labour

The following paragraph is added at the end of the Sub-Clause:

The Contractor shall, to the extent practicable and reasonable, employ staff and labour with appropriate qualifications and experience from sources within the project locality and Country.

Considering the high local impact of the Project in terms of land and disruption of existing lifestyles, and further to the requirement of GCC 6.1 the Contractor will be expected to preferentially recruit workers from the Lower Shire Valley, then from Malawi and then from other countries.

The Contractor shall propose and agree the mechanisms by which it will advertise positions for Lower Shire Valley workers with the Engineer, within three months of contract effectiveness.

There shall be no day employment of workers.

Sub-Clause 6.2
Rates of Wages and Conditions of Labour

The following paragraph is added at the end of the Sub-Clause:

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

The contractor shall pay its employees not less than minimum wages stipulated under the Laws of Malawi for each labour category

Sub-Clause 6.5 Working Hours

The following is inserted at the end of the Sub-Clause:

The Contractor shall provide the Contractor's Personnel annual holiday, sick, maternity and paternity leave, as required by applicable Labour Laws or as stated in the Specification."

Normal working hours shall be eight hours per day per employee, and extended working time shall attract overtime changes at rates not lower than those stipulated in the Labour Laws.

Sub-Clause 6.7 Health and Safety of Personnel

In the second paragraph, "The Contractor" is replaced with:

"Except as otherwise stated in the Specification, the Contractor"

In addition to the requirements of Sub-Clause 4.8 [Health and Safety Obligations], the Contractor shall at all times take all necessary precautions to maintain the health and safety of the Contractor's Personnel. In collaboration with local health authorities, the Contractor shall ensure that: (a) medical staff, first aid facilities, sick bay, ambulance services and any other medical services stated in the Specification are available at all times at the Site and at any accommodation for Contractor's and Employer's Personnel; and (b) suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics. The Contractor shall appoint a health and safety officer at the Site, responsible for maintaining health, safety and protection against accidents. This officer shall: (i) be qualified, experienced and competent for this responsibility; and (ii) have the authority to issue directives for the purpose of maintaining the health and safety of all personnel authorised to enter and/or work on the Site and to take protective measures to prevent accidents. Throughout the execution of the Works, the Contractor shall provide whatever is required by this person to exercise this responsibility and authority.

Sub-Clause 6.9 Contractor's Personnel

The Sub-Clause is replaced with:

"The Contractor's Personnel (including Key Personnel, if any) shall be appropriately qualified, skilled, experienced and competent in their respective trades or occupations.

The Engineer may require the Contractor to remove (or cause to be removed) any person employed on the Site or Works, including the Contractor's Representative and Key Personnel (if any), who:

- (a) persists in any misconduct or lack of care;
- (b) carries out duties incompetently or negligently;
- (c) fails to comply with any provision of the Contract;
- (d) persists in any conduct which is prejudicial to safety, health, or the protection of the environment;
- (e) based on reasonable evidence, is determined to have engaged in Fraud and Corruption during the execution of the Works;
- (f) has been recruited from the Employer's Personnel in breach of Sub-Clause 6.3 [Recruitment of Persons];
- (g) undertakes behaviour which breaches the Code of Conduct for Contractor's Personnel (ES).

If appropriate, the Contractor shall then promptly appoint (or cause to be appointed) a suitable replacement with equivalent skills and experience. In the case of replacement of the Contractor's Representative, Sub-Clause 4.3 [*Contractor's Representative*] shall apply. In the case of replacement of Key Personnel (if any), Sub-Clause 6.12 [*Key Personnel*] shall apply.

Subject to the requirements in Sub-Clause 4.3 [*Contractor's Representative*] and 6.12 [*Key Personnel*], and notwithstanding any requirement from the Engineer to remove or cause to remove any person, the Contractor shall take immediate action as appropriate in response to any violation of (a) through (g) above. Such immediate action shall include removing (or causing to be removed) from the Site or other places where the Works are being carried out, any Contractor's Personnel who engages in (a), (b), (c), (d), (e) or (g) above or has been recruited as stated in (f) above."

Sub-Clause 6.10
Contractor's Records

The Contractor's Personnel (including Key Personnel, if any) shall be appropriately qualified, skilled, experienced and competent in their respective trades or occupations.

The Engineer may require the Contractor to remove (or cause to be removed) any person employed on the Site or Works, including the Contractor's Representative and Key Personnel (if any), who:

- (h) persists in any misconduct or lack of care;
- (i) carries out duties incompetently or negligently;
- (j) fails to comply with any provision of the Contract;
- (k) persists in any conduct which is prejudicial to safety, health, or the protection of the environment;
- (l) based on reasonable evidence, is determined to have engaged in Fraud and Corruption during the execution of the Works;
- (m) has been recruited from the Employer's Personnel in breach of Sub-Clause 6.3 [Recruitment of Persons];
- (n) undertakes behaviour which breaches the Code of Conduct for Contractor's Personnel (ES).

If appropriate, the Contractor shall then promptly appoint (or cause to be appointed) a suitable replacement with equivalent skills and experience. In the case of replacement of the Contractor's Representative, Sub-Clause 4.3 [*Contractor's Representative*] shall apply. In the case of replacement of Key Personnel (if any), Sub-Clause 6.12 [*Key Personnel*] shall apply.

Subject to the requirements in Sub-Clause 4.3 [*Contractor's Representative*] and 6.12 [*Key Personnel*], and notwithstanding any requirement from the Engineer to remove or cause to remove any person, the Contractor shall take immediate action as appropriate in response to any violation of (a) through (g) above. Such immediate action shall include removing (or causing to be removed) from the Site or other places where the Works are being carried out, any Contractor's Personnel who engages in (a), (b), (c), (d), (e) or (g) above or has been recruited as stated in (f) above."

The Contractor shall report the numbers of staff, their gender, if they have a disability, and the location from where they are from each month in their progress report.

Unless otherwise proposed by the Contractor and agreed by the Engineer, in each progress report under Sub-Clause 4.20 [Progress Reports], the Contractor shall include records of: (a) occupations and actual working hours of each class of Contractor's Personnel; (b) the type and actual working hours of each of the Contractor's Equipment; (c) the types of Temporary Works used; (d) the types of Plant installed in the Permanent Works; and (e) the quantities and types of Materials used for each work activity shown in the Programme, at each work location and for each day of work

Sub-Clause 6.12**Key Personnel**

The following is inserted at the end of the last paragraph:

“If any of the Key Personnel are not fluent in this language, the Contractor shall make competent interpreters available during all working hours in a number deemed sufficient by the Engineer.”

The following Sub-Clauses 6.13 to 6.28 are added after sub-clause 6.12

Sub-Clause 6.13**Foreign Personnel**

The Contractor may bring in to the Country any foreign personnel who are necessary for the execution of the Works to the extent allowed by the applicable Laws. The Contractor shall ensure that these personnel are provided with the required residence visas and work permits. The Employer will, if requested by the Contractor, use its best endeavours in a timely and expeditious manner to assist the Contractor in obtaining any local, state, national, or government permission required for bringing in the Contractor’s personnel.

The Contractor shall be responsible for the return of these personnel to the place where they were recruited or to their domicile. In the event of the death in the Country of any of these personnel or members of their families, the Contractor shall similarly be responsible for making the appropriate arrangements for their return or burial.

Sub-Clause 6.14**Supply of Foodstuffs**

The Contractor shall arrange for the provision of a sufficient supply of suitable food as may be stated in the Specification at reasonable prices for the Contractor’s Personnel for the purposes of or in connection with the Contract.

Sub-Clause 6.15**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.

Sub-Clause 6.16**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 the danger to their health. The Contractor shall comply with all the regulations of the local health authorities, including use of appropriate insecticide.

Sub-Clause 6.17 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 thereto by Contractor's Personnel.
Sub-Clause 6.18 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.
Sub-Clause 6.19 Festivals and Religious Customs	The Contractor shall respect the Country's recognized festivals, days of rest and religious or other customs.
Sub-Clause 6.20 Funeral Arrangements	The Contractor shall be responsible, to the extent required by local regulations, for making any funeral arrangements for any of its local employees who may die while engaged upon the Works.
Sub-Clause 6.21 Forced Labour	<p>The Contractor, including its Subcontractors, shall not employ or engage forced labour. Forced labour consists of any work or service, not voluntarily performed, that is exacted from an individual under threat of force or penalty, and includes any kind of involuntary or compulsory labour, such as indentured labour, bonded labour or similar labour-contracting arrangements.</p> <p>No persons shall be employed or engaged who have been subject to trafficking. Trafficking in persons is defined as the recruitment, transportation, transfer, harbouring or receipt of persons by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power, or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purposes of exploitation.</p>
Sub-Clause 6.22 Child Labour	<p>The Contractor, including its Subcontractors, shall not employ or engage a child under the age of 18 unless the national law specifies a higher age (the minimum age).</p> <p>The Contractor, including its Subcontractors, shall not employ or engage a child between the minimum age and the age of 18 in a manner that is likely to be hazardous, or to interfere with, the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development.</p>

The Contractor including its Subcontractors, shall only employ or engage children between the minimum age and the age of 18 after an appropriate risk assessment has been conducted by the Contractor with the Engineer's consent. The Contractor shall be subject to regular monitoring by the Engineer that includes monitoring of health, working conditions and hours of work.

Work considered hazardous for children is work that, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety, or morals of children. Such work activities prohibited for children include work:

- (a) with exposure to physical, psychological or sexual abuse;
- (b) underground, underwater, working at heights or in confined spaces;
- (c) with dangerous machinery, equipment or tools, or involving handling or transport of heavy loads;
- (d) in unhealthy environments exposing children to hazardous substances, agents, or processes, or to temperatures, noise or vibration damaging to health; or
- (e) under difficult conditions such as work for long hours, during the night or in confinement on the premises of the employer.

Sub-Clause 6.23
Employment Records of Workers

The Contractor shall keep complete and accurate records of the employment of labour at the Site. The records shall include the names, ages, genders, hours worked and wages paid to all workers. These records shall be summarised on a monthly basis and submitted to the Engineer. These records shall be included in the details to be submitted by the Contractor under Sub-Clause 6.10 [*Contractor's Records*].

Sub-Clause 6.24
Workers' Organisations

In countries where the relevant labour laws recognise workers' rights to form and to join workers' organisations of their choosing and to bargain collectively without interference, the Contractor shall comply with such laws. In such circumstances, the role of legally established workers' organizations and legitimate workers' representatives will be respected, and they will be provided with information needed for meaningful negotiation in a timely manner. Where the relevant labour laws substantially restrict workers' organisations, the Contractor shall enable alternative means for the Contractor's Personnel to express

their grievances and protect their rights regarding working conditions and terms of employment. The Contractor shall not seek to influence or control these alternative means. The Contractor shall not discriminate or retaliate against the Contractor's Personnel who participate, or seek to participate, in such organisations and collective bargaining or alternative mechanisms. Workers' organisations are expected to fairly represent the workers in the workforce.

Sub-Clause 6.25
Non-Discrimination and
Equal Opportunity

The Contractor shall not make decisions relating to the employment or treatment of Contractor's Personnel on the basis of personal characteristics unrelated to inherent job requirements. The Contractor shall base the employment of Contractor's Personnel on the principle of equal opportunity and fair treatment, and shall not discriminate with respect to any aspects of the employment relationship, including recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, job assignment, promotion, termination of employment or retirement, and disciplinary practices.

In achieving the Contractor's equal opportunity policy, the Contractor shall target equity in the number of male and female workers employed.

Special measures of protection or assistance to remedy past discrimination or selection for a particular job based on the inherent requirements of the job shall not be deemed discrimination. The Contractor shall provide protection and assistance as necessary to ensure nondiscrimination and equal opportunity, including for specific groups such as women, people with disabilities, migrant workers and children (of working age in accordance with Sub-Clause 6.22).

Sub-Clause 6.26
Contractor's Personnel
Grievance Mechanism

The Contractor shall have a grievance mechanism for Contractor's Personnel, and where relevant the workers' organizations stated in Sub-Clause 6.24, to raise workplace concerns (other than those relating to SEA and/or SH, which shall be addressed under Sub-Clause 6.27 below). The grievance mechanism shall be proportionate to the nature, scale, risks and impacts of the Contract. The mechanism shall address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned in a language they understand, without any

retribution, and shall operate in an independent and objective manner.

The Contractor's Personnel shall be informed of the grievance mechanism at the time of engagement for the Contract, and the measures put in place to protect them against any reprisal for its use. Measures will be put in place to make the grievance mechanism easily accessible to all Contractor's Personnel.

The grievance mechanism shall not impede access to other judicial or administrative remedies that might be available, or substitute for grievance mechanisms provided through collective agreements.

The grievance mechanism may utilize existing grievance mechanisms, providing that they are properly designed and implemented, address concerns promptly, and are readily accessible to such project workers. Existing grievance mechanisms may be supplemented as needed with Contract-specific arrangements.

Sub-Clause 6.27

Contractor's SEA/SH Response Mechanism; Receipt of SEA/SH allegations; and Contractor's and non-compliance

6.27.1 The Contractor's SEA/SH Response Mechanism

The Contractor shall put in place an effective mechanism for receiving and promptly addressing allegations of SEA and/or SH, HIV / AIDs, Covid-19 and Gender Based Violence (GBV) from the Contractor's or Employer's Personnel or any other person including third parties ("SEA/SH Response Mechanism").

The Contractor's Personnel shall be informed of the SEA/SH Response Mechanism at the time of engagement for the Contract and informed of the measures put in place to protect them against any reprisal for its use. For all other persons (including the Employer's Personnel and affected communities), information about this SEA/SH Response Mechanism, including how to submit an allegation or concern and also measures protecting against reprisal, shall be displayed, in languages comprehensible to the Contractor's Personnel, Employer's Personnel, and the affected communities, in locations easily accessible to them.

The SEA/SH Response Mechanism shall permit allegations or concerns to be submitted in writing, in person or by phone, with appropriate provision for confidential treatment, and shall permit the submission of anonymous allegations. The Contractor shall have in place a dedicated

person with appropriate skills, experience and training to receive and review such allegations or concerns.

As part of the SEA/SH Response Mechanism, the Contractor shall maintain and implement ethical and safe processes for investigating and addressing allegations of SEA and/or SH. These measures should identify appropriate responses to SEA and/or SH allegations, including the actions set forth in Sub-Clause 6.9, and other appropriate disciplinary measures in the case of the Contractor's Personnel.

6.27.2 Receipt of SEA/SH allegations

Any allegation of SEA and/or SH received by the Contractor (including through its Subcontractor/s), the Employer or the Engineer shall be documented and promptly submitted to the other two parties. While maintaining confidentiality of the person who experienced the alleged incident, as appropriate, the documentation and submission should include the type of alleged incident (sexual exploitation, sexual abuse or sexual harassment), gender and age of the person who experienced the alleged incident.

Upon receipt of any SEA and/or SH allegation as described above, the Contractor shall immediately apply its the SEA/SH Response Mechanism, as described in Sub-Clause 6.27.1, to review and address the allegation or concern.

The Employer shall promptly refer the allegation to the DAAB pursuant to Sub-Clause 21.9 [*“SEA/SH Referral”*].

6.27.3 Contractor's non-compliance with SEA/SH contractual obligations

If the Engineer identifies that the Contractor, including its Subcontractor/s, has not complied with the SEA/SH Prevention and Response Obligations under the Contract, the Engineer shall give a Notice to Correct to the Contractor in accordance with Sub-Clause 15.1, copied to the Employer and the DAAB. If the Contractor fails to comply with the Notice to Correct, the Engineer shall immediately notify the Employer and the Contractor. Upon receipt of such a notification, the Employer shall refer the non-compliance to the DAAB for its review and decision pursuant to Sub-Clause 21.9 [*“SEA/SH Referral”*].

If a DAAB report, prepared in accordance with Rule 3.10 of the DAAB Procedural Rules, identifies potential non-compliance of the Contractor, including its Subcontractor/s,

with the SEA/SH Prevention and Response Obligations, the Engineer shall review the potential non-compliance and determine whether a Notice to Correct shall be issued to the Contractor. If the Engineer determines that a Notice to Correct shall not be given to the Contractor, the Engineer shall inform the Employer copying the DAAB, providing the basis for its determination. If the Engineer, however, determines that a Notice to Correct shall be given to the Contractor, the Engineer shall give a Notice to Correct to the Contractor in accordance with Sub-Clause 15.1, copied to the Employer and the DAAB. If the Contractor fails to comply with the Notice to Correct, the Engineer shall immediately notify the Employer and the Contractor. Upon receipt of such a notification, the Employer shall refer the non-compliance to the DAAB for its review and decision pursuant to Sub-Clause 21.9 [*“SEA/SH Referral”*].

Sub-Clause 6.28

Training of Contractor’s Personnel

The Contractor shall provide appropriate training to relevant Contractor’s Personnel on ES aspects of the Contract, including appropriate sensitization on prohibition of SEA and SH, and health and safety training.

As stated in the Specification or as instructed by the Engineer, the Contractor shall also allow appropriate opportunities for the relevant Contractor’s Personnel to be trained on ES aspects of the Contract by the Employer’s Personnel.

The Contractor shall provide training on SEA and SH, including its prevention, to any of its personnel who has a role to supervise other Contractor’s Personnel.

Sub-Clause 7.7

Ownership of Plant and Materials

The following is added before the first paragraph:

“Except as otherwise provided in the Contract,”

Sub-Clause 8.1

Commencement of Work

The Sub- Clause is replaced in its entirety with the following:

“The Engineer shall give a Notice to the Contractor stating the Commencement Date, not less than 14 days before the Commencement Date.

The Notice shall be issued promptly after the Engineer determines the fulfilment of the following conditions:

- (a) signature of the Contract Agreement by both Parties, and if required, approval of the Contract by relevant authorities of the Country;
- (b) delivery to the Contractor of reasonable evidence of the Employer's financial arrangements (under Sub-Clause 2.4 [Employer's Financial Arrangements]);
- (c) except if otherwise specified in the Contract Data, effective access to and possession of the Site given to the Contractor together with such permission(s) under (a) of Sub-Clause 1.13 [Compliance with Laws] as required for the commencement of the Works;
- (d) receipt by the Contractor of the Advance Payment under Sub-Clause 14.2 [Advance Payment] provided that the corresponding bank guarantee has been delivered by the Contractor;
- (e) constitution of the DAAB in accordance with Sub-Clause 21.1 and Sub-Clause 21.2 as applicable.

Subject to Sub-Clause 4.1 on the Management Strategies and Implementation Plans and the C-ESMP, Sub-Clause 4.8 on the health and safety manual and Sub-Clause 4.21 on the security management plan, the Contractor, shall commence the execution of the Works as soon as is reasonably practicable after the Commencement Date, and shall then proceed with the Works with due expedition and without delay.”

Sub-Clause 11.7
Right of Access after Taking
Over

In the second paragraph, “Whenever the Contractor intends to access any part of the Works during the relevant DNP:” is replaced with:

“Whenever, until the date 28 days after issue of the Performance Certificate, the Contractor intends to access any part of the Works:”

Sub-Clause 13.3.1
Variation by Instruction

Subparagraph 13.3.1 (a) is replaced with: “a description of the varied work performed or to be performed, including details of the resources and methods adopted or to be adopted by the Contractor, and sufficient ES information to enable an evaluation of ES risks and impacts;”

Sub-Clause 13.4

The following is inserted as the penultimate paragraph:

Provisional Sums

“The Provisional Sum shall be used to cover the Employer's share of the DAAB members’ fees and expenses, in accordance with Clause 21. No prior instruction of the Engineer shall be required with respect to the work of the DAAB. The Contractor shall submit the DAAB members’ invoices and satisfactory evidence of having paid 100% of such invoices as part of the substantiation of those Statements submitted under Sub-Clause 14.3.

Sub-Clause 13.6**Adjustments for Changes in Laws**

The following paragraph is added at the end of the Sub-Clause:

“Notwithstanding the foregoing, the Contractor shall not be entitled to an extension of time if the relevant delay has already been taken into account in the determination of a previous extension of time and such Cost shall not be separately paid if the same shall already have been taken into account in the indexing of any inputs to the Table of Adjustment Data in accordance with the provisions of Sub-Clause 13.7 [Adjustments for Changes in Cost].”

Sub-Clause 14.1**The Contract Price**

The following is added at the end of the Sub-Clause:

“Notwithstanding the provisions of subparagraph (b), Contractor's Equipment, including essential spare parts therefore, imported by the Contractor for the sole purpose of executing the Contract shall be temporarily exempt from the payment of import duties and taxes upon initial importation, provided the Contractor shall post with the customs authorities at the port of entry an approved export bond or bank guarantee, valid until the Time for Completion plus six months, in an amount equal to the full import duties and taxes which would be payable on the assessed imported value of such Contractor's Equipment and spare parts, and callable in the event the Contractor's Equipment is not exported from the Country on completion of the Contract. A copy of the bond or bank guarantee endorsed by the customs authorities shall be provided by the Contractor to the Employer upon the importation of individual items of Contractor's Equipment and spare parts. Upon export of individual items of Contractor's Equipment or spare parts, or upon the completion of the Contract, the Contractor shall prepare, for approval by the customs authorities, an assessment of the residual value of the Contractor's Equipment and spare part to be exported, based on the depreciation scale(s) and other criteria used by the customs authorities for such purposes under the provisions of the applicable Laws. Import duties and taxes shall be due and

payable to the customs authorities by the Contractor on (a) the difference between the initial imported value and the residual value of the Contractor's Equipment and spare parts to exported; and (b) on the initial imported value of the Contractor's Equipment and spare parts remaining in the Country after completion of the Contract. Upon payment of such dues within 28 days of being invoiced, the bond or bank guarantee shall be reduced or released accordingly; otherwise the security shall be called in the full amount remaining.”

Sub-Clause 14.2.1**Advance Payment
Guarantee**

The first paragraph is replaced with:

“The Contractor shall obtain (at the Contractor’s cost) an Advance Payment Guarantee in amounts and currencies equal to the advance payment, and shall submit it to the Employer with a copy to the Engineer. This guarantee shall be issued by reputable bank or financial institution selected by the Contractor and shall be based on the sample form annexed to the Particular Conditions or in another form agreed by the Employer (but such agreement shall not relieve the Contractor from any obligation under this Sub-Clause).”The Contractor shall ensure that the Advance payment Guarantee is valid and enforceable in the Employers Country until the Advance Payment has been repaid, but its amount may be progressively reduced by the amount repaid by the Contractor as stated in IPC. If the Advance Payment Guarantee is issued by a financial institution located outside the Employer’s Country, the issuing financial institution shall have a correspondent financial institution located in the Employer’s Country to make it enforceable.

Sub-Clause 14.3**Application for Interim
Payment**

The following is inserted at the end of (vi) after: *[Agreement or Determination]*: “any reimbursement due to the Contractor under the Dispute Avoidance/ Adjudication Agreement. (Appendix General Conditions of Dispute Avoidance/ Adjudication Agreement).”

Sub-Clause 14.6.2**Withholding (amounts in) an
IPC**

“and/or” from subparagraph (b) is deleted.

The following is then added as subparagraph (c) and subparagraph (c) of the Sub-Clause is renumbered as (d):

“(c) if the Contractor was, or is, failing to perform any ES obligations or work under the Contract, the value of this work or obligation, as determined by the Engineer, may be withheld until the work or obligation has been performed, and/or the cost of

rectification or replacement, as determined by the Engineer, may be withheld until rectification or replacement has been completed. Failure to perform includes, but is not limited to the following:

- (i) failure to comply with any ES obligations or work described in the Works' Requirements which may include: working outside site boundaries, excessive dust, damage to offsite vegetation, pollution of water courses from oils or sedimentation, contamination of land e.g. from oils, human waste, damage to archaeology or cultural heritage features, air pollution as a result of unauthorized and/or inefficient combustion;
- (ii) failure to regularly review C-ESMP and/or update it in a timely manner to address emerging ES issues, or anticipated risks or impacts;
- (iii) failure to implement the C-ESMP e.g. failure to provide required training or sensitization;
- (iv) failing to have appropriate consents/permits prior to undertaking Works or related activities;
- (v) failure to submit ES report/s (as described in Particular Conditions - Part D), or failure to submit such reports in a timely manner;
- (vi) failure to implement remediation as instructed by the Engineer within the specified timeframe (e.g. remediation addressing non-compliance/s)."

Sub-Clause 14.7

Payment

At the end of sub-paragraph (b): "and" is replaced with "or" and the following inserted as (iii):

"(iii) at a time when the Bank's loan or credit (from which part of the payments to the Contractor is being made) is suspended, the amount shown on any statement submitted by the Contractor within 14 days after such statement is submitted, any discrepancy being rectified in the next payment to the Contractor; and"

At the end of sub-paragraph (c): "." is replaced with ";" and the following inserted:

"or, at a time when the Bank's loan or credit (from which part of the payments to the Contractor is being made) is suspended the undisputed amount shown in the Final

Statement within 56 days after the date of notification of the suspension in accordance with Sub-Clause 16.2 [Termination by Contractor].”

Sub-Clause 14.9

The following is added at the end of Sub-Clause 14.9:

Release of Retention Money

“Unless otherwise stated in the Contract, when the Taking-Over Certificate has been issued for the Works and the first half of the Retention Money has been certified for payment by the Engineer, the Contractor shall be entitled to substitute a guarantee, in the form annexed to the Particular Conditions or in another form approved by the Employer and issued by a reputable bank or financial institution selected by the Contractor, for the second half of the Retention Money. The Contractor shall ensure that the guarantee is in the amounts and currencies of the second half of the Retention Money and is valid and enforceable until the Contractor has executed and completed the Works and remedied any defects, as specified for the Performance Security and, if applicable, an ES Performance Security in Sub-Clause 4.2. On receipt by the Employer of the required guarantee, the Engineer shall certify and the Employer shall pay the second half of the Retention Money. The release of the second half of the Retention Money against a guarantee shall then be in lieu of the release after the latest of the expiry dates of the Defects Notification Periods. The Employer shall return the guarantee to the Contractor within 21 days after receiving a copy of the Performance Certificate.

If the Performance Security and, if applicable, an ES Performance Security required under Sub-Clause 4.2 is in the form of a demand guarantee, and the amount guaranteed under them when the Taking-Over Certificate is issued is more than half of the Retention Money, then the Retention Money guarantee will not be required. If the amount guaranteed under the Performance Security and, if applicable, an ES Performance Security, when the Taking-Over Certificate is issued is less than half of the Retention Money, the Retention Money guarantee will only be required for the difference between half of the Retention Money and the amount guaranteed under the Performance Security and, if applicable, an ES Performance Security.”

Sub-Clause 14.12**Discharge**

On the seventh line of the first paragraph, “Sub-Clause 21.6 [Arbitration]” is replaced with: “Clause 21 [*Disputes and Arbitration*]”.

Sub-Clause 14.15 Currencies of Payment	Throughout Sub-Clause 14.15, “Contract Data” is replaced with: “Schedule of Payment Currencies”.
Sub-Clause 15.1 Notice to Correct	<p>“and” is deleted from (b) and “.” is replaced by: “; and” in (c).</p> <p>The following is then added as (d) “(d) specify the time within which the Contractor shall respond to the Notice to Correct.”</p> <p>In the third para., “shall immediately respond” is replaced with: “shall respond within the time specified in (d)”. Further, in the third para., “to comply with the time specified in the Notice to Correct.” is replaced with: “to comply with the time specified in (c).”</p>
Sub-Clause 15.2.1 Notice	Sub-paragraph (h) is replaced with: “based on reasonable evidence, has engaged in Fraud and Corruption as defined in paragraph 1.16 of the Particular Conditions - Part C- Fraud and Corruption, in competing for or in executing the Contract.”
Sub-Clause 15.8 Fraud and Corruption	<p>The following new Sub-Clause is added:</p> <p>“15.8.1 The Bank requires compliance with the Bank’s Anti-Corruption Guidelines and its prevailing sanctions policies and procedures as set forth in the Bank’s Sanctions Framework, as set forth in Particular Conditions - Part C- Fraud and Corruption.</p> <p>15.8.2 The Employer requires the Contractor to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the bidding process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee.”</p>
Sub-Clause 16.1 Suspension by Contractor	<p>The following paragraph is inserted after the first paragraph:</p> <p>“Notwithstanding the above, if the Bank has suspended disbursements under the loan or credit from which payments to the Contractor are being made, in whole or in part, for the execution of the Works, and no alternative funds are available as provided for in Sub-Clause 2.4 [Employer’s Financial Arrangements], the Contractor may by notice suspend work or reduce the rate of work at any</p>

time, but not less than 7 days after the Borrower having received the suspension notification from the Bank.”

Sub-Clause 16.2.1

Sub-paragraph (j) is deleted in its entirety.

Notice

At the end of sub-paragraph (i): “; or” is replaced with: “.”
sub-paragraph (f) is replaced with:

“(f) the Contractor does not receive a Notice of the Commencement Date under Sub-Clause 8.1 [*Commencement of Works*] within 180 days after receiving the Letter of Acceptance, for reasons not attributable to the Contractor.”

Sub-Clause 16.2.2

The following is added at the end of Sub-Clause 16.2.2:

Termination

“In the event the Bank suspends the loan or credit from which part or whole of the payments to the Contractor are being made, if the Contractor has not received the sums due to him upon expiration of the 14 days referred to in Sub-Clause 14.7 [Payment] for payments under Interim Payment Certificates, the Contractor may, without prejudice to the Contractor's entitlement to financing charges under Sub-Clause 14.8 [Delayed Payment], take one of the following actions, namely (i) suspend work or reduce the rate of work under Sub-Clause 16.1 above, or (ii) terminate the Contract by giving notice to the Employer, with a copy to the Engineer, such termination to take effect 14 days after the giving of the notice.”

Sub-Clause 17.3

On the first line of the second paragraph, replace “notice” is replaced with “a Notice”.

**Intellectual and Industrial
Property Rights**

Sub-Clause 17.7

The following Sub-Clause is added as 17.7:

**Use of Employer's
Accommodation/Facilities**

“The Contractor shall take full responsibility for the care of the Employer-provided accommodation and facilities, if any, as detailed in the Specification, from the respective dates of hand-over to the Contractor until cessation of occupation (where hand-over or cessation of occupation may take place after the date stated in the Taking-Over Certificate for the Works)

If any loss or damage happens to any of the above items while the Contractor is responsible for their care arising from any cause whatsoever other than those for which the Employer is liable, the Contractor shall, at its own cost,

rectify the loss or damage to the satisfaction of the Engineer.”

Sub-Clause 18.1

Exceptional Events

Sub-paragraph (c) is substituted with:

“(c) riot, commotion, disorder or sabotage by persons other than the Contractor’s Personnel and other employees of the Contractor and Subcontractors;”

Sub-Clause 18.4

Consequences of an Exceptional Event

The following is added at the end of sub-paragraph (b) after deleting the “.”:

“, including the costs of rectifying or replacing the Works and/or Goods damaged or destroyed by Exceptional Events, to the extent they are not indemnified through the insurance policy referred to in Sub-Clause 19.2 [Insurance to be provided by the Contractor].”

Sub-Clause 18.5

Optional Termination

In sub-paragraph (c), “and necessarily” is inserted after ““was reasonably”.

Sub-Clause 19.1

General Requirements

The following paragraphs are added after the first:

“Wherever the Employer is the insuring Party, each insurance shall be effected with insurers and in terms acceptable to the Contractor. These terms shall be consistent with terms (if any) agreed by both Parties before the date of the Letter of Acceptance.

This agreement of terms shall take precedence over the provisions of this Clause.”

Sub-Clause 19.2

insurance to be provided by the Contractor

The following is inserted as the first sentence in Sub-Clause 19.2:

“The Contractor shall be entitled to place all insurances relating to the Contract (including, but not limited to the insurance referred to Clause 19) with insurers from any eligible source country.”

Sub-Clause 19.2.1

The Works

On the last line of the second paragraph, “Clause 12 [*Tests after completion*]” is deleted.

Sub-Clause 19.2.5

Injury to employees

The second paragraph is replaced with:

“The Employer and the Engineer shall also be indemnified under the policy of insurance, against liability for claims, damages, losses and expenses (including legal fees and expenses) arising from injury, sickness, disease or death of any person employed by the Contractor or any other of the

Contractor's Personnel, except that this insurance may exclude losses and claims to the extent that they arise from any act or neglect of the Employer or of the Employer's Personnel."

Sub-Clause 20.1

In a): "any additional payment" is replaced with "payment".

Claims

Sub-Clause 20.2

The first paragraph is replaced with:

Claims for Payment and/or EOT

"If either Party considers that it is entitled to claim under 20.1 (a) or (b), the following claim procedure shall apply:"

Sub-Clause 21.1

The following is added at the end of the first paragraph:

Constitution of the DAAB

"The DAAB shall also review and decide on any SEA/SH Referral submitted to the DAAB pursuant to Sub-Clause 6.27.2 [*Receipt of SEA/SH allegations*] and Sub-Clause 6.27.3 [*Contractor's non-compliance with SEA/SH contractual obligations*], in accordance with Sub-Clause 21.9 [*SEA/SH Referrals*].

In the second paragraph, at the end of the first sentence after deleting: ".", the following is added: ", each of whom shall meet the criteria set forth in Sub-Clause 3.3 of Appendix-General Conditions of Dispute Avoidance/ Adjudication Agreement."

After the second paragraph insert the following paragraph: "If the Contract is with a foreign Contractor, the DAAB members shall not have the same nationality as the Employer or the Contractor."

Sub-Clause 21.2

For both (a) and (b): "by the date stated in the first paragraph of Sub-Clause 21.1 [*Constitution of the DAAB*]" is replaced with: "within 42 days from the date the Contract is signed by both Parties"

Failure to Appoint DAAB Member (s)

Sub-Clause 21.6

In the first paragraph, "unless otherwise agreed by both Parties:" is deleted and replaced with: "The Parties agree:"

Arbitration

The following new Sub-Clauses 21.9 to 21.11 are added

Sub-Clause 21.9 SEA/SH Referrals

SEA/SH Referrals pursuant to Sub-Clause 6.27 shall be submitted by the Employer to the DAAB in writing, copied to the Contractor and the Engineer. For a DAAB of three persons, the SEA/SH Referrals shall be deemed to have been received by the DAAB on the date it is received by the chairperson of the DAAB.

Upon receipt of a SEA/SH Referral, the DAAB shall request the Contractor in writing (copied to the Employer and the Engineer) to submit a statement demonstrating its compliance, including the compliance of any Subcontractor identified in the SEA/SH Referral, with the SEA/SH Prevention and Response Obligations, including the actions taken in response to a SEA/SH allegation and/or any Engineer's Notice to Correct for non-compliance with the SEA/SH contractual obligations. The Contractor shall within 28 days of receipt of this request, submit in writing such statement to the DAAB copied to the Employer and the Engineer.

In reviewing the Referral, the DAAB shall focus exclusively on compliance of the Contractor, including any Subcontractor identified in the SEA/SH Referral, with the SEA/SH Prevention and Response Obligations, including the actions taken in response to the SEA/SH allegation and/or any Engineer's Notice to Correct for non-compliance with the SEA/SH obligations. The DAAB shall not assess the merits of an underlying allegation, including the factual aspects of the alleged SEA and/or SH incident.

The DAAB decision, which shall state that it is issued under this Sub-Clause 21.9, shall be provided in writing to the Parties with a copy to the Engineer within 42 days of receiving the SEA/SH Referral. The decision of the DAAB taken pursuant to this Sub-Clause 21.9 shall be binding on the Parties and any of its Subcontractor/s as applicable.

The DAAB decision arising from an allegation of SEA/SH incident shall state whether the Contractor, including any Subcontractor identified in the SEA/SH referral, was in compliance with its SEA/SH obligations at the time of occurrence of the alleged incident. The DAAB decision shall not disclose the name of the alleged survivor nor of the alleged perpetrator.

Sub-Clause 21.10

Dissatisfaction with DAAB's decision on SEA/SH Referrals

21.4.4 [Dissatisfaction with DAAB's decision]. Sub-Clause 21.5 [*Amicable Settlement*] shall not apply.

If the DAAB's decision has not become final and binding pursuant to Sub-Clause 21.4.4, the matter shall be finally settled by arbitration in accordance with Sub-Clause 21.6 [*Arbitration*].

Sub-Clause 21.11
Bank's disqualification of
the Contractor and its
Subcontractor/s

The Parties agree that the time limit set in Article 1.6 of Appendix V to the ICC Arbitration Rules shall be 10 days from the notification of the Emergency Arbitrator Order unless the President of the ICC International Court of Arbitration determines that a longer period is necessary.

The Employer shall immediately notify the Bank of the DAAB's decision on SEA/SH Referral, any notification received on the commencement of Emergency Arbitration, and the Emergency Arbitrator Order if any.

If the DAAB determines that the Contractor has failed to correct identified non-compliance with SEA/SH Prevention and Response Obligation or it was non-compliant with such obligations at the time of an alleged incident, the Bank may disqualify the Contractor, as well as any Subcontractor/s determined to be non-compliant, from being awarded a Bank-financed contract, unless the ICC Emergency Arbitrator grants an order in favor of the Contractor. The disqualification period shall be for two years unless the Contractor receives an arbitration award in its favor within the two year period. The Contractor's disqualification under this Sub-Clause is without prejudice to the Parties' rights and obligations under the Contract.

Appendix- General Conditions of Dispute Avoidance/Adjudication Agreement

Title "General Conditions of Dispute Avoidance/Adjudication Agreement" is replaced with "General Conditions of DAAB Agreement".

1. Definitions Sub-Clause 1.2: In both the first and third lines, "DAA Agreement" is replaced with "DAAB Agreement".

Sub-Clause 1.3:

In the first line, "Dispute Avoidance/Adjudication Agreement" or "DAA Agreement" means" is replaced with:

"DAAB Agreement" is as defined under the Contract and is".

In the first line of sub-paragraph (c), "DAA Agreement" is replaced with "DAAB Agreement".

In sub-paragraph (c)(ii), "chairman" is replaced with "chairperson".

Sub-Clause 1.3 “DAAB Activities” is replaced with Sub-Clause 1.4 “DAAB Activities” and the subsequent Sub-Clauses under Clause 1 “Definitions” renumbered:

Sub-Clause 1.4 “DAAB Activities”. At the end, the following is added: “This also includes handling of SEA/SH Referrals in accordance with Sub-Clause 21.9 of the Conditions of Contract.”

Sub-Clause 1.7 to 12: Replace all instances of “DAA Agreement” with “DAAB Agreement”.

In Sub-Clause 1.8 a(i):” authorised representative of the contractor or of the Employer” is replaced with: “Contractor’s Representative or authorised representative of the Employer”.

2.General Provisions

Sub-Clause 2.2 is deleted in its entirety.

3.Warranties

Sub-Clause 3.3 is deleted and replaced with the following:

“When appointing the DAAB Member, each Party relies on the DAAB Member’s representations, that he/she:

- a) has at least a bachelor’s degree in relevant disciplines such as law, engineering, construction management or contract management;
- b) has at least ten years of experience in contract administration/management and dispute resolution, out of which at least five years of experience as an arbitrator or adjudicator in construction-related disputes;
- c) has received formal training as an adjudicator from an internationally recognized organization;
- d) has experience and/or is knowledgeable in the type of work which the Contractor is to carry out under the Contract;
- e) has experience in the interpretation of construction and/or engineering contract documents;
- f) has familiarity with the forms of contract published by FIDIC since 1999, and an understanding of the dispute resolution procedures contained therein; and
- g) is fluent in the language for communications stated in the Contract Data (or the language as agreed between the Parties and the DAAB).”

7. Confidentiality

In Sub-Clause 7.3: “or” is deleted after sub-paragraph (b),

and the following added:

“or (d) is being provided to the Bank.”

9. Fees and Expenses

In Sub-Clause 9.1 (c): “business class or equivalent” is replaced with: “in less than first class”.

In Sub-Clause 9.4: “and air fares” and “other” are deleted from the first and second sentences respectively.

10. Resignation and Termination

In Sub-Clause 10.3: “the DAA Agreement” is replaced with: “a DAAB member’s DAAB Agreement”.

Annex- DAAB Procedural Rules

Rule 3.3 In 3.3 (b), “140 days” is replaced with: “90 days”.

Rule 3.7 The following is added after the sentence: “The agenda shall include review of the (i) Contractor’s compliance with the SEA/SH Prevention and Response Obligations; and (ii) Engineer’s failure to discharge its duties under the Contract in this regard, including as specified in Sub-Clause 6.27 of the Contract Conditions.”

Rule 3.10 The following is added at the end of the paragraph: “The report shall identify any issue which raises SEA and/or SH concerns, including details of any potential noncompliance of the Contractor, including its Subcontractor/s, with the SEA/SH Prevention and Response Obligations.

The DAAB shall also provide a report to the Employer on any potential failure of the Engineer to discharge its duties in regard to the SEA/SH Prevention and Response Obligations, including on identifying the Contractor’s failure to comply with the obligations, and the Notice to Correct and notification duties in accordance with Sub-Clause 6.27 of the Contract Conditions.”

Rule 4.2 On the fourth line, “chairman” is replaced with “chairperson”.

Rule 8.3 On the sixth line, “chairman” is replaced with “chairperson”.

Form of Dispute Avoidance/Adjudication Agreement

All instances of “DAA Agreement” are replaced with: “DAAB Agreement”.

In C (b): “chairman” is replaced with “chairperson”.

Particular Conditions

Part C- Bank's Policy- Corrupt and Fraudulent Practices

(Text in this Particular Conditions - Part C shall not be modified)

Guidelines for Procurement of Goods, Works, and Non-Consulting Services under IBRD Loans and IDA Credits & Grants by World Bank Borrowers, dated January 2011:

“Fraud and Corruption:

1.16 It is the Bank's policy to require that Borrowers (including beneficiaries of Bank loans), bidders, suppliers, contractors and their agents (whether declared or not), sub-contractors, sub-consultants, service providers or suppliers, and any personnel thereof, observe the highest standard of ethics during the procurement and execution of Bank-financed contracts.¹ In pursuance of this policy, the Bank:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;²
 - (ii) “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;³
 - (iii) “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;⁴
 - (iv) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;⁵

¹ In this context, any action to influence the procurement process or contract execution for undue advantage is improper.

² For the purpose of this sub-paragraph, “another party” refers to a public official acting in relation to the procurement process or contract execution. In this context, “public official” includes World Bank staff and employees of other organizations taking or reviewing procurement decisions.

³ For the purpose of this sub-paragraph, “party” refers to a public official; the terms “benefit” and “obligation” relate to the procurement process or contract execution; and the “act or omission” is intended to influence the procurement process or contract execution.

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

⁵ For the purpose of this sub-paragraph, “party” refers to a participant in the procurement process or contract execution.

- (v) "obstructive practice" is:
- (aa) deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or
 - (bb) acts intended to materially impede the exercise of the Bank's inspection and audit rights provided for under paragraph 1.16(e) below.
- (b) will reject a proposal for award if it determines that the bidder recommended for award, or any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- (c) will declare misprocurement and cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the procurement or the implementation of the contract in question, without the Borrower having taken timely and appropriate action satisfactory to the Bank to address such practices when they occur, including by failing to inform the Bank in a timely manner at the time they knew of the practices;
- (d) will sanction a firm or individual, at any time, in accordance with the prevailing Bank's sanctions procedures,⁶ including by publicly declaring such firm or individual ineligible, either indefinitely or for a stated period of time: (i) to be awarded a Bank-financed contract; and (ii) to be a nominated⁷ sub-contractor, consultant, supplier, or service provider of an otherwise eligible firm being awarded a Bank-financed contract;

⁶ A firm or individual may be declared ineligible to be awarded a Bank financed contract upon: (i) completion of the Bank's sanctions proceedings as per its sanctions procedures, including, inter alia, cross-debarment as agreed with other International Financial Institutions, including Multilateral Development Banks, and through the application the World Bank Group corporate administrative procurement sanctions procedures for fraud and corruption; and (ii) as a result of temporary suspension or early temporary suspension in connection with an ongoing sanctions proceeding. See footnote 14 and paragraph 8 of Appendix 1 of these Guidelines.

⁷ A nominated sub-contractor, consultant, manufacturer or supplier, or service provider (different names are used depending on the particular bidding document) is one which has either been: (i) included by the bidder in its pre-qualification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification requirements for the particular bid; or (ii) appointed by the Borrower.

- (e) will require that a clause be included in bidding documents and in contracts financed by a Bank loan, requiring bidders, suppliers and contractors, and their sub-contractors, agents, personnel, consultants, service providers, or suppliers, to permit the Bank to inspect all accounts, records, and other documents relating to the submission of bids and contract performance, and to have them audited by auditors appointed by the Bank.”

Particular Conditions

Part D- Environmental and Social (ES)

Metrics for Progress Reports

Metrics for regular reporting:

- a. environmental incidents or non-compliances with contract requirements, including contamination, pollution or damage to ground or water supplies;
- b. health and safety incidents, accidents, injuries that require treatment and all fatalities.

Reporting of incidents to the Engineer and Employer within 24 hours of occurrence, investigation, remedial measures instituted, follow up actions

- c. interactions with regulators: identify agency, dates, subjects, outcomes (report the negative if none), monitoring and supervision reports, Engineers and contractor's feedback;
- d. status of all permits and agreements:

The Contractor is responsible for obtaining any permits, consents or licences required under national law for the Temporary Works, including establishment of quarries, borrow pits, disposal sites, waste transfer and disposal, water abstraction and discharge. Typical consents would be for Mineral exploration, Water abstraction, Bulk fuel Storage, Workplace Registration, Mining licences and Workers' safety.

The Contractor shall prepare a schedule of the consents that they require for the Works within 3 months of commencement date and shall review and update (as necessary) this schedule every month. The schedule shall set out the timescales for applying for the consents to meet the Construction Schedules.

- i. work permits: number required, number received, actions taken for those not received;

The contractor will ensure that all its foreign employees have residence and work permits obtained from the Malawi Immigration Services before they commence work.

- ii. status of permits and consents:

- list areas/facilities with permits required (quarries, asphalt & batch plants), dates of application, dates issued (actions to follow up if not issued), dates submitted to resident engineer (or equivalent), renewal dates, workers registration certificates,

status of area (waiting for permits, working, abandoned without reclamation, decommissioning plan being implemented, etc.);

- list areas with landowner agreements required (borrow and spoil areas, camp sites), dates of agreements, dates submitted to resident engineer (or equivalent);
- identify major activities undertaken in each area in the reporting period and highlights of environmental and social protection (land clearing, boundary marking, topsoil salvage, traffic management, decommissioning planning, decommissioning implementation);
- for quarries: status of relocation and compensation (completed, or details of activities and current status in the reporting period), restoration and decommissioning plans.

e. *health and safety supervision:*

- i. safety officer: both Engineer and contractor have hired Health and Safety Specialists, number days worked, number of full inspections & partial inspections, reports to construction/project management, workers training and orientation on health and safety;
- ii. number of workers, work hours, metric of PPE use (percentage of workers with full personal protection equipment (PPE), partial, etc.), worker violations observed (by type of violation, PPE or otherwise), warnings given, repeat warnings given, follow-up actions taken (if any), non-compliances escalated in management systems;

f. *worker accommodations:*

Provision of accommodation to employees that accords with the guidance set out in IFC/EBRD Guidance Note: *Workers Accommodation: Processes and Standards* 2009.

- i. number of expats housed in accommodations, number of locals, condition of housing facilities, non-discrimination in according accommodation;
- ii. date of last inspection, and highlights of inspection including status of accommodations' compliance with national and local law and good practice, including sanitation, space, potable water supply for workers, etc.;
- iii. actions taken to recommend/require improved conditions, or to improve conditions.

g. *Health services: provider of health services, information and/or training, location of clinic, number of non-safety disease or illness treatments and diagnoses (no*

names to be provided), availability of dedicated ambulance vehicle, doctor, nurse or clinician;

h. gender (for expats and locals separately): number of female workers, percentage of workforce, gender issues raised and dealt with (cross-reference grievances or other sections as needed);

i. training

In line with with section 2.2.2 of the Works requirement, the contractor shall provide training to construction workers on Environmental, Social, Health and Safety Induction including GBV, labour management.

The content of the training, shall at minimum, be that contained in the WBG General Induction: Safety, Health and the Environment

i. number of new workers, number receiving induction training, dates of induction training;

ii. number and dates of toolbox talks, number of workers receiving Occupational Health and Safety (OHS), environmental and social training;

iii. number and dates of communicable diseases (including STDs) sensitization and/or training, no. workers receiving training (in the reporting period and in the past); same questions for gender sensitization, flag person training.

iv. number and date of SEA and SH prevention, sensitization and/or training events, including number of workers receiving training on Code of Conduct for Contractor's Personnel (in the reporting period and in the past) segregated by gender, etc.

j. environmental and social supervision:

i. environmentalist: both Engineer and contractor have hired environmentalists, days worked, areas inspected and numbers of inspections of each (road section, work camp, accommodations, quarries, borrow areas, spoil areas, swamps, forest crossings, etc.), highlights of activities/findings (including violations of environmental and/or social best practices, actions taken), reports to environmental and/or social specialist/construction/site management;

ii. Social Safeguards Specialist: both Engineer and contractor have hired Social Safeguards Specialist, days worked, number of partial and full site inspections (by area: road section, work camp, accommodations, quarries, borrow areas, spoil areas, clinic, HIV/AIDS center, community centers, etc.), highlights of activities (including

violations of environmental and/or social requirements observed, actions taken), reports to environmental and/or social specialist/construction/site management; and

iii. community liaison person(s): days worked (hours community center open), number of people met, highlights of activities (issues raised, etc.), reports to environmental and/or social specialist /construction/site management.

k. *Grievances: list new grievances (e.g. number of allegations of SEA and SH) received in the reporting period and number of unresolved past grievances by date received, complainant's age and sex, how received, to whom referred to for action, resolution and date (if completed), data resolution reported to complainant, any required follow-up (Cross-reference other sections as needed):*

i. Worker grievances;

Establishment of a Workers' Committee to address labour disputes; training on labour dispute handling for Workers' Committee; reports any impending workers' grievance within two weeks to the Engineer, district labour office and employer including remedial measures being taken, number of resolved grievances.

ii. Community grievances:

Linkages between social teams at Engineer, Contractor are established with Grievance Redress Committees set up by SVTP in the communities;

Contractor's reports to the Engineer of community grievance within 24 hours; linkages to the GRCs and SVTP GRM.

l. *Traffic, road safety and vehicles/equipment:*

i. traffic and road safety incidents and accidents involving project vehicles & equipment: provide date, location, damage, cause, follow-up;

ii. traffic and road safety incidents and accidents involving non-project vehicles or property (also reported under immediate metrics): provide date, location, damage, cause, follow-up;

iii. overall condition of vehicles/equipment (subjective judgment by environmentalist); non-routine repairs and maintenance needed to improve safety and/or environmental performance (to control smoke, etc.).

iv. number of repairs to vehicles undertaken immediately following pre-use checks by drivers

m. *Environmental mitigations and issues (what has been done):*

- i. dust: number of working bowzers, number of waterings/day, number of complaints, warnings given by environmentalist, actions taken to resolve; highlights of quarry dust control (covers, sprays, operational status); % of rock/ spoil lorries with covers, actions taken for uncovered vehicles;
- ii. erosion control: controls implemented by location, status of water crossings, environmentalist inspections and results, actions taken to resolve issues, emergency repairs needed to control erosion/sedimentation;
- iii. quarries, borrow areas, spoil areas, asphalt plants, batch plants: identify major activities undertaken in the reporting period at each, and highlights of environmental and social protection: land clearing, boundary marking, topsoil salvage, traffic management, decommissioning planning, decommissioning implementation;
- iv. blasting: number of blasts (times and locations), status of implementation of blasting plan (including notices, evacuations, etc.), incidents of off-site damage or complaints (cross-reference other sections as needed);
- v. spill clean-ups, if any: material spilled, location, amount, actions taken, material disposal (report all spills that result in water or soil contamination);
- vi. waste management: types and quantities generated and managed, including amount taken offsite (and by whom) or reused/recycled/disposed on-site; provision of mobile toilets at construction site; methodology for desludging of septic tanks; disposal of faecal matter from mobile toilets and septic tanks; permits from waste management authorities for disposal of wastes
- vii. details of tree plantings and other mitigations required undertaken in the reporting period; species planted; hectares of land planted with trees; survival rates of trees planted
- viii. details of water and swamp protection mitigations required undertaken in the reporting period.
- n. *compliance:*
 - i. compliance status for conditions of all relevant consents/permits, for the Work, including quarries, etc.): reports of monitoring and supervision by regulatory authorities; statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance;
 - ii. compliance status of C-ESMP/MSIP requirements: statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance; number of C-ESMPs updated bi-annually

- iii. compliance status of SEA and SH prevention and response action plan: statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance
 - iv. compliance status of Health and Safety Manual re: statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance
 - v. other unresolved issues from previous reporting periods related to environmental and social: continued violations, continued failure of equipment, continued lack of vehicle covers, spills not dealt with, continued compensation or blasting issues, etc. Cross-reference other sections as needed.
- O. Chance Finds Procedures for Physical Cultural Resources
Compliance reports with respect to section 9.1.3 of the ESMP; artifacts salvaged, curated and coordinated of points of their occurrence

Particular Conditions

Part E- Sexual Exploitation and Abuse (SEA) and/or Sexual Harassment Performance Declaration for Subcontractors

[The following table shall be filled in by each subcontractor proposed by the Contractor, that was not named in the Contract]

Subcontractor's Name: *[insert full name]*

Date: *[insert day, month, year]*

Contract reference *[insert contract reference]*

Page *[insert page number]* of *[insert total number]* pages

SEA and/or SH Declaration
<p>We:</p> <p><input type="checkbox"/> (a) have not been subject to disqualification by the Bank for non-compliance with SEA/ SH obligations.</p> <p><input type="checkbox"/> (b) are subject to disqualification by the Bank for non-compliance with SEA/ SH obligations.</p> <p><input type="checkbox"/> (c) had been subject to disqualification by the Bank for non-compliance with SEA/ SH obligations. An arbitral award on the disqualification case has been made in our favor.</p> <p><input type="checkbox"/> (d) had been subject to disqualification by the Bank for non-compliance with SEA/ SH obligations for a period of two years. We have subsequently demonstrated that we have adequate capacity and commitment to comply with SEA /SH obligations.</p> <p><input type="checkbox"/> (e) had been subject to disqualification by the Bank for non-compliance with SEA/ SH obligations for a period of two years. We have attached specific evidence demonstrating that we have adequate capacity and commitment to comply with SEA and SH obligations.</p>
<p><i>[If (c) above is applicable, attach evidence of an arbitral award reversing the findings on the issues underlying the disqualification.]</i></p>
<p><i>[If (d) or (e) above are applicable, provide the following information:]</i></p>
<p>Period of disqualification: From: _____ To: _____</p>
<p>If previously provided on another Bank financed works contract, details of evidence that demonstrated adequate capacity and commitment to comply with SEA/SH obligations (as per (d) above)</p> <p style="margin-left: 20px;">Name of Employer: _____</p> <p style="margin-left: 20px;">Name of Project: _____</p> <p style="margin-left: 20px;">Contract description: _____</p>

<p>Brief summary of evidence provided: _____</p> <p>_____</p> <p>Contact Information: (Tel, email, name of contact person): _____</p> <p>_____</p>
<p>As an alternative to the evidence under (d), other evidence demonstrating adequate capacity and commitment to comply with SEA/SH obligations (as per (e) above) [<i>attach details as appropriate</i>].</p> <p>_____</p> <p>_____</p>

Name of the Subcontractor _____

Name of the person duly authorized to sign on behalf of the Subcontractor _____

Title of the person signing on behalf of the Subcontractor _____

Signature of the person named above _____

Date signed _____ day of _____, _____

Countersignature of authorized representative of the Contractor:

Signature: _____

Date signed _____ day of _____, _____

Section X. Contract Forms

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Notification of Award

LETTER OF ACCEPTANCE

[letterhead paper of the Employer]

[date]

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

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

You are requested to furnish the Performance Security and an Environmental and Social (ES) Performance Security within 28 days in accordance with the Conditions of Contract, using for that purpose one of the Performance Security Forms and the ES Performance Security Form, included in Section X, Contract Forms, of the Bidding Documents

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Agency: _____

Attachment: Contract Agreement

Contract Agreement

THIS AGREEMENT made the _____ day of _____, _____, between _____ of _____ (hereinafter “the Employer”), of the one part, and _____ of _____ (hereinafter “the Contractor”), of the other part:

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

The Employer and the Contractor agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.
 - (i) the Letter of Acceptance;
 - (ii) the Letter of Bid;
 - (iii) the addenda Nos _____ (if any);
 - (iv) the Particular Conditions;
 - (v) the General Conditions;
 - (vi) the Specification;
 - (vii) the Drawings; and
 - (viii) the completed Schedules and any other documents forming part of the contract, including, but not limited to:
 - i. the ES Management Strategies and Implementation Plans;
 - ii. Code of Conduct for Contractor’s Personnel(ES); and
 - iii. Sexual Exploitation and Abuse (SEA), and/or Sexual Harassment (SH) Declaration
 - iv. Priced Bills of Quantities
 - v. Minutes of Pre-Contract Signing Discussions
3. In consideration of the payments to be made by the Employer to the Contractor as specified in this Agreement, the Contractor hereby covenants with the Employer to execute the

Works and to remedy defects therein in conformity in all respects with the provisions of the Contract.

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

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of _____ on the day, month and year specified above.

Signed by _____ (for the Employer)

Signed by _____ (for the Contractor)

Performance Security

Demand Guarantee

Beneficiary: _____

Date: _____

PERFORMANCE GUARANTEE No.: _____

Guarantor: _____

We have been informed that _____ (hereinafter called "the Applicant") has entered into Contract No. _____ dated _____ with the Beneficiary, for the execution of _____ (hereinafter called "the Contract").

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

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of _____ (_____),¹ such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire, no later than the Day of, 2... ², and any demand for payment under it must be received by us at this office indicated above on or before that date.

¹ The Guarantor shall insert an amount representing the percentage of the Accepted Contract Amount specified in the Letter of Acceptance, less provisional sums, if any, and denominated either in the currency(cies) of the Contract or a freely convertible currency acceptable to the Beneficiary.

² Insert the date twenty-eight days after the expected completion date as described in GC Clause 11.9. The Employer should note that in the event of an extension of this date for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

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

[signature(s)]

Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.

Environmental and Social (ES) Performance Security

ES Demand Guarantee

[Guarantor letterhead or SWIFT identifier code]

Beneficiary: *[insert name and Address of Employer]*

Date: *_ [Insert date of issue]*

ES PERFORMANCE GUARANTEE No.: *[Insert guarantee reference number]*

Guarantor: *[Insert name and address of place of issue, unless indicated in the letterhead]*

We have been informed that _____ (hereinafter called "the Applicant") has entered into Contract No. _____ dated _____ with the Beneficiary, for the execution of _____ (hereinafter called "the Contract").

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

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of _____ (_____),¹ such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its Environmental and/or Social, (ES) obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire, no later than the Day of, 2...², and any demand for payment under it must be received by us at this office indicated above on or before that date.

¹ The Guarantor shall insert an amount representing the percentage of the Accepted Contract Amount specified in the Letter of Acceptance, less provisional sums, if any, and denominated either in the currency (cies) of the Contract or a freely convertible currency acceptable to the Beneficiary.

² Insert the date twenty-eight days after the expected completion date as described in GC Clause 11.9. The Employer should note that in the event of an extension of this date for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

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

[signature(s)]

Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.

Advance Payment Security

Demand Guarantee

Beneficiary: _____

Date: _____

ADVANCE PAYMENT GUARANTEE No.: _____

Guarantor: _____

We have been informed that _____ (hereinafter called "the Applicant") has entered into Contract No. _____ dated _____ with the Beneficiary, for the execution of _____ (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum _____ (_____) is to be made against an advance payment guarantee.

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of _____ (_____) ¹ upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating either that the Applicant:

(a) has used the advance payment for purposes other than the costs of mobilization in respect of the Works; or

(b) has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount which the Applicant has failed to repay.

A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the advance payment referred to above

¹ *The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency(ies) of the advance payment as specified in the Contract, or in a freely convertible currency acceptable to the Employer.*

has been credited to the Applicant on its account number _____ at _____.

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Applicant as specified in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that ninety (90) percent of the Accepted Contract Amount, less provisional sums, has been certified for payment, or on the ___ day of _____, 2___,² whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date..

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

[signature(s)]

Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.

² *Insert the expected expiration date of the Time for Completion. The Employer should note that in the event of an extension of the time for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."*

