



**República Democrática de Timor-Leste  
Ministério das Finanças**



# **REQUEST FOR PROPOSALS**

**No.020/MoF/Mid Term Review Loans/RFP.2016**

## **MID-TERM REVIEW OF LOANS AND LOAN-FUNDED PROJECTS BY THE GOVERNMENT OF TIMOR-LESTE**

**Issued on: April 2016**

# **Selection of Method**

**Using the Quality Cost Based Selection Method (QCBS)**

# **SUMMARY DESCRIPTION**

## **REQUEST FOR PROPOSALS**

### **PART I – SELECTION PROCEDURES AND REQUIREMENTS**

#### **Section 1: Letter of Invitation (LOI)**

This Section is a template of a letter from the Client to invite Consultancy Service Provider / Firm to submit a proposal for the assignment.

#### **Section 2: Instructions to Service Provider and Data Sheet**

This Section consists of two parts: “Instructions to Consultancy Service Provider” and “Data Sheet”. “Instructions to Consultancy Service Provider” contains provisions that are to be used without modifications. “Data Sheet” contains information specific to each selection and corresponds to the clauses in “Instructions to Consultancy Service Provider” that call for selection-specific information to be added. This Section provides information to help shortlisted Service Provider prepare their proposals. Information is also provided on the submission, opening and evaluation of proposals, contract negotiation and award of contract. Information in the Data Sheet indicates whether a Full Technical Proposal (FTP) or a Simplified Technical Proposal (STP) shall be used.

#### **Section 3: Technical Proposal – Standard Forms**

This Section includes the forms for FTP and STP that are to be completed by the shortlisted Service Provider and submitted in accordance with the requirements of Section 2.

#### **Section 4: Financial Proposal – Standard Forms**

This Section includes the financial forms that are to be completed by the shortlisted Service Provider, including the Service Provider’s costing of its technical proposal, which are to be submitted in accordance with the requirements of Section 2.

#### **Section 5: Eligible Countries**

This Section contains information regarding eligible countries.

#### **Section 6: Policy – Corrupt and Fraudulent Practices**

This Section provides shortlisted Service Provider with the reference to the Government’s policy in regard to corrupt and fraudulent practices applicable to the selection process. This Section is also incorporated in the standard forms of contract (Section 8) as Attachment 1.

#### **Section 7: Terms of Reference (TORs)**

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

## **PART II – CONDITIONS OF CONTRACT AND CONTRACT FORMS**

### **Section 8: Standard Forms of Contract**

This Standard Agreement forms for large or complex assignments is consist of

- Time-Based Agreement;
- General Conditions of Agreement (“GCA”) that shall not be modified, and
- Special Conditions of Agreement (“SCA”).

The SCA include clauses specific to each Agreement to supplement the General Conditions can be modified as needed.

The standard form of Agreement incorporates “Government’s Policy – Corrupt and Fraudulent Practices” (Section 6 of Part I) in a form of Attachment 1.

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## PART I

### Section 1. Letter of Invitation

The Democratic Republic of Timor-Leste (“RDTL”), through its Ministry of Finance (“MoF”) hereinafter referred to as “Employer” has made available funds to contract **Firms or Organizations to conduct Mid Term Review of Loans and Loan-Funded Projects by the Government of Timor-Leste.**

The MoF now invites local and international Service Provider to provide **Mid Term Review of Loans and Loan-Funded Projects by the Government of Timor-Leste** as described in the Terms of Reference (TOR) in Section 7 of this Request for Proposal (RFP).

The deadline for submission of proposals shall be on or before 26 May 2016, Time: 3:00PM Local Time. Late submission will be rejected. Firms are encouraged to follow carefully the submission, format and other instructions contained in the Instructions to Service Provider Data Sheet in Section 2.2 of this RFP.

Sincerely Yours

  
  
**Santana JRF Viegas Cardoso**  
Minister of Finance

## Section 2. Instructions to Service Provider and Data Sheet

### A. General Provisions

#### 1. Definitions

- (a) “Affiliate(s)” means an individual or an entity that directly or indirectly controls, is controlled by, or is under common control with the Firm.
- (b) “Applicable Guidelines” means the policies of the Government Procurement governing the selection and Contract award process as set forth in this RFP.
- (c) “Applicable Law” means the laws and any other instruments having the force of law in the Client’s country, or in such other country as may be specified in the **Data Sheet**, as they may be issued and in force from time to time.
- (d) “Client” means the implementing agency that signs the Contract for the Services with the selected Firm.
- (e) “Consultancy Service Provider” means a legally-established professional consulting firm or an entity that may provide or provides the Services to the Client under the Contract.
- (f) “Contract” means a legally binding written agreement signed between the Client and the Firm and includes all the attached documents listed in its Clause 1 (the General Conditions of Contract (GCC), the Special Conditions of Contract (SCC), and the Appendices).
- (g) “Data Sheet” means an integral part of the Instructions to Service Provider (ITC) Section 2 that is used to reflect specific country and assignment conditions to supplement, but not to over-write, the provisions of the ITC.
- (h) “Day” means a calendar day.
- (i) “Experts” means, collectively, Key Experts, Non-Key Experts, or any other personnel of the Consultancy Team Sub-Team or Joint Venture member(s).
- (j) “Government” means the government of the Client’s country.
- (k) “Joint Venture (JV)” means an association with or without



a legal personality distinct from that of its members, of more than one Firm where one member has the authority to conduct all business for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally liable to the Client for the performance of the Contract.

- (l) “Key Expert(s)” means an individual professional whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose CV is taken into account in the technical evaluation of the Consultancy Service Provider’s proposal.
- (m) “ITC” (Section 2 of the RFP) means the Instructions to Service Provider that provide the shortlisted Service Provider with all information needed to prepare their Proposals.
- (n) “LOI” (Section 1 of the RFP) means the Letter of Invitation being sent by the Client to the shortlisted Service Provider.
- (o) “Non-Key Expert(s)” means an individual professional provided by the firm or its Sub-consultant and who is assigned to perform the Services or any part thereof under the Contract and whose CVs are not evaluated individually.
- (p) “Proposal” means the Technical Proposal and the Financial Proposal of the Firm.
- (q) “RFP” means the Request for Proposals to be prepared by the Client for the selection of Service Provider, based on the SRFP.
- (r) “SRFP” means the Standard Request for Proposals, which must be used by the Client as the basis for the preparation of the RFP.
- (s) “Services” means the work to be performed by the Firm pursuant to the Contract.
- (t) “Sub-consultant” means an entity to whom the Firm intends to subcontract any part of the Services while remaining responsible to the Client during the performance of the Contract.
- (u) “TORs” (this Section 7 of the RFP) means the Terms of

Reference that explain the objectives, scope of work, activities, and tasks to be performed, respective responsibilities of the Client and the Firm, and expected results and deliverables of the assignment.

## 2. Introduction

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

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

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

2.4 The Client will timely provide, at no cost to the Service Provider, the inputs, relevant project data, and reports required for the preparation of the Firm's Proposal as specified in the **Data Sheet**.

## 3. Conflict of Interest

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

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

3.2.1 Without limitation on the generality of the foregoing, and unless stated otherwise in the **Data Sheet**, the Firm shall not be hired under the circumstances set forth below:

### a. Conflicting activities

(i) Conflict between consulting activities and procurement of goods, works or non-consulting services: a firm that has been engaged by the Client to provide goods, works, or non-consulting services for a project, or any of its Affiliates, shall be disqualified from providing

consulting services resulting from or directly related to those goods, works, or non-consulting services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, or any of its Affiliates, shall be disqualified from subsequently providing goods or works or non-consulting services resulting from or directly related to the consulting services for such preparation or implementation.

**b. Conflicting assignments**

(ii) Conflict among consulting assignments: a Firm (including its Experts and Sub-consultants) or any of its Affiliates shall not be hired for any assignment that, by its nature, may be in conflict with another assignment of the Firm for the same or for another Client.

**c. Conflicting relationships**

(iii) Relationship with the Client's staff: a Firm (including its Experts and Sub-consultants) that has a close business or family relationship with a professional staff of the Client, or of implementing agency, who are directly or indirectly involved in any part of (i) the preparation of the Terms of Reference for the assignment, (ii) the selection process for the Contract, or (iii) the supervision of the Contract, may not be awarded a Contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the Government throughout the selection process and the execution of the Contract.

**4. Unfair Competitive Advantage**

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

**5. Corrupt and Fraudulent Practices**

5.1 The employer requires compliance with its policy in regard to corrupt and fraudulent practices as set forth in Section 6.

5.2 In further pursuance of this policy, Firm shall permit and shall cause its agents, Experts, Sub-consultants, sub-contractors, services providers, or suppliers to permit the Employer to inspect all accounts, records, and other documents relating to the submission of the Proposal and contract performance (in case of an award), and to have them audited by auditors appointed by the

Employer.

## **6. Eligibility**

6.1 The Employer permits Service Provider (individuals and firms, including Joint Ventures and their individual members) from all countries to offer consulting services for Government-financed projects.

6.2 Furthermore, it is the Firm's responsibility to ensure that its Experts, joint venture members, Sub-consultants, agents (declared or not), sub-contractors, service providers, suppliers and/or their employees meet the eligibility requirements as established in this Bidding Documents.

6.3 As an exception to the foregoing Clauses 6.1 and 6.2 above:

### **a. Sanctions**

6.3.1 A firm or an individual sanctioned by the Government in accordance with the above Clause 5.1 or in accordance with "Anti-Corruption Guidelines" shall be ineligible to be awarded a Government-financed contract, or to benefit from a Government -financed contract, financially or otherwise, during such period of time as the Employer shall determine.

### **b. Prohibitions**

6.3.2 Firms and individuals of a country or goods manufactured in a country may be ineligible if so indicated in Section Eligible Countries and:

- (a) as a matter of law or official regulations, the Government prohibits commercial relations with that country, provided that the Employer is satisfied that such exclusion does not preclude effective competition for the provision of Services required; or
- (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Government prohibits any import of goods from that country or any payments to any country, person, or entity in that country.

### **c. Restrictions for Government-owned Enterprises**

6.3.3 Government-owned enterprises or institutions shall be eligible only if they can establish that they (i) are legally and financially autonomous, (ii) operate under commercial law, and (iii) that they are not dependent agencies of the Client

To establish eligibility, the government-owned enterprise or institution should provide all relevant documents (including

its charter) sufficient to demonstrate that it is a legal entity separate from the government; it does not currently receive any substantial subsidies or budget support; it is not obligated to pass on its surplus to the government; it can acquire rights and liabilities, borrow funds, and can be liable for repayment of debts and be declared Firmrupt; and it is not competing for a contract to be awarded by the government department or agency which, under the applicable laws or regulations, is its reporting or supervisory authority or has the ability to exercise influence or control over it.

**d. Restrictions for public employees**

6.3.4 Government officials and civil servants are not eligible to be included as Experts in the Firm’s Proposal unless such engagement does not conflict with any employment or other laws, regulations, or policies of the Government of RDTL, and they

(i) are on leave of absence without pay, or have resigned or retired;

(ii) are not being hired by the same agency they were working for before going on leave of absence without pay, resigning, or retiring

(iii) their hiring would not create a conflict of interest.

**B. Preparation of Proposals**

**1. General Considerations**

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

**2. Cost of Preparation of Proposal**

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

**3. Language**

3.1 The Proposal, as well as all correspondence and documents relating to the Proposal exchanged between the Firm and the Client, shall be written in the language(s) specified in the **Data Sheet**.

**4. Documents**

4.1 The Proposal shall comprise the documents and forms

**Comprising the Proposal**

listed in the **Data Sheet**.

4.2 If specified in the **Data Sheet**, the Firm shall include a statement of an undertaking of the Firm to observe, in competing for and executing a contract, the RDTL laws against fraud and corruption (including bribery).

4.3 The Firm shall furnish information on commissions, gratuities, and fees, if any, paid or to be paid to agents or any other party relating to this Proposal and, if awarded, Contract execution, as requested in the Financial Proposal submission form (Section 4).

**5. Only One Proposal**

5.1 The Firm (including the individual members of any Joint Venture) shall submit only one Proposal, either in its own name or as part of a Joint Venture in another Proposal. If a Firm, including any Joint Venture member, submits or participates in more than one proposal, all such proposals shall be disqualified and rejected. This does not, however, preclude a Sub-consultant, or the Firm's staff from participating as Key Experts and Non-Key Experts in more than one Proposal when circumstances justify and if stated in the **Data Sheet**.

**6. Proposal Validity**

6.1 **The Data Sheet** indicates the period during which the Firm's Proposal must remain valid after the Proposal submission deadline.

6.2 During this period, the Firm shall maintain its original Proposal without any change, including the availability of the Key Experts, the proposed rates and the total price.

6.3 If it is established that any Key Expert nominated in the Firm's Proposal was not available at the time of Proposal submission or was included in the Proposal without his/her confirmation, such Proposal shall be disqualified and rejected for further evaluation, and may be subject to sanctions in accordance with Clause 5 of this ITC.

**a. Extension of Validity Period**

6.4 The Client will make its best effort to complete the negotiations within the proposal's validity period. However, should the need arise, the Client may request, in writing, all Service Provider who submitted Proposals prior to the submission deadline to extend the Proposals' validity.

6.5 If the Firm agrees to extend the validity of its Proposal, it shall be done without any change in the original Proposal and with the confirmation of the availability of the Key Experts.

6.6 The Firm has the right to refuse to extend the validity of its Proposal in which case such Proposal will not be further evaluated.

**b. Substitution of Key Experts at Validity Extension**

6.7 If any of the Key Experts become unavailable for the extended validity period, the Firm shall provide a written adequate justification and evidence satisfactory to the Client together with the substitution request. In such case, a replacement Key Expert shall have equal or better qualifications and experience than those of the originally proposed Key Expert. The technical evaluation score, however, will remain to be based on the evaluation of the CV of the original Key Expert.

6.8 If the Firm fails to provide a replacement Key Expert with equal or better qualifications, or if the provided reasons for the replacement or justification are unacceptable to the Client, such Proposal will be rejected with the prior Government's no objection.

**c. Sub-Contracting**

6.9 The Firm shall not subcontract the whole of the Services.

**7. Clarification and Amendment of RFP**

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

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

7.1.2 If the amendment is substantial, the Client may extend the proposal submission deadline to give the shortlisted Service Provider reasonable time to take an amendment into account in their Proposals.

7.2 The Firm may submit a modified Proposal or a modification to any part of it at any time prior to the proposal

submission deadline. No modifications to the Technical or Financial Proposal shall be accepted after the deadline.

**8. Preparation of Proposals – Specific Considerations**

8.1 While preparing the Proposal, the Firm must give particular attention to the following:

8.1.1 If a shortlisted Firm considers that it may enhance its expertise for the assignment by associating with other Service Provider in the form of a Joint Venture or as Sub-consultants, it may do so with either (a) non-shortlisted Firm(s), or (b) shortlisted Service Provider if permitted in the **Data Sheet**. In all such cases a shortlisted Firm must obtain the written approval of the Client prior to the submission of the Proposal. When associating with non-shortlisted firms in the form of a joint venture or a sub-consultancy, the shortlisted Firm shall be a lead member. If shortlisted Service Provider associate with each other, any of them can be a lead member.

8.1.2 The Client may indicate in the **Data Sheet** the estimated Key Experts' time input (expressed in person-month) or the Client's estimated total cost of the assignment, but not both. This estimate is indicative and the Proposal shall be based on the Firm's own estimates for the same.

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

8.1.4 For assignments under the Fixed-Budget selection method, the estimated Key Experts' time input is not disclosed. Total available budget, with an indication whether it is inclusive or exclusive of taxes, is given in the **Data Sheet**, and the Financial Proposal shall not exceed this budget.

**9. Technical Proposal Format and Content**

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

15.1.1 Firm shall not propose alternative Key Experts. Only one CV shall be submitted for each Key Expert position. Failure to comply with this requirement will make the Proposal non-responsive.



9.2 Depending on the nature of the assignment, the Firm is required to submit a Full Technical Proposal (FTP), or a Simplified Technical Proposal (STP) as indicated in the **Data Sheet** and using the Standard Forms provided in Section 3 of the RFP.

**10. Financial Proposal**

10.1 The Financial Proposal shall be prepared using the Standard Forms provided in Section 4 of the RFP. It shall include all costs associated with the assignment, including (a) remuneration for Key Experts and Non-Key Experts, (b) reimbursable expenses indicated in the **Data Sheet**.

**a. Price Adjustment**

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

**b. Taxes**

10.3 The Firm and its Sub-consultants and Experts are responsible for meeting all tax liabilities arising out of the Contract unless stated otherwise in the **Data Sheet**. Information on taxes in the Client's country is provided in the **Data Sheet**.

**c. Currency of Proposal**

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

**11. Only One Proposal**

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

**12. Proposal Validity**

12.1 **The Data Sheet** indicates the period during which the Firm's Proposal must remain valid after the Proposal submission deadline.

12.2 During this period, the Firm shall maintain its original Proposal without any change, including the availability of the Key Experts, the proposed rates and the total price.

12.3 If it is established that any Key Expert nominated in the Firm's Proposal was not available at the time of Proposal submission or was included in the Proposal without his/her confirmation, such Proposal shall be disqualified and rejected for

further evaluation, and may be subject to sanctions in accordance with Clause 5 of this ITC.

**a. Extension of Validity Period**

12.4 The Client will make its best effort to complete the negotiations within the proposal's validity period. However, should the need arise, the Client may request, in writing, all Firm who submitted Proposals prior to the submission deadline to extend the Proposals' validity.

12.5 If the Firm agrees to extend the validity of its Proposal, it shall be done without any change in the original Proposal and with the confirmation of the availability of the Key Experts.

12.6 The Firm has the right to refuse to extend the validity of its Proposal in which case such Proposal will not be further evaluated.

**b. Substitution of Key Experts at Validity Extension**

12.7 If any of the Key Experts become unavailable for the extended validity period, the Firm shall provide a written adequate justification and evidence satisfactory to the Client together with the substitution request. In such case, a replacement Key Expert shall have equal or better qualifications and experience than those of the originally proposed Key Expert. The technical evaluation score, however, will remain to be based on the evaluation of the CV of the original Key Expert.

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

**c. Sub-Contracting**

12.9 The Firm shall not subcontract the whole of the Services.

**13. Clarification and Amendment of RFP**

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

13.1.1 At any time before the proposal submission deadline, the Client may amend the RFP by issuing an amendment in writing or by standard electronic means. The

amendment shall be sent to all shortlisted Firm and will be binding on them. The shortlisted Firm shall acknowledge receipt of all amendments in writing.

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

13.2 The Firm may submit a modified Proposal or a modification to any part of it at any time prior to the proposal submission deadline. No modifications to the Technical or Financial Proposal shall be accepted after the deadline.

#### **14. Preparation of Proposals – Specific Considerations**

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

14.1.1 If a shortlisted Firm considers that it may enhance its expertise for the assignment by associating with other Firm in the form of a Joint Venture or as Sub-consultants, it may do so with either (a) non-shortlisted Firm(s), or (b) shortlisted Firm if permitted in the **Data Sheet**. In all such cases a shortlisted Firm must obtain the written approval of the Client prior to the submission of the Proposal. When associating with non-shortlisted firms in the form of a joint venture or a sub-consultancy, the shortlisted Firm shall be a lead member. If shortlisted Firm associate with each other, any of them can be a lead member.

14.1.2 The Client may indicate in the **Data Sheet** the estimated Key Experts' time input (expressed in person-month) or the Client's estimated total cost of the assignment, but not both. This estimate is indicative and the Proposal shall be based on the Firm's own estimates for the same.

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

14.1.4 For assignments under the Fixed-Budget selection method, the estimated Key Experts' time input is not disclosed. Total available budget, with an indication whether it is inclusive or exclusive of taxes, is given in the **Data Sheet**, and the Financial Proposal shall not exceed this

budget.

## **15. Technical Proposal Format and Content**

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

15.1.1 Firm shall not propose alternative Key Experts. Only one CV shall be submitted for each Key Expert position. Failure to comply with this requirement will make the Proposal non-responsive.

15.2 Depending on the nature of the assignment, the Firm is required to submit a Full Technical Proposal (FTP), or a Simplified Technical Proposal (STP) as indicated in the **Data Sheet** and using the Standard Forms provided in Section 3 of the RFP.

15.3 Services Provider shall furnish as part of its offer, a Bid Security, if required, as **specified in the BDS**

15.4 The Bid Security shall be in the amount **as specified in the BDS** and denominated in the USD currency.

15.5 The Bid Security of unsuccessful Bidders shall be returned as promptly as possible upon Signing the Contract

15.6 The Bid Security may be forfeited or the Bid Securing Declaration executed:

- a) if a Bidder withdraws its bid during the period of bid validity or;
- b) if the successful Services Provider fails to sign the contract

## **16. Financial Proposal**

16.1 The Financial Proposal shall be prepared using the Standard Forms provided in Section 4 of the RFP. It shall list all costs associated with the assignment, including (a) remuneration for Key Experts and Non-Key Experts, (b) reimbursable expenses indicated in the **Data Sheet**.

### **a. Price Adjustment**

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

### **b. Taxes**

16.3 The Firm and its Sub-consultants and Experts are responsible for meeting all tax liabilities arising out of the Contract unless stated otherwise in the **Data Sheet**. Information on taxes in the Client's country is provided in the **Data Sheet**.

### **c. Currency of**

16.4 The Firm may express the price for its Services in the

- Proposal** currency or currencies as stated in the **Data Sheet**. If indicated in the **Data Sheet**, the portion of the price representing local cost shall be stated in the national currency.
- d. Currency of Payment** 16.5 Payment under the Contract shall be made in the currency or currencies in which the payment is requested in the Proposal.
- d. Currency of Payment** 16.6 Payment under the Contract shall be made in the currency or currencies in which the payment is requested in the Proposal.

### C. Submission, Opening and Evaluation

#### 17. Submission, Sealing, and Marking of Proposals

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

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

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

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

17.4 The signed Proposal shall be marked "ORIGINAL", and its copies marked "COPY" as appropriate. The number of copies is indicated in the **Data Sheet**. All copies shall be made from the signed original. If there are discrepancies between the original and the copies, the original shall prevail.

17.5 The original and all the copies of the Technical Proposal shall be placed inside of a sealed envelope clearly marked "**TECHNICAL PROPOSAL**", "[Name of the Assignment]", reference number, name and address of the Firm, and with a warning "**DO NOT OPEN UNTIL [INSERT THE DATE AND THE**

**TIME OF THE TECHNICAL PROPOSAL SUBMISSION DEADLINE].”**

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

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

17.8 If the envelopes and packages with the Proposal are not sealed and marked as required, the Client will assume no responsibility for the misplacement, loss, or premature opening of the Proposal.

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

## **18. Confidentiality**

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

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

18.3 Notwithstanding the above provisions, from the time of the Proposals’ opening to the time of Contract award publication, if a Firm wishes to contact the Client on any matter

related to the selection process, it should do so only in writing.

## **19. Opening of Technical Proposals**

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

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

## **20. Proposals Evaluation**

20.1 Subject to provision of Clause 15.1 of the ITC, the evaluators of the Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is concluded.

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

## **21 Evaluation of Technical Proposals**

21.1 The Client's evaluation committee shall evaluate the Technical Proposals on the basis of their responsiveness to the Terms of Reference and the RFP, applying the evaluation criteria, sub-criteria, and point system specified in the **Data Sheet**. Each responsive Proposal will be given a technical score. A Proposal shall be rejected at this stage if it does not respond to important aspects of the RFP or if it fails to achieve the minimum technical score indicated in the **Data Sheet**.

## **17. Financial Proposals for QBS**

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

22.2 If Financial Proposals were invited together with the Technical Proposals, only the Financial Proposal of the

technically top-ranked Firm is opened by the Client's evaluation committee. All other Financial Proposals are returned unopened after the Contract negotiations are successfully concluded and the Contract is signed.

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

23.1 After the technical evaluation is completed the Client shall notify those Service Provider whose Proposals were considered non-responsive to the RFP and TOR or did not meet the minimum qualifying technical score (and shall provide information relating to the Firm's overall technical score, as well as scores obtained for each criterion and sub-criterion) that their Financial Proposals will be returned unopened after completing the selection process and Contract signing. The Client shall simultaneously notify in writing those Service Provider that have achieved the minimum overall technical score and inform them of the date, time and location for the opening of the Financial Proposals. The opening date should allow the Service Provider sufficient time to make arrangements for attending the opening. The Firm's attendance at the opening of the Financial Proposals (in person, or online if such option is indicated in the **Data Sheet**) is optional and is at the Firm's choice.

23.2 The Financial Proposals shall be opened by the Client's evaluation committee in the presence of the representatives of those Service Provider whose proposals have passed the minimum technical score. At the opening, the names of the Service Provider, and the overall technical scores, including the break-down by criterion, shall be read aloud. The Financial Proposals will then be inspected to confirm that they have remained sealed and unopened. These Financial Proposals shall be then opened, and the total prices read aloud and recorded. Copies of the record shall be sent to all Service Provider who submitted Proposals and to the Client.

**24. Correction of Errors**

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

**a. Time-Based Contracts**

24.1.1 If a Time-Based contract form is included in the RFP, the Client's evaluation committee will (a) correct any computational or arithmetical errors, and (b) adjust the prices if they fail to reflect all inputs included for the respective activities or items in the Technical Proposal. In case of discrepancy between (i) a partial amount (sub-total) and the total amount, or (ii) between the amount derived by multiplication of unit price with quantity and



the total price, or (iii) between words and figures, the former will prevail. In case of discrepancy between the Technical and Financial Proposals in indicating quantities of input, the Technical Proposal prevails and the Client's evaluation committee shall correct the quantification indicated in the Financial Proposal so as to make it consistent with that indicated in the Technical Proposal, apply the relevant unit price included in the Financial Proposal to the corrected quantity, and correct the total Proposal cost.

**b. Lump-Sum Contracts** 24.2 If a Lump-Sum contract form is included in the RFP, the Firm is deemed to have included all prices in the Financial Proposal, so neither arithmetical corrections nor price adjustments shall be made. The total price, net of taxes understood as per Clause ITC25 below, specified in the Financial Proposal (Form FIN-1) shall be considered as the offered price.

**25 Taxes** 25.1 The Client's evaluation of the Firm's Financial Proposal shall include taxes and duties in accordance with the instructions in the **Data Sheet**.

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

**27. Combined Quality and Cost Evaluation**

**a. Quality- and Cost-Based Selection (QCBS)** 27.1 In the case of QCBS, the total score is calculated by weighting the technical and financial scores and adding them as per the formula and instructions in the **Data Sheet**. The Firm achieving the highest combined technical and financial score will be invited for negotiations.

## **D. Negotiations and Award**

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

28.2 The Client shall prepare minutes of negotiations that are signed by the Client and the Firm's authorized representative.

**a. Availability of Key Experts** 28.3 The invited Firm shall confirm the availability of all Key Experts included in the Proposal as a pre-requisite to the

negotiations, or, if applicable, a replacement in accordance with Clause 12 of the ITC. Failure to confirm the Key Experts' availability may result in the rejection of the Firm's Proposal and the Client proceeding to negotiate the Contract with the next-ranked Firm.

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

**b. Technical negotiations**

28.5 The negotiations include discussions of the Terms of Reference (TORs), the proposed methodology, the Client's inputs, the special conditions of the Contract, and finalizing the "Description of Services" part of the Contract. These discussions shall not substantially alter the original scope of services under the TOR or the terms of the contract, lest the quality of the final product, its price, or the relevance of the initial evaluation be affected.

**c. Financial negotiations**

28.6 The negotiations include the clarification of the Firm's tax liability in the Client's country and how it should be reflected in the Contract.

28.7 If the selection method included cost as a factor in the evaluation, the total price stated in the Financial Proposal for a Lump-Sum contract shall not be negotiated.

28.8 In the case of a Time-Based contract, unit rates negotiations shall not take place, except when the offered Key Experts and Non-Key Experts' remuneration rates are much higher than the typically charged rates by Service Provider in similar contracts. In such case, the Client may ask for clarifications and, if the fees are very high, ask to change the rates after consultation with the Client.

The format for (i) providing information on remuneration rates in the case of Quality Based Selection; and (ii) clarifying remuneration rates' structure under Clause 28.8 above, is provided in Appendix A to the Financial Form FIN-3: Financial Negotiations – Breakdown of Remuneration Rates.

**29. Conclusion of**

29.1 The negotiations are concluded with a review of the

**Negotiations**

finalized draft Contract, which then shall be initialed by the Client and the Firm’s authorized representative.

29.2 If the negotiations fail, the Client shall inform the Firm in writing of all pending issues and disagreements and provide a final opportunity to the Firm to respond. If disagreement persists, the Client shall terminate the negotiations informing the Firm of the reasons for doing so. After having obtained the Approval, the Client will invite the next-ranked Firm to negotiate a Contract. Once the Client commences negotiations with the next-ranked Firm, the Client shall not reopen the earlier negotiations.

**30. Award of Contract**

30.1 After completing the negotiations the Client shall obtain the approval to publish the award information as per the instructions in the **Data Sheet**; and promptly notify the other shortlisted Service Provider.

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

**Instructions to Service Provider**

**E. Data Sheet**

<b>A.</b>	<b>General</b>
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<b>ITC Clause Reference</b>	
<b>1 (c)</b>	<i>The Client is : Ministry of Finance on behalf of Democratic Republic of Timor-Leste</i>
<b>2.1</b>	<b>Ministry of Finance of Democratic Republic of Timor-Leste</b> <hr/> <b>Method of selection: QCBS</b>
<b>2.2</b>	<b>Financial Proposal to be submitted together with Technical Proposal in two separate sealed envelopes: Yes</b>  <b>The name of the assignment is: Mid Term Review of Loans and Loan-Funded Projects by the Government of Timor-Leste</b>
<b>2.3</b>	<b>A pre-proposal meeting will be held:</b>
<b>B. Preparation of Proposals</b>	
<b>9.1</b>	<b>Proposals shall be submitted in the English Language</b>  <b>All correspondence exchange shall be in English language.</b>
<b>10.1</b>	<b>The Proposal shall comprise the following:</b>  <b><u>For FULL TECHNICAL PROPOSAL (FTP):</u></b> <b>1<sup>st</sup> Inner Envelope with the Technical Proposal:</b> (2) Power of Attorney to sign the Proposal (3) TECH-1 (4) TECH-2 (5) TECH-3 (6) TECH-4 (7) TECH-5 (8) TECH-6  AND  <b>2nd Inner Envelope with the Financial Proposal:</b> (1) FIN-1 (2) FIN-2

	(3) FIN-3 (4) FIN-4
<b>11.1</b>	<b>Participation of Sub-consultants, Key Experts and Non-Key Experts in more than one Proposal is permissible : No</b>
<b>12.1</b>	<b>Proposals must remain valid for 60 days</b> calendar days after the proposal submission deadline.
<b>13.1</b>	<p><b>Clarifications may be requested no later than ten (10) working days prior to the submission deadline.</b></p> <p>The contact information for requesting clarifications is:  Mr. Alexandre Jose G. Abreu  Position: Economic &amp; Financial Specialist  Email: aabreu@mof.gov.tl</p> <p>and always copy to:  Mr. Lucio dos Santos  Email: ldsantos@mof.gov.tl</p>
<b>14.1.3</b> for time-based contracts only	<b>The Firm’s Proposal must include <u>the minimum</u> Key Experts’ time-input :</b>
<b>15.2</b>	<p>The format of the Technical Proposal to be submitted is:  <b>Full Technical Proposal (FTP)</b></p> <p>NOTE: Technical and Financial Proposal shall be submitted in two separated sealed Envelopes</p> <p>Bids should be prepared in line with required formats and technical response should follow the exact order as specified in the <b>section 3 for Technical Proposal form &amp; Section 4 for Financial Proposal form</b></p> <p>Submission of the Proposal (Technical and Financial) in a wrong format may lead to the Proposal being deemed non-responsive to the RFP requirements.</p>
<b>15.3</b>	N/A

<b>15.4</b>	N/A
<b>16.1</b>	<p>Reimbursable expenses shall included:</p> <p>(1) <i>a per diem allowance, including accommodation for experts for every day of absence from the home office for the purposes of the Services;</i></p> <p>(2) <i>cost of travel by the most appropriate means of transport and the most direct practicable route of an economy class airfare;</i></p> <p>(3) <i>cost of office accommodation, including overheads and back-stop support;</i></p> <p>(4) <i>communications costs;</i></p> <p>(5) <i>cost of reports production (including printing) and delivering to the Client;</i></p>
<b>16.2</b>	A price adjustment provision applies to remuneration rates: No
<b>16.3</b>	The Firm and its sub-contract are subject to all the taxes and duties levies by Government of RDTL law.
<b>16.4</b>	The Financial Proposal shall be stated in the following currencies: United States Dollar (USD).
<b>C. Submission, Opening and Evaluation</b>	
<b>17.1</b>	<b>THE SERVICE PROVIDER SHALL NOT HAVE THE OPTION OF SUBMITTING THEIR PROPOSALS ELECTRONICALLY.</b>
<b>17.4</b>	<p><b>The Firm must submit:</b></p> <p>(a) <b>Technical Proposal:</b> one (1) original and three (3) copies;</p> <p>(b) <b>Financial Proposal:</b> one (1) original.</p>
<b>17.7 and 17.9</b>	<p><b>The Proposals must be submitted no later than:</b></p> <p><b>Date: 26 May 2016</b></p> <p><b>Timor-Leste Time: 3:00 PM</b></p> <p><b>The Proposal submission address is:</b>  Ministry of Finance, Government of RDTL  Head of Procurement Unit  Directorate General of Corporate Services  Edificio 5, Palacio Do Governo,  Rua: Avenida Nicolau Lobato  Dili, Timor-Leste</p>

<p><b>19.1</b></p>	<p><b>The opening shall take place at: ABOVE ADDRESS</b></p> <p><b>Date: : 26 May 2016</b></p> <p><b>Timor-Leste Time: 3:15 PM</b></p>																																																	
<p><b>21.1</b> (for FTP)</p>	<p>Criteria, sub-criteria, and point system for the evaluation :</p> <p><b>Step I. Preliminary Examination</b></p> <p>Only bidders who passed this preliminary examination will be accepted for step II of technical evaluation.</p> <table border="1" data-bbox="440 600 1422 884"> <thead> <tr> <th data-bbox="440 600 951 722">Essential Criteria</th> <th data-bbox="951 600 1216 722">Comply (Y/N)</th> <th data-bbox="1216 600 1422 722">Accept for Technical Evaluation (Y/N)</th> </tr> </thead> <tbody> <tr> <td data-bbox="440 722 951 793">1. Technical &amp; Financial Proposal are submitted in two separated sealed envelopes</td> <td data-bbox="951 722 1216 793"></td> <td data-bbox="1216 722 1422 793"></td> </tr> <tr> <td data-bbox="440 793 951 884">2. Provide an authenticated copy of its currently valid Business Registration Certificate from country of domicile</td> <td data-bbox="951 793 1216 884"></td> <td data-bbox="1216 793 1422 884"></td> </tr> </tbody> </table> <p><b>Bidders fail to comply with any of the above essential criteria will be rejected and disqualified for technical evaluation .</b></p> <p><b>Step II. Technical Evaluation</b></p> <table border="1" data-bbox="428 1043 1403 1883"> <thead> <tr> <th data-bbox="428 1043 505 1079">No</th> <th data-bbox="505 1043 980 1079">Evaluation Criteria</th> <th data-bbox="980 1043 1148 1079">Importance</th> <th data-bbox="1148 1043 1242 1079">Point</th> <th data-bbox="1242 1043 1403 1079">Score</th> </tr> </thead> <tbody> <tr> <td data-bbox="428 1079 505 1203">1</td> <td data-bbox="505 1079 980 1203">Adequacy and quality of the proposed methodology, and work plan in responding to the Terms of Reference (TORs)</td> <td data-bbox="980 1079 1148 1203">2</td> <td data-bbox="1148 1079 1242 1203"></td> <td data-bbox="1242 1079 1403 1203"></td> </tr> <tr> <td data-bbox="428 1203 505 1299">2</td> <td data-bbox="505 1203 980 1299">Detailed description of the implementation process &amp; scheduling, including planning</td> <td data-bbox="980 1203 1148 1299">1</td> <td data-bbox="1148 1203 1242 1299"></td> <td data-bbox="1242 1203 1403 1299"></td> </tr> <tr> <td data-bbox="428 1299 505 1423">3</td> <td data-bbox="505 1299 980 1423">The Firm must have adequate capitalization, organization, facilities, equipment and personnel to assure prompt and efficient service</td> <td data-bbox="980 1299 1148 1423">3</td> <td data-bbox="1148 1299 1242 1423"></td> <td data-bbox="1242 1299 1403 1423"></td> </tr> <tr> <td data-bbox="428 1423 505 1547">4</td> <td data-bbox="505 1423 980 1547">The ability and capacity of the Firm, demonstrated by contracts and references relating to similar work and availability of the specific individuals</td> <td data-bbox="980 1423 1148 1547">4</td> <td data-bbox="1148 1423 1242 1547"></td> <td data-bbox="1242 1423 1403 1547"></td> </tr> <tr> <td data-bbox="428 1547 505 1701">5</td> <td data-bbox="505 1547 980 1701">Qualifications and directly relevant capacity and experience of the specific individuals to be assigned to perform the services required as demonstrated by samples of similar work and references</td> <td data-bbox="980 1547 1148 1701">4</td> <td data-bbox="1148 1547 1242 1701"></td> <td data-bbox="1242 1547 1403 1701"></td> </tr> <tr> <td data-bbox="428 1701 505 1824">6</td> <td data-bbox="505 1701 980 1824">Ability and capacity of the Firm as demonstrated by evidence of the prior performance of previous similar work for other governments.</td> <td data-bbox="980 1701 1148 1824">5</td> <td data-bbox="1148 1701 1242 1824"></td> <td data-bbox="1242 1701 1403 1824"></td> </tr> <tr> <td data-bbox="428 1824 505 1883">7</td> <td data-bbox="505 1824 980 1883">Team Leader must have no less than 10 years experience and has professional</td> <td data-bbox="980 1824 1148 1883">4</td> <td data-bbox="1148 1824 1242 1883"></td> <td data-bbox="1242 1824 1403 1883"></td> </tr> </tbody> </table>	Essential Criteria	Comply (Y/N)	Accept for Technical Evaluation (Y/N)	1. Technical & Financial Proposal are submitted in two separated sealed envelopes			2. Provide an authenticated copy of its currently valid Business Registration Certificate from country of domicile			No	Evaluation Criteria	Importance	Point	Score	1	Adequacy and quality of the proposed methodology, and work plan in responding to the Terms of Reference (TORs)	2			2	Detailed description of the implementation process & scheduling, including planning	1			3	The Firm must have adequate capitalization, organization, facilities, equipment and personnel to assure prompt and efficient service	3			4	The ability and capacity of the Firm, demonstrated by contracts and references relating to similar work and availability of the specific individuals	4			5	Qualifications and directly relevant capacity and experience of the specific individuals to be assigned to perform the services required as demonstrated by samples of similar work and references	4			6	Ability and capacity of the Firm as demonstrated by evidence of the prior performance of previous similar work for other governments.	5			7	Team Leader must have no less than 10 years experience and has professional	4		
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	qualifications to be appointed by firm's management for this assignment supported by of CV's and contactable relevant references			
8	Experience and knowledge demonstrated by the Firm and the key staff of the economic and social context of Timor-Leste and the government public administration, systems and relevant laws and policies	2		
The maximum technical score (St)				100
The minimum technical score (St) required to pass is				75*

**Point Scale (B) to be used during evaluation**

Point	Description
0	No Information provided
1	Information provided is not relevant
2	Information provided is relevant but not meet Minimum requirement
3	Information provided meet minimum requirement
4	Exceed minimum requirement

\*Only those who have passed Minimum Technical Passing Score will be considered for financial evaluation as specified in 27.1 below. Any other bidder/firm below that score below will be disqualified.



<p><b>27.2</b> <b>(QCBS )</b></p>	<p><b>Step. IV - Financial Evaluation</b> The lowest evaluated Financial Offer (Fo) is given the maximum financial score (Sf) of 100.</p> <p>The formula for determining the financial scores (Sf) of all other Offers is calculated as following:</p> <p>Sf = 100 x Fm/ F, in which:</p> <p>“Sf” is the financial score, “Fm” is the lowest price, and “F” the price of the Offer under consideration.</p> <p><b>Step V - Award Criteria</b> <b>V.1.</b> The weights given to the Technical (T) and Financial (P) Offers are: T% = 70 P %= 30</p> <p>Offers are ranked according to their combined technical (St) and financial (Sf) scores using the weights.</p> <p>T = the weight given to the Technical Offer; P = the weight given to the Financial Offer; ( T + P = 1) as following: S = (St x T%) + (Sf x P%).</p>
<p><b>30.2</b></p>	<p><b>Expected date for the commencement of the Services:</b> <b>Date:</b> 1 July 2016</p>

### Section 3. Technical Proposal – Standard Forms

{Notes to Firm shown in brackets { } throughout Section 3 provide guidance to the Firm to prepare the Technical Proposal; they should not appear on the Proposals to be submitted.}

#### CHECKLIST OF REQUIRED FORMS

Required for FTP or STP (v)		FORM	DESCRIPTION	Page Limit
FTP	STP			
v		TECH-1	Technical Proposal Submission Form.	10
“v”	If applicable	TECH-1 Attachment	If the Proposal is submitted by a joint venture, attach a letter of intent or a copy of an existing agreement.	5
“v”	If applicable	Power of Attorney	No pre-set format/form. In the case of a Joint Venture, several are required: a power of attorney for the authorized representative of each JV member, and a power of attorney for the representative of the lead member to represent all JV members	5
v		TECH-2	Firm’s Organization and Experience.	10
v		TECH-2A	A. Firm’s Organization	5
v		TECH-2B	B. Firm’s Experience	10
v		TECH-3	Comments or Suggestions on the Terms of Reference and on Counterpart Staff and Facilities to be provided by the Client.	5
v		TECH-3A	A. On the Terms of Reference	5
v		TECH-3B	B. On the Counterpart Staff and Facilities	5
v	v	TECH-4	Description of the Approach, Methodology, and Work Plan for Performing the Assignment	10
v	v	TECH-5	Work Schedule and Planning for Deliverables	10
v	v	TECH-6	Team Composition Key Experts Inputs, and attached Curriculum Vitae (CV)	1 2 5/expert

**All pages of the original Technical and Financial Proposal shall be initialed by the same authorized representative of the Firm who signs the Proposal.**

# FORM TECH-1

## TECHNICAL PROPOSAL SUBMISSION FORM

---

{ Location, Date }

---

To: *[Name and address of Client]*

Dear Sirs:

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

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

{OR

*If the Firm’s Proposal includes Sub-consultants, insert the following: We are submitting our Proposal with the following firms as Sub-consultants: {Insert a list with full name and address of each Sub-consultant. }*

We hereby declare that:

- (a) All the information and statements made in this Proposal are true and we accept that any misinterpretation or misrepresentation contained in this Proposal may lead to our disqualification by the Client and/or may be sanctioned by the Government.
- (b) Our Proposal shall be valid and remain binding upon us for the period of time specified in the Data Sheet, Clause 12.1.
- (c) We have no conflict of interest in accordance with ITC 3.

- (d) We meet the eligibility requirements as stated in ITC 6, and we confirm our understanding of our obligation to abide by the policy in regard to corrupt and fraudulent practices as per ITC 5.
- (e) *[Note to Client: Only if required in ITC10.2 (Data Sheet 10.2), include the following: In competing for (and, if the award is made to us, in executing) the Contract, we undertake to observe the laws against fraud and corruption, including bribery, in force in the country of the Client.]*
- (f) Except as stated in the Data Sheet, Clause 12.1, we undertake to negotiate a Contract on the basis of the proposed Key Experts. We accept that the substitution of Key Experts for reasons other than those stated in ITC Clause 12 and ITC Clause 28.4 may lead to the termination of Contract negotiations.
- (g) Our Proposal is binding upon us and subject to any modifications resulting from the Contract negotiations.

We undertake, if our Proposal is accepted and the Contract is signed, to initiate the Services related to the assignment no later than the date indicated in Clause 30.2 of the Data Sheet.

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

We remain,

Yours sincerely,

Authorized Signature {In full and initials}: \_\_\_\_\_

Name and Title of Signatory: \_\_\_\_\_

Name of Firm (company's name or JV's name): \_\_\_\_\_

In the capacity of: \_\_\_\_\_

Address: \_\_\_\_\_

Contact information (phone and e-mail): \_\_\_\_\_

{For a joint venture, either all members shall sign or only the lead member, in which case the power of attorney to sign on behalf of all members shall be attached }

18.

**FORM TECH-2(FOR FULL TECHNICAL PROPOSAL ONLY)**

**FIRM’S ORGANIZATION AND EXPERIENCE**

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

**A - Firm’s Organization**

1. Provide here a brief description of the background and organization of your company, and – in case of a joint venture – of each member for this assignment.
2. Include organizational chart, a list of Board of Directors, and beneficial ownership

**B - Firm’s Experience**

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1. List only previous similar assignments successfully completed as specified Terms of references.
2. List only those assignments for which the Firm was legally contracted by the Client as a company or was one of the joint venture partners. Assignments completed by the Firm’s individual experts working privately or through other consulting firms cannot be claimed as the relevant experience of the Firm, or that of the Firm’s partners or sub-consultants, but can be claimed by the Experts themselves in their CVs. The Firm should be prepared to substantiate the claimed experience by presenting copies of relevant documents and references if so requested by the Client.

<b>Duration</b>	<b>Assignment name/&amp; brief description of main deliverables/outputs</b>	<b>Name of Client &amp; Country of Assignment</b>	<b>Approx. Contract value (in US\$ equivalent)/ Amount paid to your firm</b>	<b>Role on the Assignment</b>
{ e.g., Jan.2009– Apr.2010 }	{ e.g., “Improvement quality of.....”: designed master plan for	{ e.g., Ministry of ....., country }	{ e.g., US\$1 mill/US\$0.5 mill }	{ e.g., Lead partner in a JV A&B&C }

<b>Duration</b>	<b>Assignment name/&amp; brief description of main deliverables/outputs</b>	<b>Name of Client &amp; Country of Assignment</b>	<b>Approx. Contract value (in US\$ equivalent)/ Amount paid to your firm</b>	<b>Role on the Assignment</b>
	rationalization of .....; }			
{e.g., Jan-May 2008}	{e.g., “Support to sub-national government.....” : drafted secondary level regulations on.....}	{e.g., municipality of....., country}	{e.g., US\$0.2 mil/US\$0.2 mil}	{e.g., sole Firm}

## **FORM TECH-3 (FOR FULL TECHNICAL PROPOSAL)**

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

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

#### **A - On the Terms of Reference**

{improvements to the Terms of Reference, if any}

#### **B - On Counterpart Staff and Facilities**

{comments on counterpart staff and facilities to be provided by the Client. For example, administrative support, office space, local transportation, equipment, data, background reports, etc., if any}

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

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

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

{Suggested structure of your Technical Proposal (in FTP format):

- a) Technical Approach and Methodology
  - b) Work Plan
  - c) Organization and Staffing }
- 
- a) **Technical Approach and Methodology.**{Please explain your understanding of the objectives of the assignment as outlined in the Terms of Reference (TORs), the technical approach, and the methodology you would adopt for implementing the tasks to deliver the expected output(s), and the degree of detail of such output. Please do not repeat/copy the TORs in here. }
  - b) **Work Plan.**{Please outline the plan for the implementation of the main activities/tasks of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the Client), and tentative delivery dates of the reports. The proposed work plan should be consistent with the technical approach and methodology, showing your understanding of the TOR and ability to translate them into a feasible working plan. A list of the final documents (including reports) to be delivered as final output(s) should be included here. The work plan should be consistent with the Work Schedule Form. }
  - c) **Organization and Staffing.**{Please describe the structure and composition of your team, including the list of the Key Experts, Non-Key Experts and relevant technical and administrative support staff. }



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

**NOT APPLICABLE**

**FORM TECH-5(FOR FTP AND STP)**

**WORK SCHEDULE AND IMPLEMENTATION PLANNING FOR DELIVERABLES**

N°	Deliverables <sup>1</sup> (D-..)	Weeks											
		1	2	3	4	5	6	7	8	9	....	n	TOTAL
<b>D-1</b>	{e.g., Deliverable #1: Report A												
	1) data collection												
	2) drafting												
	3) inception report												
	4) incorporating comments												
	5) .....												
	6) delivery of final report to Client}												
<b>D-2</b>	{e.g., Deliverable #2:.....}												
<b>n</b>													

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

## FORM TECH-6(FOR FTP AND STP)

### TEAM COMPOSITION, ASSIGNMENT, AND KEY EXPERTS' INPUTS

N°	Name	Position	Expert's input (in person/week) per each Location/Branch	
K-1	{e.g., Mr. Abbbb}	[Team Leader]		
K-2				
K-3				
K-4				
K-5				
K-6				
K-7				
K-n..				

**FORM TECH-6  
(CONTINUED)**

**CURRICULUM VITAE (CV)**

<b>Position Title and No.</b>	{e.g., K-1, TEAM LEADER}
<b>Name of Expert:</b>	{Insert full name}
<b>Date of Birth:</b>	{day/month/year}
<b>Country of Citizenship/Residence</b>	

**Education:** {List college/university or other specialized education, giving names of educational institutions, dates attended, degree(s)/diploma(s) obtained}

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**Employment record relevant to the assignment:** {Starting with present position, list in reverse order. Please provide dates, name of employing organization, titles of positions held, types of activities performed and location of the assignment, and contact information of previous clients and employing organization(s) who can be contacted for references. Past employment that is not relevant to the assignment does not need to be included.}

<b>Period</b>	<b>Employing organization and your title/position. Contact info for references</b>	<b>Country</b>	<b>Summary of activities performed relevant to the Assignment</b>
[e.g., May 2005-present]	[e.g., Ministry of ....., advisor/consultant to...  For references: Tel...../e-mail.....; Mr. Hbbbb, deputy minister]		

**Membership in Professional Associations and Publications:**

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**Language Skills (indicate only languages in which you can work):** \_\_\_\_\_

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**Adequacy for the Assignment:**

<b>Detailed Tasks Assigned on Firm’s Team of Experts:</b>	<b>Reference to Prior Work/Assignments that Best Illustrates Capability to Handle the Assigned Tasks</b>
<b>{List all deliverables/tasks as in TECH- 5 in which the Expert will be involved}</b>	

**Expert’s contact information:** (e-mail....., phone.....)

**Certification:**

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, and my experience, and I am available to undertake the assignment in case of an award. I understand that any misstatement or misrepresentation described herein may lead to my disqualification or dismissal by the Client, and/or sanctions by the Government of Timor-Leste.

{day/month/year}

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Name of Expert

Signature

Date

{day/month/year}

---

Name of authorized  
Representative of the Firm  
(the same who signs the Proposal)

Signature

Date

## **Section 4. Financial Proposal - Standard Forms**

{*Notes to Firm* shown in brackets { } provide guidance to the Firm to prepare the Financial Proposals; they should not appear on the Financial Proposals to be submitted.}

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

FIN-1 Financial Proposal Submission Form

FIN-2 Firm Fees

**FORM FIN-1**  
**FINANCIAL PROPOSAL SUBMISSION FORM**

{Location, Date}

To: [Name and address of Client]

Dear Sirs:

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

Our attached Financial Proposal is for the amount of {Indicate the corresponding to the amount(s) currency(ies)} {Insert amount(s) in words and figures}, [Insert "including" or "excluding"] of all indirect local taxes in accordance with Clause 25.1 in the Data Sheet. The estimated amount of local indirect taxes is {Insert currency} {Insert amount in words and figures} which shall be confirmed or adjusted, if needed, during negotiations. {Please note that all amounts shall be the same as in Form FIN-2}.

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

Commissions and gratuities paid or to be paid by us to an agent or any third party relating to preparation or submission of this Proposal and Contract execution, paid if we are awarded the Contract, are listed below:

Name and Address of Agents	Amount and Currency	Purpose of Commission or Gratuity
_____	_____	_____
_____	_____	_____

{If no payments are made or promised, add the following statement: "No commissions or gratuities have been or are to be paid by us to agents or any third party relating to this Proposal and Contract execution."}

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

We remain,

Yours sincerely,

Authorized Signature {In full and initials}: \_\_\_\_\_

Name and Title of Signatory: \_\_\_\_\_

In the capacity of: \_\_\_\_\_

Address: \_\_\_\_\_

E-mail: \_\_\_\_\_

{For a joint venture, either all members shall sign or only the lead member/consultant, in which case the power of attorney to sign on behalf of all members shall be attached}



## **FORM FIN-2 FIRM FEES**

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Firm will need to provide information on the effective rate and formula used to calculate the service charge for collected of taxes; Fees will be paid monthly after receipt of the account analysis.

## **Section 5. Eligible Countries**

**In reference to ITC6.3.2**, for the information of shortlisted Service Provider, at the present time firms, goods and services from the following countries are excluded from this selection:

**NOT APPLICABLE**

## Section 6. Policy of Corrupt and Fraudulent Practices

### “Fraud and Corruption

It is the Government's policy to require that Service Provider, 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 selection and execution of this contracts [footnote: In this context, any action taken by a Firm or any of its personnel, or its agents, or its sub-consultants, sub-contractors, services providers, suppliers, and/or their employees, to influence the selection process or contract execution for undue advantage is improper.]. In pursuance of this policy, the Employer:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
- (i) “corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party<sup>1</sup>;
  - (ii) “fraudulent practice” is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation<sup>2</sup>;
  - (iii) “collusive practices” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party<sup>3</sup>;
  - (iv) “coercive practices” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party<sup>4</sup>;
  - (v) “obstructive practice” is:

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

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

<sup>3</sup> For the purpose of this sub-paragraph, “parties” refers to participants in the procurement or selection process (including public officials) attempting either themselves, or through another person or entity not participating in the procurement or selection process, to simulate competition or to establish prices at artificial, non-competitive levels, or are privy to each other's bid prices or other conditions.

<sup>4</sup>For the purpose of this sub-paragraph, “party” refers to a participant in the selection process or contract execution.

- (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 Client 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 Client's inspection and audit rights;
- (b) will reject a proposal for award if it determines that the Firm recommended for award or any of its personnel, or its agents, or its sub-consultants, sub-contractors, services 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 if it determines at any time that the Firm or any part of the Firm were engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the selection process or the implementation of the contract in question, without having taken timely and appropriate action satisfactory to the Client to address such practices when they occur, including by failing to inform the Client in a timely manner they knew of the practices;
  - (d) will sanction a firm or an individual at any time, in accordance with prevailing Client's sanctions procedures<sup>5</sup>, including by publicly declaring such firm or an ineligible, either indefinitely or for a stated period of time: (i) to be awarded a Government-financed contract, and (ii) to be a nominated<sup>6</sup> sub-consultant, supplier, or service provider of an otherwise eligible firm being awarded a Government-financed contract.

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<sup>5</sup> A firm or an individual may be declared ineligible to be awarded a Government-financed contract upon (i) completion of the Client's sanctions proceedings as per its sanctions procedures related to 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 proceedings.

<sup>6</sup> A nominated sub-consultant, supplier, or service provider is one which has been either (i) included by the Firm in its proposal because it brings specific and critical experience and know-how that are accounted for in the technical evaluation of the Firm's proposal for the particular services; or (ii) appointed by the Client.

# **Appendix A Terms of Reference (ToR) and Process Outline**

## **Introduction**

Since 2012, the Government of Timor-Leste (GoTL) has entered into several loan agreements with various international financial institutions and bilateral partners to finance the implementation of infrastructure projects. This recourse to concessional borrowing is based on existing legislation, particularly the Public Debt Regime (Law no. 13/2011), and is driven by the Government's intention to minimize the financial cost of the projects, to reduce the pressure upon the annual State Budget, and to benefit from the technical assistance and enhanced project procurement and implementation processes that accompany lending assistance from development partners.

The mobilization of the loans, the implementation of the loan-funded projects and the management and servicing of the existing debt involve a number of Government ministries and agencies, including the Ministry of Finance (especially the PPP and Loans Unit and DG Treasury), the Ministry of Planning and Strategic Investment (particularly the Major Projects Secretariat), the project owners/line ministries (particularly the Project Management Unit of the Ministry of Public Works, Transport and Communications), the National Development Agency, the National Procurement Commission and the Central Bank of Timor-Leste.

The GoTL intends to continue to pursue this policy in the future, but it also wishes to take stock of the lessons that can be drawn from the experience of the first few years of loan mobilization and implementation of loan-funded projects, in order to improve its processes and systems in the future. These TORs are for a consultancy service provider (companies or organizations) to undertake an interim review of the GoTL's borrowing practices, processes and systems up until the present, including:

- the mobilization of new loans;
- the recording, servicing and management of existing debt; and
- the procurement and implementation of loan-funded projects.

## **2. Project Location**

The location of the project is in Timor-Leste, with focus on assessing the above mentioned aspects of the system and mechanisms for management and servicing of loans.

### **3. Objectives**

The main objectives of this mid-term review are:

- i) to undertake a systematic assessment of loans mobilization, debt management and implementation of loan-funded projects, as implemented and pursued until now, from the legal, financial and technical perspectives;
- ii) identify the main lessons that can be drawn from that assessment; and
- iii) identify steps that the GoTL can take to enhance and simplify its practices, processes and systems in these domains in the future.

### **4. Scope of Work**

This review encompasses two overarching tasks.

- Task I will involve systematically assessing loans mobilization, debt management and the implementation of loan-funded projects by the GoTL from three main perspectives: Legal, Financial and Technical.
- Task II will draw on that assessment in order to draw lessons and put forward recommendations for future improvement, in consultation with the various relevant agencies.

#### **4.1 Task I: Systematic Assessment of Loans and Loan-Funded Projects**

##### **4.1.1 Legal Perspective**

The Consultant will review, summarize and critically assess all legislation and documentation relevant to loans and loan-funded projects, including the Public Debt Regime and other legislation, as well as the existing loan agreements and any other relevant legal and/or contractual documentation.

##### **4.1.2 Financial Perspective**

The Consultant will review, summarize and critically assess the financial terms and conditions of the existing loan agreements, including from the perspective of their advantages and disadvantages vis-à-vis alternative funding modalities.

##### **4.1.3 Technical Perspective**

The Consultant will identify and summarize the main relevant processes in the domains of loans mobilization; debt recording, management and servicing; and procurement and implementation of loan-funded projects. Additionally, the Consultant will conduct a summary assessment of the condition, readiness and features of all ongoing and completed loan-funded projects, capable of allowing for a comparative analysis of the quality of loan-funded projects versus non-loan-funded projects.

## **4.2 Task II: Lesson-Drawing and Recommendations for the Future**

### **4.2.1 Organization of validation workshop**

The Consultant will organize and run a workshop with the participation of the main relevant stakeholders with a view to presenting and validating the conclusions of Task I and initiating a discussion of the main challenges and bottlenecks identified thus far.

### **4.2.2 Lessons learnt and recommendations for the future**

Based on the extensive information collected and the discussions held, the Consultant will identify the main lessons that can be drawn from the experience of the GoTL with loans and loan-funded projects. Then, based on these lessons as well as on international best practices and in light of the Government's strategic objectives, the Consultant will produce a set of recommendations for the future, organized by sub-domains (loans mobilization; debt recording and servicing; procurement of loan-funded projects; implementation of loan-funded projects) and dimensions (legal; financial; technical).

### **4.2.4 Drafting of final report**

The Consultant will draft a detailed report of no less than 100 pages incorporating the information surveyed and produced in the course of tasks 4.1.1-4.1.3 and 4.2.1-4.2.2, which shall include an Executive Summary of no more than 7 pages. This draft report shall be circulated to the relevant stakeholders for comments, after which the Consultant shall produce the final version of the same report.

## **5. Deliverables**

### **5.1 Background papers**

Upon completion of each of the tasks 4.1.1-4.1.3 and 4.2.1-4.2.2, the Consultant will produce a short interim paper summarizing the main conclusions of that task, to be circulated for review and commentary amongst the main relevant stakeholders.

### **5.2 Final Report**

As described in 4.2.4, the Consultant will draft a detailed report of no less than 100 pages based on the Background Papers that were previously submitted and on the comments subsequently received. This report should include an Executive Summary of no more than 7 pages. The draft full report shall be circulated to the relevant stakeholders for comments, after which the Consultant shall produce the final version of the same report.

## **6. Principles**

### **6.1 Work Program**

The Consultant will prepare a Work Program that at minimum should cover the following:

- a) Methodology; and
- b) Detailed Work Schedule.

The work program needs to be approved by the GoTL after the contract is awarded, and inputs provided, discussed and approved between both parties.

### **6.2 Personnel Required**

The Consultant (company or organization) must provide the minimum personnel required to meet the requirements to implement this program, considering the scope of work, the timeline and the subject matter. That personnel must have the required skill, expertise and experience needed to perform the services to a high professional standard. The team leader must have no less than 10 years' experience of designing, assessing and/or managing debt management systems and processes in the context of developing countries, whether with Governments or with donors and international financial institutions. The team must also comprise sufficient expertise in the legal and technical (engineering/infrastructure) domains.

### **6.3 Ownership of Information and Confidentiality**

The Government of Timor-Leste is the owner of all the documents, reports, data and any other information shared, disclosed or produced during the course of this mid-term review. All written documents produced in the course of this review shall be submitted to the PPP and Loans Unit prior to the conclusion of the mid-term review.

All documents, reports, data and any other information as may be shared, disclosed or produced in the course of this mid-term review shall be considered strictly confidential and not distributed to any third parties.

## **7. Budget**



The fee to be paid for these consulting services cost will be a lump-sum fixed amount quoted in US Dollars. This fee shall be inclusive of all taxes and should cover all the costs necessary or ancillary to ensuring the performance of all the tasks listed in these ToR, including (without being limited to) all labor remuneration, cost of international travel, local travel, accommodation and the cost of any other activities/expenses necessary to complete the works. Upon signing of contract, no additional costs will be reimbursed by the GoTL.

## **8. Schedule**

The tasks should be completed by the team according to the following schedule:

- The Work Program shall be finalized within 10 working days of contract signing
- The Task I deliverables shall be completed within 60 calendar days of contract signing
- The Task II deliverables shall be completed within 90 calendar days of contract signing.

## **PART II**

### **Section 8. Conditions of Contract and Contract Forms**

**FORM OF CONTRACT**

**Firm's Services**

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## Preface

1. The standard Contract form consists of four parts: the Form of Contract to be signed by the Client and the Firm, the General Conditions of Contract (GCC), including Attachment 1 (Policy – Corrupt and Fraudulent Practices); the Special Conditions of Contract (SCC); and the Appendices.
2. The General Conditions of Contract, including shall not be modified. The Special Conditions of Contract that contain clauses specific to each Contract intend to supplement, but not over-write or otherwise contradict, the General Conditions.

**CONTRACT FOR FIRING SERVICES**

**for**

**Mid Term Review Loan and Loan-Funded Project by  
Government of Timor-Leste**

**Contract No.** \_\_\_\_\_

**Between**

\_\_\_\_\_  
*Ministry of Finance, Republic Democratic of Timor-Leste*

**And**

\_\_\_\_\_  
*[Name of the Firm]*

**Dated:** \_\_\_\_\_



## I. Form of Contract

(Text in brackets [ ] is optional; all notes should be deleted in the final text)

This CONTRACT (hereinafter called the “Contract”) is made on the *[number]* day of the month of *[month]*, *[year]*, between, on the one hand, Ministry of Finance Republic Democratic of Timor-Leste (hereinafter called the “Client”) and, on the other hand, *[name of Firm]* (hereinafter called the “Firm”).

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

### WHEREAS

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

NOW THEREFORE the parties hereto hereby agree as follows:

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

In the event of any inconsistency between the documents, the following order of precedence shall prevail: the Special Conditions of Contract; the General Conditions

of Contract, including Attachment 1; Appendix A; Appendix B; Appendix C and Appendix D; Appendix E. Any reference to this Contract shall include, where the context permits, a reference to its Appendices.

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

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

For and on behalf of *[Name of Client]*

\_\_\_\_\_  
*[Authorized Representative of the Client – name, title and signature]*

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

\_\_\_\_\_  
*[Authorized Representative of the Firm – name and signature]*

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

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

*[Name of the lead member]*

\_\_\_\_\_  
*[Authorized Representative on behalf of a Joint Venture]*

*[add signature blocks for each member if all are signing]*

## II. General Conditions of Contract

### A. GENERAL PROVISIONS

#### 1. Definitions

1.1. Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- (a) “Applicable Law” means the laws and any other instruments having the force of law in the Client’s country, or in such other country as may be specified in the **Special Conditions of Contract (SCC)**, as they may be issued and in force from time to time.
- (b) “Client” means the implementing agency that signs the Contract for the Services with the Selected Firm.
- (c) “Firm” means a legally-established Commercial Firm firm or entity selected by the Client to provide the Services under the signed Contract.
- (d) “Contract” means the legally binding written agreement signed between the Client and the Firm and which includes all the attached documents listed in its paragraph 1 of the Form of Contract (the General Conditions (GCC), the Special Conditions (SCC), and the Appendices).
- (e) “Day” means a working day unless indicated otherwise.
- (f) “Effective Date” means the date on which this Contract comes into force and effect pursuant to Clause GCC 11.
- (g) “Experts” means, collectively, Key Experts, Non-Key Experts, or any other personnel of the Firm, Sub-Contractor or JV member(s) assigned by the Firm to perform the Services or any part thereof under the Contract.
- (h) “Foreign Currency” means any currency other than the currency of the Client’s country.
- (i) “GCC” means these General Conditions of Contract.
- (j) “Government” means the government of the Client’s country.
- (k) “Joint Venture (JV)” means an association with or without a legal personality distinct from that of its members, of more than one entity where one member has the authority to conduct all businesses for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally

liable to the Client for the performance of the Contract.

- (l) “Key Expert(s)” means an individual professional whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose Curricula Vitae (CV) was taken into account in the technical evaluation of the Firm’s proposal.
- (m) “Local Currency” means the currency of the Client’s country.
- (n) “Non-Key Expert(s)” means an individual professional provided by the Firm or its Sub-Firm to perform the Services or any part thereof under the Contract.
- (o) “Party” means the Client or the Firm, as the case may be, and “Parties” means both of them.
- (p) “SCC” means the Special Conditions of Contract by which the GCC may be amended or supplemented but not over-written.
- (q) “Services” means the work to be performed by the Firm pursuant to this Contract, as described in Appendix A hereto.
- (r) “Sub-consultants” means an entity to whom/which the Firm subcontracts any part of the Services while remaining solely liable for the execution of the Contract.
- (s) “Third Party” means any person or entity other than the Government, the Client, the Firm or a Sub-consultant.

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

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

## **3. Law Governing Contract**

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

## **4. Language**

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

## **5. Headings**

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

## **6. Communications**

6.1. Any communication required or permitted to be given or made pursuant to this Contract shall be in writing in the language specified in Clause GCC 4. Any such notice, request or consent shall be

deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the **SCC**.

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

**7. Location**

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

**8. Authority of Member in Charge**

8.1. In case the Firm is a Joint Venture, the members hereby authorize the member specified in the **SCC** to act on their behalf in exercising all the Firm's rights and obligations towards the Client under this Contract, including without limitation the receiving of instructions and payments from the Client.

**9. Authorized Representatives**

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

**10. Corrupt and Fraudulent Practices**

10.1. The Client requires compliance with its policy in regard to corrupt and fraudulent practices as set forth in **Attachment 1** to the **GCC**.

**a. Commissions and Fees**

10.2. The Client requires the Firm 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 selection process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee. Failure to disclose such commissions, gratuities or fees may result in termination of the Contract and/or sanctions by the Client/Employer.

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

**11. Effectiveness of Contract**

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

- 12. Termination of Contract for Failure to Become Effective**
- 12.1. If this Contract has not become effective within such time period after the date of Contract signature as specified in the **SCC**, either Party may, by not less than twenty two (22) days written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.
- 13. Commencement of Services**
- 13.1. The Firm shall confirm availability of Key Experts and begin carrying out the Services not later than the number of days after the Effective Date specified in the **SCC**.
- 14. Expiration of Contract**
- 14.1. Unless terminated earlier pursuant to Clause GCC 19 hereof, this Contract shall expire at the end of such time period after the Effective Date as specified in the **SCC**.
- 15. Entire Agreement**
- 15.1. This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.
- 16. Modifications or Variations**
- 16.1. Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. However, each Party shall give due consideration to any proposals for modification or variation made by the other Party.
- 16.2. In cases of substantial modifications or variations, the prior written consent of the Client is required.
- 17. Force Majeure**
- a. Definition**
- 17.1. For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and makes a Party’s performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible under the circumstances, and subject to those requirements, includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action confiscation or any other action by Government agencies.
- 17.2. Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party’s Experts, Sub-consultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both take into account at the time of the conclusion of this Contract, and avoid or overcome in the carrying out of its obligations hereunder.

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

**b. No Breach of Contract**

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

**c. Measures to be Taken**

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

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

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

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

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

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

**18. Suspension**

18.1. The Client may, by written notice of suspension to the Firm, suspend all payments to the Firm hereunder if the Firm fails to

perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Firm to remedy such failure within a period not exceeding thirty (30) calendar days after receipt by the Firm of such notice of suspension.

## 19. Termination

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

### a. By the Client

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

- (a) If the Firm fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause GCC 18;
- (b) If the Firm becomes (or, if the Firm consists of more than one entity, if any of its members becomes) insolvent or Firmrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary;
- (c) If the Firm fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GCC 49.1;
- (d) If, as the result of Force Majeure, the Firm is unable to perform a material portion of the Services for a period of not less than sixty (60) calendar days;
- (e) If the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract;
- (f) If the Firm fails to confirm availability of Key Experts as required in Clause GCC 13.

19.1.2 Furthermore, if the Client determines that the Firm has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices, in competing for or in executing the Contract, then the Client may, after giving fourteen (14) calendar days written notice to the Firm, terminate the Firm's employment under the



Contract.

**b. By the Firm**

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

- (a) If the Client fails to pay any money due to the Firm pursuant to this Contract and not subject to dispute pursuant to Clauses GCC 49.1 within forty-five (45) calendar days after receiving written notice from the Firm that such payment is overdue.
- (b) If, as the result of Force Majeure, the Firm is unable to perform a material portion of the Services for a period of not less than sixty (60) calendar days.
- (c) If the Client fails to comply with any final decision reached as a result of arbitration pursuant to Clause GCC 49.1.
- (d) If the Client is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the Firm may have subsequently approved in writing) following the receipt by the Client of the Firm's notice specifying such breach.

**c. Cessation of Rights and Obligations**

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

**d. Cessation of Services**

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

28.

**e. Payment upon Termination**

19.1.6 Upon termination of this Contract, the Client shall make the following payments to the Firm:

- (a) remuneration for Services satisfactorily performed prior to the effective date of termination, and reimbursable expenditures for expenditures actually incurred prior to the effective date of termination; and pursuant to Clause 42;
- (b) in the case of termination pursuant to paragraphs (d) and (e) of Clause GCC 19.1.1, reimbursement of any reasonable cost incidental to the prompt and orderly termination of this Contract, including the cost of the return travel of the Experts.

### **C. OBLIGATIONS OF THE FIRM**

#### **20. General**

**a. Standard of Performance**

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

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

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

**b. Law Applicable to Services**

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

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

- (a) as a matter of law or official regulations prohibits commercial relations with that country; or
- (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Government prohibits any import of goods from that country or any payments to any country, person, or entity in that country.

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

**21. Conflict of Interests**

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

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

21.1.1 The payment of the Firm pursuant to GCC F (Clauses GCC 41 through 46) shall constitute the Firm's only payment in connection with this Contract and, subject to Clause GCC 21.1.3, the Firm shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations hereunder, and the Firm shall use its best efforts to ensure that any Sub-consultants, as well as the Experts and agents of either of them, similarly shall not receive any such additional payment.

21.1.2 Furthermore, if the Firm, as part of the Services, has the responsibility of advising the Client on the procurement of goods, works or services, the Firm shall comply with the Government Procurement Guidelines, and shall at all times exercise such responsibility in the best interest of the Client. Any discounts or commissions obtained by the Firm in the exercise of such procurement responsibility shall be for the account of the Client.

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

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

**c. Prohibition of Conflicting**

21.1.4 The Firm shall not engage, and shall cause its Experts as well as its Sub-consultants not to engage, either directly or

- Activities** indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.
- d. Strict Duty to Disclose Conflicting Activities** 21.1.5 The Firm has an obligation and shall ensure that its Experts and Sub-consultants shall have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of their Client, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Firm or the termination of its Contract.
- 22. Confidentiality** 22.1 Except with the prior written consent of the Client, the Firm and the Experts shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Firm and the Experts make public the recommendations formulated in the course of, or as a result of, the Services.
- 23. Liability of the Firm** 23.1 Subject to additional provisions, if any, set forth in the SCC, the Firm's liability under this Contract shall be as determined under the Applicable Law.
- 24. Insurance to be Taken out by the Firm** 24.1 The Firm (i) shall take out and maintain, and shall cause any Sub-consultants to take out and maintain, at its (or the Sub-consultants', as the case may be) own cost but on terms and conditions approved by the Client, insurance against the risks, and for the coverage specified in the SCC, and (ii) at the Client's request, shall provide evidence to the Client showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid. The Firm shall ensure that such insurance is in place prior to commencing the Services as stated in Clause GCC 13.
- 25. Accounting, Inspection and Auditing** 25.1 The Firm shall keep, and shall make all reasonable efforts to cause its Sub-consultants to keep, accurate and systematic accounts and records in respect of the Services in such form and detail as will clearly identify relevant time changes and costs.
- 25.2. The Firm shall permit and shall cause its Sub-consultants to permit, the Client and/or persons appointed by the Client to inspect the Site and/or all accounts and records relating to the performance of the Contract and the submission of the Proposal to provide the Services, and to have such accounts and records audited by auditors appointed by the Client if requested by the Client. The Firm's attention is drawn to Clause GCC 10 which provides, inter alia, that acts intended to materially impede the exercise of the Client's inspection and audit rights provided for under this Clause GCC25.2

constitute a prohibited practice subject to contract termination.

**26. Reporting Obligations**

26.1 The Firm shall submit to the Client the reports and documents specified in **Appendix A**, in the form, in the numbers and within the time periods set forth in the said Appendix.

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

27.1 Unless otherwise indicated in the **SCC**, all reports and relevant data and information such as maps, diagrams, plans, databases, other documents and software, supporting records or material compiled or prepared by the Firm for the Client in the course of the Services shall be confidential and become and remain the absolute property of the Client. The Firm shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Client, together with a detailed inventory thereof. The Firm may retain a copy of such documents, data and/or software but shall not use the same for purposes unrelated to this Contract without prior written approval of the Client.

27.2 If license agreements are necessary or appropriate between the Firm and third parties for purposes of development of the plans, drawings, specifications, designs, databases, other documents and software, the Firm shall obtain the Client's prior written approval to such agreements, and the Client shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned. Other restrictions about the future use of these documents and software, if any, shall be specified in the **SCC**.

**28. Equipment, Vehicles and Materials**

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

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

**D. FIRM'S EXPERTS AND SUB-CONSULTANTS**

**29. Description of Key**

29.1 The title, agreed job description, minimum qualification and

**Experts**

time-input estimates to carry out the Services of each of the Firm's Key Experts are described in **Appendix B**.

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

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

**30. Replacement of Key Experts**

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

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

**31. Approval of Additional Key Experts**

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

The rate of remuneration payable to such new additional Key Experts shall be based on the rates for other Key Experts position which require similar qualifications and experience.

**32. Removal of Experts or Sub-consultants**

32.1 If the Client finds that any of the Experts or Sub-consultant has committed serious misconduct or has been charged with having committed a criminal action, or shall the Client determine that Firm's Expert or Sub-consultant have engaged in corrupt, fraudulent, collusive, coercive or obstructive practice while performing the Services, the Firm shall, at the Client's written

request, provide a replacement.

32.2 In the event that any of Key Experts, Non-Key Experts or Sub-consultants is found by the Client to be incompetent or incapable in discharging assigned duties, the Client, specifying the grounds therefore, may request the Firm to provide a replacement.

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

**33. Replacement/  
Removal of Experts  
– Impact on  
Payments**

33.1 Except as the Client may otherwise agree, (i) the Firm shall bear all additional travel and other costs arising out of or incidental to any removal and/or replacement, and (ii) the remuneration to be paid for any of the Experts provided as a replacement shall not exceed the remuneration which would have been payable to the Experts replaced or removed.

**34. Working Hours,  
Overtime, Leave,  
etc.**

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

34.2 The Experts shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave except as specified in **Appendix B**, and the Firm's remuneration shall be deemed to cover these items.

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

**E. OBLIGATIONS OF THE CLIENT**

**35. Assistance and  
Exemptions**

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

- (a) Assist the Firm with obtaining work permits and such other documents as shall be necessary to enable the Firm to perform the Services.
- (b) Assist the Firm with promptly obtaining, for the Experts and, if appropriate, their eligible dependents, all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in the Client's country while

carrying out the Services under the Contract.

- (c) Facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Experts and their eligible dependents.
- (c) Issue to officials, agents and representatives of the Government all such instructions and information as may be necessary or appropriate for the prompt and effective implementation of the Services.
- (d) Assist the Firm and the Experts and any Sub-consultants employed by the Firm for the Services with obtaining exemption from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity in the Client's country according to the applicable law in the Client's country.
- (e) Assist the Firm, any Sub-consultants and the Experts of either of them with obtaining the privilege, pursuant to the applicable law in the Client's country, of bringing into the Client's country reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Experts and of withdrawing any such amounts as may be earned therein by the Experts in the execution of the Services.
- (f) Provide to the Firm any such other assistance as may be specified in the SCC.

**36. Access to Project Site**

36.1 The Client warrants that the Firm shall have, free of charge, unimpeded access to the project site in respect of which access is required for the performance of the Services. The Client will be responsible for any damage to the project site or any property thereon resulting from such access and will indemnify the Firm and each of the experts in respect of liability for any such damage, unless such damage is caused by the willful default or negligence of the Firm or any Sub-consultants or the Experts of either of them.

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

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

**38. Services, Facilities and Property of the**

38.1 The Client shall make available to the Firm and the Experts, for the purposes of the Services and free of any charge, the services,



**Client** facilities and property described in the Terms of Reference (**Appendix A**) at the times and in the manner specified in said **Appendix A**.

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

**39. Counterpart  
Personnel**

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

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

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

**40. Payment  
Obligation**

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

**F. PAYMENTS TO THE FIRM**

**41. Ceiling Amount**

41.1 An estimate of the cost of the Services is set forth in **Appendix C**(Firm Fees).

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

41.3 For any payments in excess of the ceilings specified in GCC41.2, an amendment to the Contract shall be signed by the

Parties referring to the provision of this Contract that evokes such amendment.

**42. Remuneration and Reimbursable Expenses**

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

42.2 All payments shall be at the rates set forth in **Appendix C**

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

42.4 The remuneration rates shall cover: (i) such salaries and allowances as the Firm shall have agreed to pay to the Experts as well as factors for social charges and overheads (bonuses or other means of profit-sharing shall not be allowed as an element of overheads), (ii) the cost of backstopping by home office staff not included in the Experts' list in **Appendix B**, (iii) the Firm's profit, and (iv) any other items as specified in the **SCC**.

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

**43. Taxes and Duties**

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

43.2 As an exception to the above and as stated in the **SCC**, all local identifiable indirect taxes (itemized and finalized at Contract negotiations) are reimbursed to the Firm or are paid by the Client on behalf of the Firm.

**44. Currency of Payment**

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

**45. Mode of Billing and Payment**

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

- (a) Advance payment. Within the number of days after the Effective Date, the Client shall pay to the Firm an advance payment as specified in the **SCC**. Unless otherwise indicated in the **SCC**, an advance payment shall be made against an advance payment

Firm guarantee acceptable to the Client in an amount (or amounts) and in a currency (or currencies) specified in the **SCC**. Such guarantee (i) is to remain effective until the advance payment has been fully set off, and (ii) is to be in the form set forth in **Appendix E**, or in such other form as the Client shall have approved in writing. The advance payments will be set off by the Client in equal installments against the statements for the number of months of the Services specified in the **SCC** until said advance payments have been fully set off.

- (b) *The Itemized Invoices.* As soon as practicable and not later than fifteen (15) days after the end of each calendar month during the period of the Services, or after the end of each time interval otherwise indicated in the **SCC**, the Firm shall submit to the Client, in duplicate, itemized invoices, accompanied by the receipts or other appropriate supporting documents, of the amounts payable pursuant to Clauses GCC 44 and GCC 45 for such interval, or any other period indicated in the **SCC**. Separate invoices shall be submitted for expenses incurred in foreign currency and in local currency. Each invoice shall show remuneration and reimbursable expenses separately.
- (c) The Client shall pay the Firm's invoices within thirty (30) days after the receipt by the Client of such itemized invoices with completed supporting documents. Only such portion of an invoice that is not satisfactorily supported may be withheld from payment. Should any discrepancy be found to exist between actual payment and costs authorized to be incurred by the Firm, the Client may add or subtract the difference from any subsequent payments.
- (d) *The Final Payment.* The final payment under this Clause shall be made only after the final report and a final invoice, identified as such, shall have been submitted by the Firm and approved as satisfactory by the Client. The Services shall be deemed completed and finally accepted by the Client and the final report and final invoice shall be deemed approved by the Client as satisfactory sixty (60) calendar days after receipt of the final report and final invoice by the Client unless the Client, within such sixty (60) calendar day period, gives written notice to the Firm specifying in detail deficiencies in the Services, the final report or final invoice. The Firm shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated. Any amount that the Client has paid or has caused to be paid in accordance with this Clause in excess of the amounts payable in accordance with the provisions of this Contract shall be reimbursed by the Firm to the Client within

thirty (30) days after receipt by the Firm of notice thereof. Any such claim by the Client for reimbursement must be made within twelve (12) calendar months after receipt by the Client of a final report and a final invoice approved by the Client in accordance with the above.

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

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

**46. Interest on Delayed Payments**

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

**G. FAIRNESS AND GOOD FAITH**

**47. Good Faith**

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

**H. SETTLEMENT OF DISPUTES**

**48. Amicable Settlement**

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

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

**49. Dispute Resolution**

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

## II. General Conditions

### Attachment 1: Policy – Corrupt and Fraudulent Practices

:

#### “Fraud and Corruption

1.23 It is the Government Timor-Leste policy to require that the Service Provider, 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 selection and execution of Government-financed contracts [footnote: In this context, any action taken by a Firm or any of its personnel, or its agents, or its sub-consultants, sub-contractors, services providers, suppliers, and/or their employees, to influence the selection process or contract execution for undue advantage is improper.]. In pursuance of this policy, the Client:

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

- (i) “corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party<sup>7</sup>;
- (ii) “fraudulent practice” is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation<sup>8</sup>;
- (iii) “collusive practices” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party<sup>9</sup>;
- (iv) “coercive practices” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party<sup>10</sup>;

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<sup>7</sup> For the purpose of this sub-paragraph, “another party” refers to a public official acting in relation to the selection process or contract execution. In this context “public official” includes employees of other organizations taking or reviewing selection decisions.

<sup>8</sup> For the purpose of this sub-paragraph, “party” refers to a public official; the terms “benefit” and “obligation” relate to the selection process or contract execution; and the “act or omission” is intended to influence the selection process or contract execution.

<sup>9</sup> For the purpose of this sub-paragraph, “parties” refers to participants in the procurement or selection process (including public officials) attempting either themselves, or through another person or entity not participating in the procurement or selection process, to simulate competition or to establish prices at artificial, non-competitive levels, or are privy to each other’s bid prices or other conditions.

- (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 Client 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 Client’s inspection and audit rights;
- (b) will reject a proposal for award if it determines that the Firm recommended for award or any of its personnel, or its agents, or its sub-consultants, sub-contractors, services 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 Firm or of a recipient of any part of the Firm were engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the selection process or the implementation of the contract in question, without having taken timely and appropriate action satisfactory to the Client to address such practices when they occur, including by failing to inform the Client in a timely manner they knew of the practices;
- (d) will sanction a firm or an individual at any time, in accordance with prevailing Government rules and regulation, including by publicly declaring such firm or an ineligible, either indefinitely or for a stated period of time: (i) to be awarded a Government-financed contract, and (ii) to be a nominated<sup>11</sup> sub-consultant, supplier, or service provider of an otherwise eligible firm being awarded a Government-financed contract.

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<sup>10</sup> For the purpose of this sub-paragraph, “party” refers to a participant in the selection process or contract execution.

<sup>11</sup> A nominated sub-consultant, supplier, or service provider is one which has been either (i) included by the Firm in its proposal because it brings specific and critical experience and know-how that are accounted for in the technical evaluation of the Firm’s proposal for the particular services; or (ii) appointed by the Client.

### III. Special Conditions of Contract

*[Notes in brackets are for guidance purposes only and should be deleted in the final text of the signed contract]*

<b>Number of GC Clause</b>	<b>Amendments of, and Supplements to, Clauses in the General Conditions of Contract</b>
<b>1.1(b) and 3.1</b>	<b>The Contract shall be construed in accordance with the law of Republic Democratic of Timor-Leste (RDTL)</b>
<b>4.1</b>	<b>The language is: English</b>
<b>6.1 and 6.2</b>	<p><b>The addresses are:</b></p> <p>Client : Ministry of Finance, Government of RDTL  Attention : _____  Facsimile : _____  E-mail (where permitted): _____</p> <p>Firm : _____  _____</p> <p>Attention : _____  Facsimile : _____  E-mail (where permitted) : _____</p>
<b>9.1</b>	<p><b>The Authorized Representatives are:</b></p> <p><b>For the Client:</b>     <i>[name, title]</i> _____</p> <p><b>For the Firm:</b>     <i>[name, title]</i> _____</p>
<b>11.1</b>	<b>The effectiveness conditions are the following:</b> To be advise
<b>13.1</b>	<p><b>Commencement of Services:</b></p> <p><b>The number of days shall be in</b>  Confirmation of Key Experts' availability to start the Assignment shall be submitted to the Client in writing as a written statement signed by each Key Expert.</p>
<b>14.1</b>	Expiration of Contract:

<b>27.2</b>	The Firm shall not use the outcome report of this services for purposes unrelated to this Contract without the prior written approval of the Client or Employer.
<b>42.3</b>	<b>Price adjustment on the remuneration :does not apply</b>
<b>43.1 and 43.2</b>	<b>The Firm, the Sub-consultants and the Experts shall pay all taxes and customs duties under the applicable law of the Government of Timor-Leste, on the Firm, the Sub-consultants and the Experts.</b>
<b>44.1</b>	<b>The currency of payment shall be in USD</b>
<b>45.1(e)</b>	<b>The accounts are:</b>  [TO BE PROVIDED BY SELECTED FIRM]
<b>46.1</b>	<b>The interest rate is: N/A</b>



## **IV. Appendices**

### **APPENDIX A – TERMS OF REFERENCE**

#### **1. Introduction**

Since 2012, the Government of Timor-Leste (GoTL) has entered into several loan agreements with various international financial institutions and bilateral partners to finance the implementation of infrastructure projects. This recourse to concessional borrowing is based on existing legislation, particularly the Public Debt Regime (Law no. 13/2011), and is driven by the Government's intention to minimize the financial cost of the projects, to reduce the pressure upon the annual State Budget, and to benefit from the technical assistance and enhanced project procurement and implementation processes that accompany lending assistance from development partners.

The mobilization of the loans, the implementation of the loan-funded projects and the management and servicing of the existing debt involve a number of Government ministries and agencies, including the Ministry of Finance (especially the PPP and Loans Unit and DG Treasury), the Ministry of Planning and Strategic Investment (particularly the Major Projects Secretariat), the project owners/line ministries (particularly the Project Management Unit of the Ministry of Public Works, Transport and Communications), the National Development Agency, the National Procurement Commission and the Central Bank of Timor-Leste.

The GoTL intends to continue to pursue this policy in the future, but it also wishes to take stock of the lessons that can be drawn from the experience of the first few years of loan mobilization and implementation of loan-funded projects, in order to improve its processes and systems in the future. These TORs are for a consultancy service provider (companies or organizations) to undertake an interim review of the GoTL's borrowing practices, processes and systems up until the present, including:

- the mobilization of new loans;
- the recording, servicing and management of existing debt; and
- the procurement and implementation of loan-funded projects.

#### **2. Project Location**

The location of the project is in Timor-Leste, with focus on assessing the above mentioned aspects of the system and mechanisms for management and servicing of loans.

### **3. Objectives**

The main objectives of this mid-term review are:

- iv) to undertake a systematic assessment of loans mobilization, debt management and implementation of loan-funded projects, as implemented and pursued until now, from the legal, financial and technical perspectives;
- v) identify the main lessons that can be drawn from that assessment; and
- vi) identify steps that the GoTL can take to enhance and simplify its practices, processes and systems in these domains in the future.

### **4. Scope of Work**

This review encompasses two overarching tasks.

- Task I will involve systematically assessing loans mobilization, debt management and the implementation of loan-funded projects by the GoTL from three main perspectives: Legal, Financial and Technical.
- Task II will draw on that assessment in order to draw lessons and put forward recommendations for future improvement, in consultation with the various relevant agencies.

#### **4.1 Task I: Systematic Assessment of Loans and Loan-Funded Projects**

##### **4.1.1 Legal Perspective**

The Consultant will review, summarize and critically assess all legislation and documentation relevant to loans and loan-funded projects, including the Public Debt Regime and other legislation, as well as the existing loan agreements and any other relevant legal and/or contractual documentation.

##### **4.1.2 Financial Perspective**

The Consultant will review, summarize and critically assess the financial terms and conditions of the existing loan agreements, including from the perspective of their advantages and disadvantages vis-à-vis alternative funding modalities.

##### **4.1.3 Technical Perspective**

The Consultant will identify and summarize the main relevant processes in the domains of loans mobilization; debt recording, management and servicing; and procurement and

implementation of loan-funded projects. Additionally, the Consultant will conduct a summary assessment of the condition, readiness and features of all ongoing and completed loan-funded projects, capable of allowing for a comparative analysis of the quality of loan-funded projects versus non-loan-funded projects.

## **4.2 Task II: Lesson-Drawing and Recommendations for the Future**

### **4.2.1 Organization of validation workshop**

The Consultant will organize and run a workshop with the participation of the main relevant stakeholders with a view to presenting and validating the conclusions of Task I and initiating a discussion of the main challenges and bottlenecks identified thus far.

### **4.2.2 Lessons learnt and recommendations for the future**

Based on the extensive information collected and the discussions held, the Consultant will identify the main lessons that can be drawn from the experience of the GoTL with loans and loan-funded projects. Then, based on these lessons as well as on international best practices and in light of the Government's strategic objectives, the Consultant will produce a set of recommendations for the future, organized by sub-domains (loans mobilization; debt recording and servicing; procurement of loan-funded projects; implementation of loan-funded projects) and dimensions (legal; financial; technical).

### **4.2.4 Drafting of final report**

The Consultant will draft a detailed report of no less than 100 pages incorporating the information surveyed and produced in the course of tasks 4.1.1-4.1.3 and 4.2.1-4.2.2, which shall include an Executive Summary of no more than 7 pages. This draft report shall be circulated to the relevant stakeholders for comments, after which the Consultant shall produce the final version of the same report.

## **5. Deliverables**

### **5.1 Background papers**

Upon completion of each of the tasks 4.1.1-4.1.3 and 4.2.1-4.2.2, the Consultant will produce a short interim paper summarizing the main conclusions of that task, to be circulated for review and commentary amongst the main relevant stakeholders.

### **5.2 Final Report**

As described in 4.2.4, the Consultant will draft a detailed report of no less than 100 pages based on the Background Papers that were previously submitted and on the comments

subsequently received. This report should include an Executive Summary of no more than 7 pages. The draft full report shall be circulated to the relevant stakeholders for comments, after which the Consultant shall produce the final version of the same report.

## **6. Principles**

### **6.1 Work Program**

The Consultant will prepare a Work Program that at minimum should cover the following:

- c) Methodology; and
- d) Detailed Work Schedule.

The work program needs to be approved by the GoTL after the contract is awarded, and inputs provided, discussed and approved between both parties.

### **6.2 Personnel Required**

The Consultant (company or organisation) must provide the minimum personnel required to meet the requirements to implement this program, considering the scope of work, the timeline and the subject matter. That personnel must have the required skill, expertise and experience needed to perform the services to a high professional standard. The team leader must have no less than 10 years' experience of designing, assessing and/or managing debt management systems and processes in the context of developing countries, whether with Governments or with donors and international financial institutions. The team must also comprise sufficient expertise in the legal and technical (engineering/infrastructure) domains.

### **6.3 Ownership of Information and Confidentiality**

The Government of Timor-Leste is the owner of all the documents, reports, data and any other information shared, disclosed or produced during the course of this mid-term review. All written documents produced in the course of this review shall be submitted to the PPP and Loans Unit prior to the conclusion of the mid-term review.

All documents, reports, data and any other information as may be shared, disclosed or produced in the course of this mid-term review shall be considered strictly confidential and not distributed to any third parties.

## **7. Budget**

The fee to be paid for these consulting services cost will be a lump-sum fixed amount quoted in US Dollars. This fee shall be inclusive of all taxes and should cover all the costs necessary or ancillary to ensuring the performance of all the tasks listed in these ToR, including

(without being limited to) all labour remuneration, cost of international travel, local travel, accommodation and the cost of any other activities/expenses necessary to complete the works. Upon signing of contract, no additional costs will be reimbursed by the GoTL.

### **8. Schedule**

The tasks should be completed by the team according to the following schedule:

- The Work Program shall be finalised within 10 working days of contract signing
- The Task I deliverables shall be completed within 60 calendar days of contract signing
- The Task II deliverables shall be completed within 90 calendar days of contract signing.

**APPENDIX B - KEY EXPERTS**

**APPENDIX C – FIRM FEES**

**APPENDIX E - FORM OF ADVANCE PAYMENTS GUARANTEE**  
*[See Clause GCC 41.2.1 and SCC 41.2.1]*

*{Guarantor letterhead or SWIFT identifier code}*

**Firm Guarantee for Advance Payment**

**Guarantor:** \_\_\_\_\_ *[insert commercial Firm's Name, and Address of Issuing Branch or Office]*

**Beneficiary:** \_\_\_\_\_ *[insert Name and Address of Client]*

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

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

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

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

At the request of the Firm, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of \_\_\_\_\_ *[amount in figures]* () *[amount in words]*<sup>1</sup> upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's a written statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Firm is in breach of their obligation under the Contract because the Firm:

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

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

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



The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Firm as indicated in certified statements or invoices marked as “paid” by the Client which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of the payment certificate or paid invoice indicating that the Firm has made full repayment of the amount of the advance payment, or on the \_\_\_ day of \_\_\_[month]\_\_\_\_\_, [year]\_\_\_,<sup>2</sup> whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

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

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*[signature(s)]*

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<sup>2</sup> Insert the expected expiration date. In the event of an extension of the time for completion of the Contract, the Client would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Client might consider adding the following text to the form, at the end of the penultimate paragraph: “The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Client’s written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.”