SAMPLE BIDDING DOCUMENT

Procurement of Performance-Based Management and Maintenance of Roads
(Output-based Service Contract)

The World Bank
Washington, D.C.

February 2002
Revised March 2003
Notes on the Revisions

March 2003: The Bank's model “Forms of Bid Security (Bank Guarantee)” have been revised to incorporate the ICC's Uniform Rules for Demand Guarantee (URDG). We believe that use of these new forms will benefit both our clients and the business community.
Important Notice to Users of this Document

This Sample Bidding Document for Performance-Based Management and Maintenance of Roads has been issued by the World Bank on a trial basis in response to a growing demand worldwide for this type of service. It is structured to fit the specific nature of the Performance-Based Contract for Management and Maintenance of Roads (PMMR) and differs substantially from traditional contracts for civil works. The basic difference is that a PMMR contract is an “output” based contract instead of an “input” based type as used traditionally for civil works. In particular, most of the remuneration to be paid to the contractor is not based on quantities of works measured by unit prices for works inputs, but on measured “outputs” reflecting the “service quality levels” of the roads under contract. These service quality levels are defined in the contract.

The present document is designed to allow for a certain degree of flexibility in its use according to the specific needs of the road network under contract (called “the Road” or “Roads” in this document). The main focus of the contract is on maintenance services to be provided by the contractor, including physical works on the Roads under contract which are needed to maintain the agreed service quality levels, but also all activities related to the management and evaluation of the road network under contract. However, the contract also allows for the execution of (i) Initial Rehabilitation Works to be carried out at the initial stage of the contract to bring the Roads up to pre-defined standards; (ii) Improvement Works aiming at adding new characteristics to the Roads in response to new traffic, safety or other considerations; and (iii) Emergency Works comprising of activities needed to reinstate the Roads after damage resulting from unforeseen natural phenomena with imponderable consequences.

It should be noted that this sample bidding document is not designed for roads or road networks in very poor condition which would require major initial rehabilitation works. For such cases, rehabilitation works using standard civil works contracts should be carried out previous to launching the PMMR program because the Rehabilitation Works in such circumstances would impose excessive risks upon the contractor if bidded under an “output” basis as included in this PMMR document. Consequently, the cost of Rehabilitation Works should not represent more than approximately 40 percent of the total contract amount, subject to the previous risk analysis. This document is also not meant for use for very small contracts (less than US$3-5 million) because in that case, a management contract with a Consulting firm or other arrangements could be more appropriate.

Further explanations on the nature and character of Performance-Based Management and Maintenance Contracts for Roads are made on the following pages and elsewhere within this document.
1. The present sample bidding document has a general structure based on the World Bank’s Standard Bidding Document (SBD) for Works. Given the specific characteristics of performance-based services for the management and maintenance of roads, significant modifications have however been made in most sections of the document including several aspects found in the World Bank’s Standard Bidding Documents for Supply and Install. In particular, the General Conditions of Contract have been rewritten in order to take into account the specific nature of the services to be provided by the Contractor, which go much beyond the mere execution of pre-defined physical works and to include the “output” basis in the contract. The contract covers an array of activities needed to maintain a certain service quality level for road users, including many activities related to the management and periodic evaluation of the road network under contract. It further includes carrying out Initial Rehabilitation Works to bring the Road up to pre-defined standards, Improvement Works specified by the Employer aiming at adding new characteristics to the Roads in response to new traffic, safety or other conditions and Emergency Works needed to reinstate the Roads after damages have occurred as a result of natural phenomena with imponderable consequences (such as strong storms, flooding and earthquakes) under the conditions defined in the contract. This document also includes sample Performance Specifications which are recommended to be included in the Specifications which should be part of the bidding documents, but which may be modified by the user if needed.

2. This preface summarizes the concept of Performance-Based Management and Maintenance of Roads. For legal purposes the text of the main body of this document is binding and takes precedence over this preface.

3. Performance-based contracting for the management and maintenance of road networks is a new concept designed to increase the efficiency and effectiveness of road maintenance operations. It should ensure that the physical condition of the roads under contract is adequate for the need of road users, over the entire period of the contract which is normally several years. This type of contract significantly expands the role of the private sector, from the simple execution of works to the management and conservation of road assets.

4. In traditional contracts for maintenance works, the Contractor is responsible for the execution of works which are normally defined by the Road Administration or the Employer, and the Contractor is paid on the basis of unit prices for different work items, i.e., a contract based on “inputs” to the works. While this modality often brings improvement over force-account maintenance practices, the results are in many cases still less-than-optimal. The problem is that the Contractor has the wrong incentive, which is to carry out the maximum amount of works, in order to maximize its turnover and profits. Under this traditional way of “contracting out” maintenance works, it has been observed that even if a lot of work is carried out and much money is spent, the overall service quality for the road user depends on the quality of the design given to the Contractor who is not accountable for it and the results are sometimes not satisfactory.
5. The **Performance-Based Management and Maintenance Contract** tries to address the issue of inadequate incentives. During the bidding process, contractors compete among each other by proposing a fixed monthly lump-sum fee per km of road to be paid to them. It is important to understand that contractors are not paid directly for “inputs” or physical works (which they will undoubtedly have to carry out), but for “outputs,” i.e., the initial rehabilitation of the road to predefined standards (if so required by the bidding documents), the maintenance service of ensuring certain quality levels on the roads under contract and specific improvements (if so required by the bidding documents). The monthly lump-sum remuneration paid to the Contractor will cover all physical and non-physical maintenance services provided by the Contractor, except for unforeseen emergency works which would be remunerated separately. The initial rehabilitation works which have been explicitly specified by the Employer in the contract, would be quoted on the basis of measurable output quantities and paid as performed. In order to be entitled to the monthly payment for maintenance services, the Contractor must ensure that the roads under contract comply with the service quality levels which have been specified in the bidding document. It is possible that during some months he will have to carry out a rather large amount of physical works in order to comply with the required service levels, and very little work during other months. Yet his monthly payment remains the same as long as the required service levels are complied with. One fundamental feature of the performance-based contract is that the Contractor is responsible for designing and carrying out the actions he believes are necessary in order to comply with the service quality levels stated in the contract. The service quality levels are defined from a road user’s perspective and may include factors such as average travel speeds, riding comfort, safety features, etc. If the service quality is not achieved in any given month, the payment for that month may be reduced or even suspended. Under the performance-based contract, the Contractor has a strong financial incentive to be efficient. In order to maximize profits, he must reduce his activities to the smallest possible volume of intelligently designed interventions, which nevertheless ensure that pre-defined outputs (measured indicators of service level) are achieved and maintained over time. This type of contract makes it necessary for the Contractor to have a good management capacity. Here, “management” means the capability to define, optimize and carry out in a timely basis the physical interventions which are needed in the short, medium and long term, in order to guarantee that the roads remain above the agreed service quality levels. In other words, within the contract limitations and those required to comply with local legislation, technical and performance specifications and environmental and social regulations, the Contractor is entitled to independently define: (i) what to do, (ii) where to do it, (iii) how to do it, and (iv) when to do it. The role of the Road Administration and of the Employer is to enforce the contract by verifying if the agreed service levels have been complied with, as well as all other legislation and regulations the Contractor must comply with.

6. Maintaining a road network includes routine and periodic tasks. Routine maintenance consists of many different tasks frequently necessary to maintain the function of the road (such as pothole repairs, cleaning of drainage, sealing of cracks, cutting of vegetation, etc.). Periodic maintenance consists of predictable and more costly measures of a less frequent nature designed to avoid road degradation (such as resurfacing, asphalt concrete overlays, etc.). Intelligent management, the timeliness of interventions and the adequacy of technical solutions are critical. It is expected that the use of private specialized firms under performance-based contracts will unleash significant efficiency gains, and stimulate innovation in comparison with traditional road administration practices.

7. Road conditions can be expressed through indicators for service quality levels, and these are used under the performance-based contract to define and measure the desired performance of the
Contractor. In the Performance-Based Management and Maintenance Contracts, the service level indicators are thus the accepted minimum thresholds for the quality levels of the roads for which the Contractor is responsible.

8. Under the terms of the contract, the Contractor will also be responsible for the continuous monitoring and control of road conditions and service levels for all roads or road sections included in the contract. This will not only be necessary to fulfill the contract requirements, but it is an activity which will provide him with the information needed in order to be able (i) to know the degree of his own compliance with service level requirements, and (ii) to define and plan, in a timely fashion, all physical interventions required to assure that service quality indicators never fall below the indicated thresholds. Under the performance-based contract modality, the Contractor will not receive instructions from the Employer concerning the type and volume of works to be carried out. Instead, all initiative is given to the Contractor who should do whatever is necessary and efficient to achieve the quality levels required. This concept is expected to lead not only to significant efficiency gains, as mentioned earlier, but also to technological innovation.

9. The beneficiaries of the new concept are expected to be the road users, the Road Administration, and the contractors or other private sector enterprises. In a wider sense, future generations will be able to benefit from a better preservation of past investments in roads. Road users will be able to know the service level they can expect in retribution for the payments they make for the use of the infrastructure (tolls, tariffs, user fees, taxes, etc.). The Road Administration should benefit by obtaining better overall road conditions at the same level of expenditures. For contractors and other private sector enterprises, the new type of contracts should open up new business opportunities, in which longer contract periods provide a more stable business environment. But it may be the future generations who will perhaps benefit most, since they will not have to pay for the reconstruction of roads destroyed because of a lack of maintenance today.

10. Although design of the works to be carried out is under the responsibility of the Contractor, this type of procurement requires good preparation engineering work. It is necessary to prepare a good set of information on the actual conditions of the road. If initial rehabilitation works are required, the Employer should define the level of quality (or standard) to be achieved by the Contractor for delivery and completion during this initial phase of the contract. If improvement works are sought, a well-designed bill of quantities defining specific outputs for bidders to price and, later on, allow measurement and payment of the Contractor, is of paramount importance. Emergency works, although impossible to quantify in advance, will certainly be necessary. To allow bidders to offer prices a unit price bill of quantities (similar for civil works under unit prices) with quantity estimates should be prepared for bidders to price for bid evaluation purposes. Later on, these unit prices and real measured volume of works executed will be used for payments. Another important area requiring good engineering advice is to define if the initial rehabilitation works should be included in this contract or be carried out in advance under a separate “standard” civil works contract. This decision depends in each case on the risks that the Borrower (and his advisor) understands as possible to be administered cost-effectively by the Contractor. In general, if those initial works represent more than 40% of the contract value, the risks may be too high and an initial separate contract may be warranted. However, if the Employer wants to have initial rehabilitation works based on a pre-defined design and use this document to connect it to future maintenance by the same Contractor, the documents needs to be adapted. In this case, the bill of quantities for initial rehabilitation works should be modified to become similar to those for emergency works and the measurement and payment clauses should be modified for a “input” type contract.
11. When Initial Rehabilitation Works and Improvement Works are not specified in the bidding document, it is expected that in order to comply with the contract, the Contractor will most likely have to carry out different types of works, including some small initial rehabilitation and improvements, routine maintenance activities and periodic maintenance works. The definition of the exact nature of the works, their timing, their costing and their implementation is left to the judgment of the Contractor. This means that his capacity must be above the usual capacity of a traditional civil works contractor. In fact, an essential capacity needed is the capacity to manage roads, while the actual physical execution may either be carried out by the Contractor himself, or by different specialized firms participating in a Joint Venture with the main contractor, or under subcontracts. Joint Ventures may include Engineering firms and medium, small and even micro-enterprises. Consequently, a well-designed prequalification process is highly recommended in order to ensure that only qualified bidders participate in the bidding process, even though, the present bidding document can also be used when postqualification is envisaged. In the design of the prequalification requirements the borrower should consider if the experience of specialist sub-contractors (like an engineering consultant) should be allowed to be added to those of the applicants. The activities which may be delegated by the main contractor to subcontractors not participating in the prequalification process should be listed in the Special Conditions of Contract and bidders should be alerted about this point in the Bid Data Sheet.

12. Some emergency works should always be foreseen. Those are meant to remedy unexpected damages which occur as a result of extraordinary natural phenomena, and which affect the normal use of the road network, or the safety and security of the users. For emergency works, the contract limits the responsibility of the Contractor, establishing that the Employer will approve execution of services and a separate remuneration based on specific amounts proposed by the Contractor for each case, on the basis of volume of works estimated at each time and on unit prices included in the bid and in the contract. A provisional sum is normally set aside for emergency works.

13. The Contractor should be entitled to implement an axle load control system, based on the legislation and in cooperation with local police authorities.

14. Bidders will present their financial offer for: (i) the initial rehabilitation works (if so required in the bidding data), in the form of a lump-sum amount, however, indicating the quantities of measurable outputs to be executed in order that the road achieves the performance standards specified in the bidding documents. Payments will be made in accordance with the progress in the execution of those measured outputs; (ii) the maintenance services in form of the amount of the monthly lump-sum payment demanded by the bidder according to the conditions of contract (this will be a monthly amount applicable throughout the duration of the contract); (iii) the improvement works (if so required and for the improvements indicated in the bidding documents) in the form of unit prices for outputs of each type of improvement works; payments for improvements will be made in accordance with quoted unit prices for those outputs; and (iv) unit prices for emergency works in the form of a traditional bill of quantities. Payments will be made for each emergency on a case-by-case basis, in the amount of a lump-sum value estimated by the Contractor and approved by the Employer, on the basis of the estimated quantities and on the quoted unit process. There should also be a price adjustment clause applicable to all prices and activities in order to compensate for increases in cost indexes.

15. The agreed monthly payment for maintenance works and services will be made to the Contractor if he has complied, during the month for which the payment is to be made, with the
agreed service quality levels on the road network under contract. Together with his monthly invoice, the Contractor will report the result of his own evaluation of compliance with the required service levels, based on his own monitoring system which is mandatory. His statement will then be verified by the Employer or his representative (supervision consultant) through inspections. If the service quality levels are not met, payments are reduced, based on a schedule given in the contract. Payments may even be suspended, and the contract cancelled, if the contractor fails during an extended period to achieve certain minimum thresholds values of service levels. The contract describes the formulas used to calculate payment reduction and potential contract suspensions.

16. Requests for additional information or for clarifications on the present sample bidding document should be sent to:

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Operational Core Services Network
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Washington, D.C. 20433
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INTRODUCTION

This Sample Bidding Document has been prepared by the World Bank on a trial basis for use by borrowers in the procurement of Performance-Based Management and Maintenance of Roads through competitive bidding.

In order to simplify the preparation of bidding documents for each procurement, this sample bidding document groups the provisions that shall remain unchanged in Section II - Instructions to Bidders, and in Section IV - General Conditions of Contract. Data and provisions specific to each procurement and contract shall be included in Section III - Bidding Data, and in Section V – Special Conditions of Contract (SCC). The documents also require Technical Specifications (Section VI). Other materials should be incorporated as necessary in the appropriate sections. In addition, sample forms to be used are provided where necessary.

This Sample Bidding Document has been prepared for bidding when prequalification has taken place, however, if postqualification is used, the documents could be easily modified by including in the Bidding Data the minimum requirements for bidders qualification. The process of prequalification shall follow the procedure indicated in Standard Prequalification Document: Procurement of Works, issued by the World Bank with due adaptation for this specific use. Postqualification procedures are covered in Section XIV.

Care should be taken to check the relevance of this Sample Bidding Document against the requirements of the specific road networks to be managed and maintained. The following general directions should be observed when using the document:

(a) Explanatory text and notes are presented in a sans serif typeface such as that used in this line and in the body of this Introduction. All the notes, except those applying to forms to be filled in by bidders, are intended only as information for the person drafting the bidding documents and should not be included in the final documents. Standard SBD text is presented in a serif roman typeface, such as used in this line.

(b) When parameters, options, instructions, and/or explanatory notes appear directly within the standard text, they are enclosed with square brackets, italicized, and the key parameter bolded. For example:

“The Warranty Period is [insert: number] months from the date of the Operational Acceptance of the System.”

(c) Specific details, such as the name of the Employer or address for bid submission, should be furnished in the space provided in the Bidding Data, and in the Specific Conditions of Contract. The final document should contain neither blank spaces nor options.
(d) Amendments, if any, to the Instructions to Bidders and to the General Conditions of Contract, can only be made through the Bidding Data and Specific Conditions of Contract respectively.

(e) Except where indicated as mandatory, clauses included in the Specific Conditions of Contract are illustrative of the provisions that should be drafted by the Employer for each procurement.

The World Bank welcomes any feedback or experiences from the use of these bidding documents from bidders and from others as well.

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SECTION I. INVITATION FOR BIDS (IFB)

Notes on the Form of Invitation for Bids

The Invitation for Bids for contracts, subject to prequalification, is sent only to firms determined by the Borrower to be qualified in accordance with the Borrower’s prequalification procedure. This procedure must be reviewed and commented on by IBRD if the potential contract is to be eligible for IBRD financing (see Guidelines: Procurement under IBRD Loans and IDA Credits, hereinafter referred to as IBRD Guidelines for Procurement, Appendix 1, para. 1).

Ideally, the Letter of Invitation for Bids is sent to the qualified bidders at the time that the prequalification results are announced.

Prequalification is recommended for Performance-Based Contracts for Management and Maintenance of Roads. However, if prequalification is not used, the appropriate changes should be included in the Invitation for Bids and in the rest of the document (please refer to Section XIV).
Form of Invitation for Bids

[letterhead paper of the Employer]

______________ [date]

To: [name of Contractor]

[address]

Reference: [Insert IBRD Loan No. or IDA Credit No.]

Contract Name and Identification No. ________ / ________

Dear Sirs:

We hereby inform you that you are prequalified for bidding for the above cited contract. A list of prequalified and conditionally prequalified Applicants is attached to this invitation.

On the basis of information submitted in your application, you would [not] (insert if appropriate) appear eligible for application of the domestic bidder price preference in bid evaluation. Eligibility is subject to confirmation at bid evaluation.

We now invite you and other prequalified Applicants to submit sealed bids for the execution and completion of the cited contract.

You may obtain further information from, and inspect and acquire the bidding documents at our offices at [mailing address, street address, and cable/telex/facsimile numbers].

A complete set of bidding documents may be purchased by you at the above office, on or after [time and date] and upon payment of a nonrefundable fee of [insert amount and currency].

1 This sample “Form of Invitation for Bids” is a basic form that should be adapted appropriately by the Employer to cover the following points as required:
   • the conditions, if any, for prequalification, stating explicitly the deficiencies that must be corrected to meet all the conditions and the time to fulfill them before bid submission;
   • in slice and package bidding, the number of individual contracts (slices) or the specified ceiling amount in total value for which the Applicant is qualified; and
   • the finalization of preliminary joint venture agreement and any modifications required.

2 The Borrower and the Employer may be the same or different entities. The text of the Invitation for Bids and the texts of the other documents herein must be footnoted to indicate which agency will act as the Employer.

3 The Employer should insert the name and identification number of a single contract, or for concurrent slice and package bidding, those of individual contracts (slices) within the package for which Applicants expressed a preference, and for which they are prequalified.

4 The office for inquiries and issue of bidding documents and the office for bid submission may or may not be the same. The place of bid opening may also differ and, if so, should be identified.
All bids must be accompanied by a security in the form and amount specified in the bidding documents, and must be delivered to [address and exact location] at or before [time and date]. Bids will be opened immediately thereafter in the presence of bidders’ representatives who choose to attend.\(^6\)

Please confirm receipt of this letter immediately in writing by cable, fax, or telex. If you do not intend to bid, we would appreciate being so notified also in writing at your earliest opportunity.

Yours truly,

Authorized signature

Name and title

Employer

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\(^5\) The chargeable fee should only be nominal, to cover reproduction and mailing costs. An amount of between US$50 and US$500 equivalent is considered appropriate, depending on the size and complexity of the works and the bidding documents.

\(^6\) Coordinate this paragraph with Clause 25 of Section II, Instructions to Bidders, “Bid Opening.” Also see footnote 4.
SECTION II. INSTRUCTIONS TO BIDDERS

Notes on the Instructions to Bidders

Section II provides the information necessary for bidders to prepare responsive bids in accordance with the requirements of the Employer. It also gives information on bid submission, opening, and evaluation, and on the award of Contract. The provisions in Section II should be used unchanged.

Section III, Bidding Data, consists of provisions that supplement, amend, or specify information or changes to Section II that are specific to each procurement.

Matters governing the performance of the Contractor under the Contract, payments under the Contract, or matters affecting the risks, rights, or obligations of the parties under the Contract are not included in this section, but rather in the General Conditions of Contract, Special Conditions of Contract, and Technical Specifications. If duplication of a subject is inevitable in the different sections of the documents, the Employer should exercise care to avoid contradiction or conflict between clauses dealing with the same topic.

These Instructions to Bidders will not be part of the Contract.
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A. General

1. Scope of Bid

1.1 The Employer, as defined in the Bidding Data, hereinafter “the Employer,” wishes to receive bids for the Works and Services identified in the Bidding Data for a Performance-Based Contract for the Management and Maintenance of Roads. The Contract will cover the Roads indicated in the Bidding Data and consisting of:

(a) Maintenance Services or “Services” for the Road(s) indicated in the Bidding Data consisting of all interventions on the Roads under contract which are carried out in order to achieve and keep the Road performance standards as defined by the service quality level included in the Technical Specifications, and all activities related to the management and evaluation of the road network under contract. Maintenance Services shall include the works necessary to achieve and maintain the required Service Quality Levels. These Services will be offered and remunerated by Lump-Sum amount for the period of the contract paid in fixed monthly payments during the entire contract period.

(b) Initial Rehabilitation Works for the sections of the Road(s) indicated in the Bidding Data and consisting of specific civil works clearly described in the Technical Specifications to be carried out early during the initial period of the contract. Rehabilitation Works quantities will be estimated by the Bidder to achieve the performance standards defined by the Service Quality Levels and offered as a Lump-Sum price.

(c) Improvement Works, when requested, are indicated in the Bidding Data and consist of the set of specific interventions indicated in the Technical Specifications to add new characteristics to the roads in response to existing or new traffic and safety or other considerations. Improvement Works quantities will be offered with unit prices for output products and estimated quantities included in the Bill of Quantities. For the execution of Improvement Works, the Employer shall issue a Work Order.

(d) Emergency Works consisting of necessary and sufficient activities to reinstate the Road and reconstruct its structure or its right of way which has been damaged as a result of natural phenomena with imponderable consequences, such as strong storms, flooding, and earthquakes. These services will be offered with unit prices for the activities included in the Bill of Quantities. For bid evaluation the volumes estimated in the Bill of Quantities will be used, however, billing will be based on each emergency as indicated in the Contract. For the execution of Emergency Works, the Employer
shall issue a Work Order.

1.2 The successful bidder will be expected to carry out the Works and Services during the period stated in the Bidding Data.

1.3 Throughout these bidding documents, the terms “bid” and “tender” and their derivatives (“bidder/tenderer”, “bid/tendered”, “bidding/tendering”, etc.) are synonymous, and day means calendar day. Singular also means plural.

2. Source of Funds

2.1 The Borrower named in the Bidding Data has applied for or received a loan or credit (hereinafter called “loan”) from the International Bank for Reconstruction and Development or from the International Development Association (hereinafter interchangeably called “the Bank”) in various currencies equivalent to the amount in U.S. dollars indicated in the Bidding Data toward the cost of the Project specified in the Bidding Data, and the Borrower intends to apply a part of the proceeds of this loan to eligible payments under the Contract for which these bidding documents are issued.

2.2 Payments by the Bank will be made only at the request of the Borrower and upon approval by the Bank in accordance with the terms and conditions of the Loan Agreement, and will be subject in all respects to the terms and conditions of that Agreement. The Loan Agreement prohibits a withdrawal from the loan account for the purpose of any payment to persons or entities, or for any import of equipment, plant, or materials, if such payment or import, to the knowledge of the Bank, is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations. No party other than the Borrower shall derive any rights from the Loan Agreement or have any claim to the loan proceeds.

3. Eligible Bidders

3.1 This invitation to bid is open to any bidder (including all members of a joint venture and all subcontractors of a bidder) meeting all four of the following requirements:

(a) A bidder shall be from an eligible source country as defined under the Guidelines: Procurement under IBRD Loans and IDA Credits (hereinafter referred to as the Guidelines).

(b) A bidder shall not be affiliated with a firm or entity

(i) that has provided consulting services related to the Works to either the Employer or the Borrower during the preparatory stages of the Works or of the Project of which the Works form a part, or

(ii) that has been hired (or is proposed to be hired) by the Employer or Borrower as Consultant for helping the Employer to supervise the contract.
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3.2 Bidders shall provide such evidence of their continued eligibility satisfactory to the Employer as the Employer shall reasonably request.

3.3 Majority publicly owned enterprises from the Borrower country may be eligible to qualify if, in addition to meeting all the above requirements, they are also legally and financially autonomous, operate under commercial law and are not a dependent agency of the Borrower or Sub-Borrower.

4. Eligible Materials, Plant, Supplies, Equipment, and Services

4.1 The materials, plant or Contractor’s equipment, other supplies, and services to be supplied under the Contract, shall have their origin in eligible source countries, defined under the Guidelines, and all expenditures made under the Contract will be limited to such materials, plant or Contractor’s equipment, other supplies, and services.

4.2 For purposes of Sub-Clause 4.1 above, “origin” means the place where the materials, plant, equipment, and other supplies are mined, grown, produced, or manufactured, and from which the services are supplied.

5. Qualification of the Bidder

5.1 Bidders shall, as part of their bid:

(a) submit a written power of attorney authorizing the signatory of the bid to commit the bidder; and

(b) update any information submitted with their applications for prequalification which has changed, update in any case the information indicated in the Bidding Data, and continue to meet the minimum threshold criteria set out in the prequalification documents.

As a minimum, bidders shall update the following information:

(a) evidence of access to lines of credit and availability of other financial resources;

(b) financial predictions for the current year and the two following years, including the effect of known commitments;

(c) work commitments acquired since prequalification;

(d) current litigation information; and

(e) availability of critical equipment.

5.2 Bids submitted by a joint venture of two or more firms as partners shall comply with the following requirements:
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(a) the bid shall include all the information listed in Sub-Clause 5.1 above;

(b) the bid security, the bid, and in case of a successful bid, the Agreement, shall be signed so as to be legally binding on all partners;

(c) one of the partners shall be nominated as being in charge, and this authorization shall be evidenced by submitting a power of attorney signed by legally authorized signatories of all the partners;

(d) the partner in charge shall be authorized to incur liabilities and receive instructions for and on behalf of any and all partners of the joint venture and the entire execution of the Contract, including payment, shall be done exclusively with the partner in charge;

(e) all partners of the joint venture shall be liable jointly and severally for the execution of the Contract in accordance with the contract terms, and a statement to this effect shall be included in the authorization mentioned under (c) above, as well as in the bid and in the Agreement (in case of a successful bid); and

(f) a copy of the Joint Venture Agreement entered into by all partners shall be submitted with the bid. Alternatively, a Letter of Intent to execute a Joint Venture Agreement in the event of a successful bid shall be signed by all partners and submitted with the bid, together with a copy of the proposed agreement.

5.3 Bidders shall also submit proposals of work methods and schedule in sufficient detail to demonstrate the adequacy of the bidders’ proposals to meet the technical specifications and the completion time referred to in Sub-Clause 1.2 above.

5.4 Domestic bidders, individually or in joint ventures, applying for eligibility for a 7½ percent margin of preference in bid evaluation shall supply all information required to satisfy the additional criteria for eligibility as described in Clause 32.

6. One Bid per Bidder

6.1 A firm shall submit only one bid in the same bidding process, either individually as a bidder or as a partner in a joint venture. No firm can be a subcontractor while submitting a bid individually or as a partner of a joint venture in the same bidding process. A firm, if acting in the capacity of subcontractor in any bid, may participate in more than one bid, but only in that capacity. A bidder who submits or participates in more than one bid will cause all the proposals in which the bidder has participated to be disqualified.

7. Cost of Bidding

7.1 The bidder shall bear all costs associated with the preparation and submission of its bid, and the Employer will in no case be responsible
or liable for those costs, regardless of the conduct or outcome of the bidding process.

8. Site Visit

8.1 The bidder is encouraged to visit and examine the Road to be included in the contract and its surroundings and obtain for itself on its own responsibility all information that may be necessary for preparing the bid and entering into a contract for the services to be provided under the contract. The costs of visiting the Site shall be at the bidder’s own expense.

8.2 The bidder must have concluded the Site visit at any time before the pre-bid meeting referred to in Clause 19.

B. Bidding Documents

9. Content of Bidding Documents

9.1 The bidding documents are those stated below and should be read in conjunction with any Addenda issued in accordance with Clause 11:

Section I. Invitation for Bids
Section II. Instructions to Bidders
Section III. Bidding Data
Section IV. General Conditions of Contract
Section V. Special Conditions of Contract
Section VI. Technical Specifications
Section VII. Form of Bid, Appendix to Bid, and Bid Security
Section VIII. Bill of Quantities for Emergency Works
Section IX. Bill of Quantities for Maintenance Services
Section X. Bill of Quantities for Initial Rehabilitation Works and for Improvement Works
Section XI. Form of Agreement, Forms of Performance Security, and Bank Guarantee for Advance Payment
Section XII. Drawings
Section XIII. Disputes Settlement Procedure
Section XIV. Postqualification

10. Clarification of Bidding Documents

10.1 A prospective bidder requiring any clarification of the bidding documents may notify the Employer in writing or by cable (hereinafter, the term “cable” is deemed to include telex and facsimile) at the Employer’s address indicated in the Bidding Data. The Employer will respond to any request for clarification that he receives earlier than 14 days prior to the deadline for submission of bids.
Copies of the Employer’s response will be forwarded to all purchasers of the bidding documents, including a description of the inquiry but without identifying its source.

11. Amendment of Bidding Documents

11.1 At any time prior to the deadline for submission of bids, the Employer may amend the bidding documents by issuing Addenda.

11.2 Any Addendum thus issued shall be part of the bidding documents pursuant to Sub-Clause 9.1 and shall be communicated in writing or by cable to all purchasers of the bidding documents. Prospective bidders shall promptly acknowledge receipt of each Addendum by cable to the Employer.

11.3 To give prospective bidders reasonable time in which to take an Addendum into account in preparing their bids, the Employer shall extend as necessary the deadline for submission of bids, in accordance with Clause 22.

C. Preparation of Bids

12. Language of Bid

12.1 The bid, and all correspondence and documents related to the bid exchanged by the bidder and the Employer, shall be written in the bid language stipulated in the Bidding Data and Conditions of Particular Application. Supporting documents and printed literature furnished by the bidder may be in another language provided they are accompanied by an accurate translation of the relevant passages in the above stated language, in which case, for purposes of interpretation of the bid, the translation shall prevail.

13. Documents Comprising the Bid

13.1 The bid submitted by the bidder shall comprise the following: duly filled-in Form of Bid and Appendix to Bid, Bid Security, priced Bill of Quantities, alternative offers where invited, and any information or other materials required to be completed and submitted by bidders in accordance with these Instructions to Bidders. The documents listed under Sections VII, VIII, IX and X, shall be filled in without exception, subject to extensions thereof in the same format and to the provisions of Sub-Clause 17.2 regarding the alternative forms of bid security.

13.2 If so indicated in the Bidding Data, bidders bidding for this contract, together with other contracts to form a package, will so indicate in the bid, together with any discounts offered for the award of more than one contract.

14. Bid Prices

14.1 The Contract shall be for the Maintenance Services and Works, as described in Sub-Clause 1.1, based on a Lump-Sum price for Maintenance Services and for the Rehabilitation Works if so indicated
in the Bidding Data, as well as on the priced Bill of Quantities submitted by the Bidder for the Emergency Works and the Improvements Works if so indicated in the Bidding Data.

14.2 All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 28 days prior to the deadline for submission of bids, shall be included in the rates and prices and the total Bid Price submitted by the bidder.

14.3 Except if the Bidding Data defines the contrary, the prices quoted by the bidder are subject to adjustment during the performance of the Contract in accordance with the provisions of the Conditions of Contract. The bidder shall furnish the indices and weightings for the price adjustment formulae in the Appendix to Bid, and shall submit with its bid such other supporting information as required under the Conditions of Contract. The Employer may require the bidder to justify its proposed weightings.

15. Currencies of Bid and Payment

15.1 The unit rates and prices shall be quoted by the bidder entirely in the currency of the Employer’s country specified in the Bidding Data. A bidder expecting to incur expenditures in other currencies for inputs to the Works and Services supplied from outside the Employer’s country (referred to as “the foreign currency requirements”) shall indicate in the Appendix to Bid the percentage(s) of the Bid Price for each type of Works and for the Services needed by him for the payment of such foreign currency requirements, limited to no more than three foreign currencies of any member country of the Bank.

15.2 The rates of exchange to be used by the bidder in arriving at the local currency equivalent and the percentage(s) mentioned in Sub-Clause 15.1 above shall be the selling rates for similar transactions established by the authority specified in the Bidding Data prevailing on the date 28 days prior to the latest deadline for submission of bids. These exchange rates shall apply for all payments under the Contract so that no exchange risk will be borne by the successful bidder.

15.3 Bidders shall indicate details of their expected foreign currency requirements in the Appendix to Bid.

15.4 Bidders may be required by the Employer to clarify their local and foreign currency requirements, and to substantiate that the amounts included in the unit rates and prices and shown in the Appendix to Bid are reasonable and responsive to Sub-Clause 15.1, in which case a detailed breakdown of its foreign currency requirements shall be provided by the bidder.

15. Currencies of Bid and Payment

15.1 The unit rates and prices shall be quoted by the bidder separately in the following currencies:

(a) for those inputs to the Works and Services that the bidder
15.2 Bidders shall indicate their expected foreign currency requirements in the Appendix to Bid.

15.3 Bidders may be required by the Employer to clarify their local and foreign currency requirements, and to substantiate that the amounts included in the unit rates and prices and shown in the Appendix to Bid are reasonable and responsive to Sub-Clause 15.2, in which case a detailed breakdown of its foreign currency requirements shall be provided by the bidder.

16. Bid Validity

16.1 Bids shall remain valid for the period stipulated in the Bidding Data after the deadline for bid submission as specified in Clause 22.

16.2 In exceptional circumstances, prior to expiry of the original bid validity period, the Employer may request that the bidders extend the period of validity for a specified additional period. The request and the responses thereto shall be made in writing or by cable. A bidder may refuse the request without forfeiting its bid security. A bidder agreeing to the request will not be required or permitted to modify its bid, but will be required to extend the validity of its bid security for the period of the extension and in compliance with Clause 17 in all respects.

17. Bid Security

17.1 The bidder shall furnish, as part of its bid, a bid security in the amount stipulated in the Bidding Data in the currency of the Employer’s country, or the equivalent amount in a freely convertible currency.

17.2 The bid security shall:

(a) at the bidder’s option, be in the form of either a certified check, letter of credit, or a bank guarantee from a banking institution, or a bond issued by an insurance or bonding institution;

(b) be issued by a reputable institution selected by the bidder and located in any eligible country;

(c) be substantially in accordance with one of the forms of bid security included in Section VII or other form approved by the Employer prior to bid submission;

(d) be payable promptly upon written demand by the employer in case any of the conditions listed in Sub-Clause 17.7 are invoked;

(e) be submitted in its original form; copies will not be accepted;

(f) remain valid for a period of 28 days beyond the original validity period
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17.3 The bid security of a joint venture shall be issued so as to commit fully all partners to the proposed joint venture.

17.4 Any bid not accompanied by an acceptable bid security shall be rejected by the Employer as nonresponsive.

17.5 The bid securities of unsuccessful bidders will be returned as promptly as possible, but not later than 28 days after the expiration of the original period, or any subsequently extended period, of bid validity.

17.6 The bid security of the successful bidder will be returned when the bidder has signed the Agreement and furnished the required performance security.

17.7 The bid security may be forfeited
(a) if the bidder withdraws its bid, except as provided in Sub-Clause 24.2;
(b) if the bidder does not accept the correction of its Bid Price, pursuant to Sub-Clause 29.2; or
(c) in the case of a successful bidder, if he fails within the specified time limit to
   (i) sign the Agreement, or
   (ii) furnish the required performance security.

18. Alternative Proposals by Bidders

18.1 Bidders shall prepare their bids in accordance with the bidding document. Alternative proposals shall not be considered during bid evaluation, except if so indicated in the Bidding Data.

19. Pre-Bid Meeting

19.1 The bidder’s designated representative is invited to attend a pre-bid meeting, which will take place at the venue and time stipulated in the Bidding Data, but in any case at least 14 days before the bid submission date.

19.2 The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.

19.3 The bidder is requested, as far as possible, to submit any questions in writing or by cable, to reach the Employer not later than one week before the meeting. It may not be practicable at the meeting to answer questions received late, but questions and responses will be transmitted in accordance with the following sub-clause.

19.4 Minutes of the meeting, including the text of the questions raised and the responses given, together with any responses prepared after the meeting, will be transmitted without delay to all purchasers of the
bidding documents. Any modification of the bidding documents listed in Sub-Clause 9.1 that may become necessary as a result of the pre-bid meeting shall be made by the Employer exclusively through the issue of an Addendum pursuant to Clause 11 and not through the minutes of the pre-bid meeting.

20. Format and Signing of Bid

20.1 The bidder shall prepare one original of the documents comprising the bid as described in Clause 13 of these Instructions to Bidders clearly marked “original.” In addition, the bidder shall submit copies of the bid, in the number specified in the Bidding Data and clearly marked “copies.” In the event of discrepancy between them, the original shall prevail.

20.2 The original and all copies of the bid shall be typed or written in indelible ink (in the case of copies, photocopies are also acceptable) and shall be signed by a person or persons duly authorized to sign on behalf of the bidder, pursuant to Paragraphs 5.1 (a) or 5.2 (c), as the case may be. All pages of the bid where entries or amendments have been made shall be initialed by the person or persons signing the bid.

20.3 The bid shall contain no alterations, omissions, or additions, unless such corrections are initialed by the person or persons signing the bid.

20.4 The bidder shall furnish information as described in paragraph 7 of the Form of Bid on commissions or gratuities, if any, paid or to be paid to agents relating to this Bid, and to contract execution if the bidder is awarded the Contract.

D. Submission of Bids

21. Sealing and Marking of Bids

21.1 The bidder shall seal the original and each copy of the bid in separate envelopes, duly marking the envelopes as “original” and “copies.” The envelopes shall then be sealed in an outer envelope.

21.2 The inner and outer envelopes shall

(a) be addressed to the Employer at the address provided in the Bidding Data;

(b) bear the name and identification number of the Contract as defined in the Bidding Data; and

(c) provide a warning not to open before the time and date for bid opening.

21.3 In addition to the identification required in Sub-Clause 21.2, the inner envelopes shall indicate the name and address of the bidder to enable the bid to be returned unopened in case it is declared “late” pursuant to
Clause 23, and for matching purposes under Clause 24.

21.4 If the outer envelope is not sealed and marked as above, the Employer will assume no responsibility for the misplacement or premature opening of the bid. If the outer envelope discloses the bidder’s identity, the Employer will not guarantee the anonymity of the bid submission, but this shall not constitute grounds for rejection of the bid.

22. Deadline for Submission of Bids

22.1 Bids must be received by the Employer at the address specified in Sub-Clause 21.2 no later than the time and date stipulated in the Bidding Data.

22.2 The Employer may, in exceptional circumstances and at its discretion, extend the deadline for submission of bids by issuing an Addendum in accordance with Clause 11, in which case all rights and obligations of the Employer and the bidders previously subject to the original deadline will thereafter be subject to the deadline as extended.

23. Late Bids

23.1 Any bid received by the Employer after the deadline for submission of bids prescribed in Clause 22 will be returned unopened to the bidder.

24. Modification and Withdrawal of Bids

24.1 The bidder may modify or withdraw its bid after bid submission, provided that written notice of the modification or withdrawal is received by the Employer prior to the deadline for submission of bids.

24.2 The bidder’s modification or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with the provisions of Clause 21, with the outer and inner envelopes additionally marked “modification” or “withdrawal,” as appropriate.

24.3 No bid may be modified by the bidder after the deadline for submission of bids.

24.4 Withdrawal of a bid during the interval between the deadline for submission of bids and expiration of the period of bid validity specified in Clause 16 may result in the forfeiture of the bid security pursuant to Sub-Clause 17.6.

E. Bid Opening and Evaluation

25. Bid Opening

25.1 The Employer will open the bids, including withdrawals and modifications made pursuant to Clause 24, in the presence of bidders’ designated representatives who choose to attend, at the time, date, and location stipulated in the Bidding Data. The bidders’ representatives who are present shall sign a register evidencing their attendance.

25.2 Envelopes marked “WITHDRAWAL” shall be opened first, and the name of the bidder shall be read out. Bids for which an acceptable notice of withdrawal has been submitted pursuant to Clause 24 shall
not be opened. Subsequently, all envelopes marked “MODIFICATION” shall be opened and the submissions therein read out in appropriate detail.

25.3 The bidders’ names, the Bid Prices, including any alternative Bid Price or deviation, any discounts, bid modifications and withdrawals, the presence (or absence) and amount of bid security, and any such other details as the Employer may consider appropriate, will be announced by the Employer at the opening. No bid shall be rejected at bid opening except for late bids pursuant to Clause 23.

25.4 The Employer shall prepare minutes of the bid opening, including the information disclosed to those present in accordance with Sub-Clause 25.3.

25.5 Bids not opened and read out at bid opening shall not be considered further for evaluation, irrespective of the circumstances.

26. Process to Be Confidential

26.1 Information relating to the examination, clarification, evaluation, and comparison of bids, and recommendations for the award of a contract, shall not be disclosed to bidders or any other persons not officially concerned with such process until the award to the successful bidder has been announced. Any effort by a bidder to influence the Employer’s processing of bids or award decisions may result in the rejection of the bidder’s bid.

27. Clarification of Bids and Contacting the Employer

27.1 To assist in the examination, evaluation, and comparison of bids, the Employer may, at its discretion, ask any bidder for clarification of its bid. The request for clarification and the response shall be in writing or by cable, but no change in the price or substance of the bid shall be sought, offered, or permitted except as required to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the bids in accordance with Clause 29.

27.2 From the time of bid opening to the time of Contract award, if any bidder wishes to contact the Employer on any matter related to the bid, it should do so in writing.

27.3 Any effort by the bidder to influence the Employer in the Employer’s bid evaluation, bid comparison, or Contract award decisions may result in the rejection of the bidder’s bid.

28. Examination of Bids and Determination of Responsiveness

28.1 Prior to the detailed evaluation of bids, the Employer will determine whether each bid (a) meets the eligibility criteria of the Bank; (b) has been properly signed; (c) is accompanied by the required securities; (d) is substantially responsive to the requirements of the bidding documents; and (e) provides any clarification and/or substantiation that the Employer may require to determine responsiveness pursuant to Sub-Clause 28.2. Furthermore, the bidder shall, if required, provide substantiation that the Employer may require, pursuant to Sub-Clause 15.4.

28.2 A substantially responsive bid is one that conforms to all the terms, conditions, and specifications of the bidding documents without
material deviation or reservation. A material deviation or reservation is one (a) that affects in any substantial way the scope, quality, or performance of the Works and Services; (b) that limits in any substantial way, inconsistent with the bidding documents, the Employer’s rights or the bidder’s obligations under the contract; or (c) whose rectification would affect unfairly the competitive position of other bidders presenting substantially responsive bids.

28.3 If a bid is not substantially responsive, it will be rejected by the Employer and may not subsequently be made responsive by correction or withdrawal of the nonconforming deviation or reservation.
29. Correction of Errors

| 29.1 | Bids determined to be substantially responsive will be checked by the Employer for any arithmetic errors. Errors will be corrected by the Employer as follows:

(a) where there is a discrepancy between the amounts in figures and in words, the amount in words will govern; and

(b) where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern, unless in the opinion of the Employer there is an obviously gross misplacement of the decimal point in the unit rate, in which case the line item total as quoted will govern and the unit rate will be corrected.

29.2 The amount stated in the bid will be adjusted by the Employer in accordance with the above procedure for the correction of errors and, with the concurrence of the bidder, shall be considered as binding upon the bidder. If the bidder does not accept the corrected amount of bid, its bid will be rejected, and the bid security may be forfeited in accordance with Paragraph 17.7 (b).

30. Conversion to Single Currency for Comparison of Bids

| 30.1 | Bids will be evaluated as quoted in the currency of the Employer’s country in accordance with Sub-Clause 15.1, unless a Bidder has used different exchange rates than those prescribed in Sub-Clause 15.2, in which case the Bid will be first converted into the amounts payable in different currencies using the rates quoted in the Bid and then reconverted to the Employer’s currency using the exchange rates prescribed in Sub-Clause 15.2.

| 30.2 | For comparison of bids, the Bid Price, corrected pursuant to Clause 29, shall first be broken down into the respective amounts payable in various currencies by using the exchange rates specified by the bidder in accordance with Sub-Clause 15.3.

| 30.2 | In the second step, the Employer will convert the amounts in various currencies in which the Bid Price is payable to either:

(a) the currency of the Employer’s country at the selling rates established for similar transactions by the authority specified in the Bidding Data on the date stipulated in the Bidding Data;

or

(b) a currency widely used in international trade, such as the U.S. dollar, stipulated in the Bidding Data, at the selling rate of exchange published in the international press as stipulated in the Bidding Data on the date stipulated in the Bidding Data, for the amounts payable in foreign currency; and, at the selling exchange rate established for similar transactions by the same authority specified in Paragraph 30.2 (a) above on the date specified in the Bidding Data for the amount payable in the
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31. Evaluation and Comparison of Bids

31.1 The Employer will evaluate and compare only the bids determined to be substantially responsive in accordance with Clause 28.

31.2 In evaluating the bids, the Employer will adjust the Bid Price of each bid as follows:
   (a) making any correction for errors pursuant to Clause 29;
   (b) excluding Provisional Sums and the provision, if any, for contingencies in the Summary Bill of Quantities;
   (c) converting the amount resulting from applying (a) to (b) above and (d) below, if relevant, to a single currency in accordance with Clause 30;
   (d) applying any discounts offered by the bidder for the award of more than one contract, if bidding for this Contract is being done concurrently with other Contracts.

31.3 The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be taken into account in bid evaluation.

31.4 If the bid, which results in the lowest Evaluated Bid Price, is seriously unbalanced or front loaded in relation to the Employer’s estimate of the items of Initial Rehabilitation Works (when required as indicated in the Bidding Data) and of Emergency Works to be performed under the Contract, the Employer may require the bidder to produce detailed price analyses for any or all items of the Bill of Quantities, to demonstrate the internal consistency of those prices with the construction methods and schedule proposed. After evaluation of the price analyses, taking into consideration the schedule of estimated Contract payments, the Employer may require that the amount of the performance security set forth in Clause 37 be increased at the expense of the bidder to a level sufficient to protect the Employer against financial loss in the event of default of the successful bidder under the Contract.

31.5 After application of the established in Sub-Clauses 31.1 to 31.3, the Evaluated Bid Price for comparison of bids will be:
   (a) The lump-sum price offered by the Bidder for the Maintenance Services; plus
   (b) The total price of the priced Bill of Quantities for Emergency Works offered by the Bidder; plus
   (c) The lump-sum price offered by the Bidder for Rehabilitation Works, if the Bidding Data requires prices for this type of works; plus
   (d) The total price of the priced Bill of Quantities for Improvement...
Works, if the Bidding Data requires prices for this type of works.

32. Preference for Domestic Bidders

32.1 If so indicated in the Bidding Data, domestic bidders may receive a margin of preference in bid evaluation for which this clause shall apply.

32.2 Domestic bidders shall provide all evidence necessary to establish that they meet the following criteria to be eligible for a 7½ percent margin of preference in the comparison of their bids with those of bidders who do not qualify for the preference.

32.3 A domestic bidder is one that meets the following criteria:

(a) for an individual firm:
   (i) is registered in the country of the Borrower;
   (ii) has more than 50 percent ownership by nationals of the country of the Borrower;
   (iii) does not subcontract more than 10 percent of the Contract Price, excluding Provisional Sums, to foreign contractors.

(b) for a joint venture (JV) of domestic firms:
   (i) individual member firms shall satisfy Sub-Paragraphs 32.3 (a) (i) and (a) (ii) above;
   (ii) the JV shall be registered in the country of the Borrower;
   (iii) the JV shall not subcontract more than 10 percent of the Contract Price, excluding Provisional Sums, to foreign firms.

32.4 The following procedure will be used to apply the margin of preference:

(a) After bids have been converted to a single currency in accordance with the provisions of Paragraphs 31.2 (c) above, responsive bids will be classified into the following groups:
   (i) Group A: bids offered by domestic bidders and joint ventures meeting the criteria set out in the above Sub-Clause 32.3; and
   (ii) Group B: all other bids.

(b) For the purpose of further evaluation and comparison of bids only, an amount equal to 7½ percent of the evaluated Bid Price determined in accordance with the provisions of Paragraphs 31.2 (a), (b), (c), and, where applicable, (d), will be added to all bids classified in Group B.

F. Award of Contract
33. Award

33.1 Subject to Clause 34, the Employer will award the Contract to the bidder whose bid has been determined to be substantially responsive to the bidding documents and who has offered the lowest Evaluated Bid Price pursuant to Clauses 31 and 32, provided that such bidder has been determined to be (a) eligible in accordance with the provisions of Sub-Clause 3.1; and (b) qualified in accordance with the provisions of Clause 5.

33.2 If, pursuant to Sub-Clause 13.2, this Contract is being let on a “slice and package” basis, the lowest evaluated Bid Price will be determined when evaluating this Contract in conjunction with other contracts to be awarded concurrently, taking into account any discounts offered by the bidders for the award of more than one contract, and the number of contracts for which the bidder has been pre-qualified.

34. Employer’s Right to Accept Any Bid and to Reject Any or All Bids

34.1 The Employer reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids, at any time prior to award of Contract, without thereby incurring any liability to the affected bidder or bidders or any obligation to inform the affected bidder or bidders of the grounds for the Employer’s action.

35. Notification of Award

35.1 Prior to expiration of the period of bid validity prescribed by the Employer, the Employer will notify the successful bidder by cable confirmed by registered letter that its bid has been accepted. This letter (hereinafter and in the Conditions of Contract called the “Letter of Acceptance”) shall specify the sum that the Employer will pay the Contractor in consideration of the execution and completion of the Works and Services and the remedying of any defects therein by the Contractor as prescribed by the Contract (hereinafter and in the Conditions of Contract called “the Contract Price”).

35.2 The notification of award will constitute the formation of the Contract.

35.3 Upon the successful bidder’s furnishing of the performance security pursuant to ITB Clause 37, the Employer will promptly notify the name of the winning bidder to each unsuccessful bidder and will discharge the bid security of the unsuccessful bidders, pursuant to ITB Clause 17.

35.4 If, after notification of award, a bidder wishes to ascertain the grounds on which its bid was not selected, it should address its request to the Employer. The Employer will promptly respond in writing to the unsuccessful bidder.

36. Signing of Agreement

36.1 At the same time that the Employer notifies the successful bidder that its bid has been accepted, the Employer will send the bidder the Agreement in the form provided in the bidding documents, incorporating all agreements between the parties.

36.2 Within 28 days of receipt of the Agreement, the successful bidder shall
sign the Agreement and return it to the Employer, together with the required performance security.

36.3 Upon fulfilment of Sub-Clause 36.2, the Employer will promptly notify the other bidders that their bids have been unsuccessful and their bid security will be returned as promptly as possible, in accordance with Sub-Clause 17.5.

37. Performance Security

37.1 Within 28 days of receipt of the Letter of Acceptance from the Employer, the successful bidder shall furnish to the Employer a performance security in the form stipulated in the Bidding Data and the Conditions of Contract. The form of performance security provided in Section XI of the bidding documents may be used or some other form acceptable to the Employer. In the case of joint ventures, the Performance Security should be issued in the name of the joint venture.

37.2 If it is stipulated in the Bidding Data that the performance security is to be provided by the successful bidder in the form of a bank guarantee, it shall by issued either (a) at the bidder’s option, by a bank located in the country of the Employer or by a foreign bank through a correspondent bank located in the country of the Employer, or (b) with the prior agreement of the Employer directly by a foreign bank acceptable to the Employer.

37.3 If it is stipulated in the Bidding Data that the performance security may also be provided by the successful bidder in the form of a bond, it shall be issued by a bonding or insurance company that has been determined by the successful bidder to be acceptable to the Employer.

37.4 Failure of the successful bidder to comply with the requirements of Clauses 36 or 37 shall constitute a breach of Contract, cause for annulment of the award, forfeiture of the bid security, and any such other remedy the Employer may take under the Contract, and the Employer may resort to awarding the Contract to the next ranked bidder.

38. Disputes Review Method

38.1 The disputes review method (i.e., the Disputes Review Board or the Disputes Review Expert) is indicated in the Bidding Data. The Employer and the successful bidder will select Disputes Review Board members or the Disputes Review Expert, as the case may be, according to the procedure set forth in the Conditions of Contract.

39. Corrupt or Fraudulent Practices

39.1 The Bank requires that Borrowers (including beneficiaries of Bank loans), as well as bidders/suppliers/contractors under Bank-financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the Bank:

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

(i) "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and

(ii) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Borrower, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial noncompetitive levels and to deprive the Borrower of the benefits of free and open competition;

(b) will reject a proposal for award if it determines that the bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;

(c) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a Bank-financed contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a Bank-financed contract.

39.2 Furthermore, bidders shall be aware of the provision stated in ITB Sub-Clause 3.1 and Sub-Clause 59.2 of the General Conditions of Contract.
SECTION III. BIDDING DATA

Notes on Bidding Data

This Sub-Section III (Bidding Data) is intended to assist the Employer in providing the specific information in relation to corresponding clauses in the previous Sections II (Instructions to Bidders), and must be prepared for each specific procurement. The Employer should provide in this Sub-Section information and requirements specific to the circumstances of the Employer, the processing of the procurement, the applicable rules regarding Bid Price and currency, and the bid evaluation criteria that will apply to the bids [Instructions are provided, as needed, in italics]. In preparing this Section III, the following aspects should be checked:

(a) Information that specifies and complements the provisions of Section II must be incorporated.

(b) Amendments and/or supplements, if any, to the provisions of Section II, necessitated by the circumstances of the specific procurement, can be introduced only in Section III, since Sections III will remain unchanged.

Instructions to Bidders Clause Reference

Whenever there is a conflict, the provisions herein shall prevail over those in the Instructions to Bidders.

<table>
<thead>
<tr>
<th>[1.1]</th>
<th>Employer: The Employer is:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>[Name and complete Address]</td>
</tr>
</tbody>
</table>

Summary of the Services to be provided:

The contract includes the Performance-Based Management and Maintenance of the following roads or road sections or network of roads which henceforth in this document may be called “the Road” or “Roads”:

[Indicate and describe the roads or road sections] that will be included in the contract, the length of each section and its nature, e.g. stating if they are paved or unpaved, and add any other description necessary as to clearly identify the road sections beyond any doubt. Include maps and drawings in Section XII.

<table>
<thead>
<tr>
<th>[1.1(b)]</th>
<th>Initial Rehabilitation Works [are] [are not] required under the contract.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(If required:) Initial Rehabilitation Works must be quoted for the following Sections of the Road:</td>
</tr>
</tbody>
</table>
### Section III. Bidding Data

| [1.1(c)] | Improvement Works [are] [are not] required under the Contract.
|          | (If required:) Improvement Works must be quoted for the following improvements:
|          | [Describe briefly improvement works that must be offered.] |

| [1.2]    | Period during which Works and Maintenance Services are to be provided:
|          | The Initial Rehabilitation Works are to start on [insert date or event] for a total period of [insert number] of months
|          | The Maintenance Services are to be provided starting from [insert date or event] for a total period of [insert number] of months. |

| [2.1]    | Name of the Borrower:
|          | [Insert name of Borrower and statement of relationship with the Employer, if different from the Borrower. This insertion should correspond to the information provided in the Invitation for Bids.] |

| [2.1]    | [Insert name and description of the Project and amount and type of the Bank financing.] |

| [5.1]    | Prequalification information to be updated.
|          | [Indicate which part of the information originally submitted with the application for prequalification should be updated.] |

| [10.1]   | Bidders should address any request for clarifications to:
|          | [Insert name and address for clarifications.] |

| [12.1]   | Bid language.
|          | [The same language in which the bidding documents are written. English, French, or Spanish should be used in International Competitive Bidding.] |

| [13.1]   | The documents indicated in the following list will be part of each Bid:
|          | a) List of equipment the Bidder anticipates to use during the execution of the contract.
|          | b) List of the key personnel that the Bidder anticipates to employ for the execution of the contract. |

| [13.2]   | Indicate whether this contract is being bid simultaneously with other contracts on a “slice and package” basis. |
“slice and package” basis.

[14.3] Price adjustment clauses will apply. The first price adjustment may be applicable not earlier than: [Indicate the earliest date at which a review of prices can be made. This date can be defined as x days after the maximum bid validity date. Normally, twelve (12) months are used as a minimum period. Usually, the period for Performance-Based Contracts for Road Management and Maintenance is greater than twelve (12) months.].

[15.1] The Country of the Employer is: [State country of the Employer]

The Currency of the Employer’s Country is: [State currency of the Employer’s country].

[15.1] Note: As mandatory terminal date for converting National Currency Denominations (NCD) to euro is December 31, 2001, bidders are requested to express bid price in euro rather than in NCD currencies.

[15.2] The Authority defining selling foreign exchange rates is: [insert name of authority] [Include this only if Alternative A in Clause 15 is used]

[16.1] Period of bid validity:

[Insert number of days after the deadline for bid submission. This period should be realistic, allowing sufficient time for the employer to evaluate the bids, bearing in mind the complexity of the Works and the time required for obtaining references, clarifications, clearances, and approvals (including the Bank’s “No Objection”) and for notification of the award. Normally the validity period should not exceed 182 days.]


[This amount should be the same as may be quoted in the Invitation for Bids. To avoid disclosure of bidders’ prices originating in the financial institution issuing the security, a fixed sum should be specified, in preference to a percentage of the Bid Price. The sum should be the equivalent of 1 percent of the estimated cost of the Works for very large contracts of over US$100 million, ranging to 3 percent of the estimated cost for small contracts. Alternatively, if the Employer wishes to specify a percentage of the Bid Price, it should be indicated as a “minimum of _____ percent,” to enable bidders to provide in excess of the minimum and thus conceal their prices.]

[18.1] Alternative Bids are not admitted.
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| 19.1 | Venue, time, and date of the pre-bid meeting.  
[Insert \textit{date and address} of venue. The meeting must take place at least 14 days before the deadline for bid submission (30 days recommended). It is further recommended to offer to the bidders a joint Site Visit with the Employer, in the days immediately before the pre-bid meeting.] |
| 20.1 | Number of copies of the bid to be completed and returned.  
[Usually two; more if essential.] |
| 21.2 (a) | The address for submission of bids is:  
[Insert Employer’s address for the purpose of bid submission: should match the receiving address provided in the Invitation for Bids.] |
| 21.2 (b) | The Number of the Contract is:  
[Insert number of the Contract]: ………………… |
| 22.1 | Deadline for submission of bids:  
[The time and date should be the same as that given in the Invitation for Bids, unless subsequently amended pursuant to Sub-Clause 22.2.] |
| 25.1 | Venue, time, and date of bid opening: ………………  
[Time and date should be the same as those given for the deadline for submission of bids (Clause 22).] |
| 30.2 | Currency chosen for the purpose of converting to a common currency:  
[Specify either the local currency or a convertible currency, for example, U.S. dollars.]  
Source of exchange rate:  
[If the common currency is other than the local currency, for example, U.S. dollars, indicate the name of an internationally circulated newspaper or a website that lists daily currency exchange rates (e.g., Financial Times or OANDA, \url{http://www.oanda.com/convert/classic}, which will be used for converting prices in foreign currencies. For prices in local currency and if the common currency selected above is the local currency, specify either the Central Bank or a commercial bank in the Employer’s country.]  
Exchange rate date:  
[Select a date that shall be no earlier than 28 days prior to the submission of bids.]
and not later than the original date for expiry of the period of bid validity.]

| [32.1] | Domestic Preference will not apply. |
|        | *If the Loan/Credit Agreement authorizes the application of domestic contractor price preference, and the Employer intends to apply it to the subject contract, delete the word “not.”* |

| [37.] | Standard form and amount of performance security acceptable to the Employer. |
|        | Select the kind of performance security (bank guarantee and/or bond), and indicate the amount. |

A **bank guarantee** can be conditional or unconditional/on demand (see standard forms in Section XI). An amount of 5 to 10 percent of the Contract Price is commonly specified for bank guarantees. In some countries, these guarantees are called "bonds"; however, the term "bank guarantee" is used consistently throughout this document, to distinguish this type of security from the U.S.-style “performance bond.”

A **performance bond** is a conditional undertaking by a bonding or insurance company to complete the construction in the event of default by the Contractor, or to pay the amount of bond to the Employer, provided the Contractor accepts the default or a court or arbitration process so decides. An amount of 30 percent of the Contract Price is recommended for this type of security. See standard forms in Section XI.|

| [38.] | Disputes Review Method. |
|        | Insert “DRB -- Disputes Review Board,” if a Board of experts appointed as indicated in the Contract is to be used or “DRE -- Disputes Review Expert.” If only one expert appointed by agreement between the parties as indicated in the contract is to be used. |
SECTION IV.
GENERAL CONDITIONS OF CONTRACT (GCC)
FOR
PERFORMANCE-BASED MANAGEMENT AND
MAINTENANCE OF ROADS

Notes on the Conditions of Contract

The present Conditions of Contract comprise two parts:

(a) General Conditions of Contract (Section IV of this document), and

(b) Special Conditions of Contract (Section V of this document).

The present standard text of the General Conditions of Contract (GCC) was prepared specifically for the procurement of Works and Services for the Performance-Based Management and Maintenance of Roads, taking into account the particular nature and characteristics of those services. The General Conditions of Contract must be retained intact to facilitate its reading and interpretation by bidders and its review by IBRD. Any amendments and additions to the General Conditions, specific to the contract in hand, should be introduced in the Special Conditions of Contract (SCC), or in the Appendix to Bid. The Special Conditions of Contract in Section V take precedence over the General Conditions of Contract.

The use of standard conditions of contract for all Performance-Based Contracts for Management and Maintenance of Roads will ensure comprehensiveness of coverage, better balance of rights or obligations between Employer and Contractor, general acceptability of its provisions, and savings in time and cost for bid preparation and review, leading to more economical prices.
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A. CONTRACT AND INTERPRETATION

1. Definitions

1.1 Boldface type is used to identify defined terms.

Bill of Quantities means the priced and completed Bill of Quantities forming part of the Contractor’s Bid.

The Completion Date is the date of completion of the Services and Works as certified by the Project Manager, in accordance with Sub-Clause 10.2.

The Contract is the Contract between the Employer and the Contractor to perform the services to be provided by the Contractor, and to execute, complete, and maintain the Works. It consists of the documents listed in Clause 3 below.

The Contractor is a person or corporate body whose Bid to carry out the Works and Services has been accepted by the Employer.

The Contractor’s Bid is the completed bidding document submitted by the Contractor to the Employer.

The Contract Price is the price stated in the Letter of Acceptance and thereafter as adjusted in accordance with the provisions of the Contract.

Days are calendar days; months are calendar months.

A Defect is any part of the Works and Services not completed in accordance with the Contract.

The Defects Liability Certificate is the certificate issued by Project Manager upon correction of defects by the Contractor.

The Defects Liability Period is the period named in the Specific Conditions of Contract (SCC) and calculated from the Completion Date.

Dispute Review Board (DRB) is a board of three members selected and act in accordance with rules and procedures defined in the Contract to seek to resolve any dispute of any kind that may arise between the Employer and the Contractor in connection with or arising out of the Contract, as provided for in Clause 6 hereunder.

Dispute Review Expert (DRE) is one expert selected and acting in accordance with rules and procedures defined in the Contract to seek to resolve any dispute of any kind that may arise between the Employer and the Contractor in connection with or arising out of the contract, as
provided for in Clause 6 hereunder.

**Drawings** include calculations and other information provided by the Contractor for the execution of the Contract.

**Emergency Works** is a set of necessary and sufficient activities to reinstate the Road and reconstruct its structure or right of way strip damaged as a result of natural phenomena with imponderable consequences, such as strong storms, flooding and earthquakes. The need for execution of Emergency Works is jointly identified by the Employer and the Contractor and for starting of execution of Emergency Works the Employer shall issue a Work Order.

The **Employer** is the party who employs the Contractor to carry out the Works and Services.

**Equipment** is the Contractor’s machinery and vehicles brought temporarily to the Site to construct the Works and to carry out the Services.

**Improvement Works** consists of a set of interventions that add new characteristics to the Road in response to existing or new traffic, safety or other conditions, as defined in the Technical Specifications.

**Initial Rehabilitation Works** are specific and clearly defined civil works the Contractor is required to carry out early during the initial period of the contract under the conditions of the Contract, as defined in the Technical Specifications. Rehabilitation Works quantities were estimated by the Contractor to achieve the performance standards defined by the Service Quality Levels and offered as a Lump-Sum price.

The **Intended Completion Date** is the date on which it is intended that the Contractor shall complete the Works and Services. The Intended Completion Date is specified in the specific Conditions of Contract (SCC). The Intended Completion Date may be revised only by the Project Manager by issuing an extension of time.

**Materials** are all supplies, including consumables, used by the Contractor for incorporation in the Works and for provision of Services.

**Plant** is any integral part of the Works and Services that shall have a mechanical, electrical, chemical, or biological function.

The **Project Manager** is the person named in the SCC who is responsible for the overall administration of the Contract on behalf of the Employer, the supervision of services to be performed thereunder, and the execution of Works included in the Contract. The Project Manager may delegate through a written instrument some of his functions to any other competent
person, retaining however the overall responsibility for the actions of that person. The Project Manager may not delegate the overall administrative control of the Contract.

Road means the road or network of roads for which the Works and Services are contracted under the Contract.

The Road Management Office is the location indicated by the Contractor from which the Road Manager operates, and where the Contractor shall receive notifications.

The Road Manager is a person appointed by the Contractor who is in charge of managing all activities of the Contractor under the Contract. He is also the Contractor’s Representative for the purposes of this contract.

Services means all interventions on the Road under the Contract and all activities related to the management and evaluation of the Road which shall be carried out by the Contractor in order to achieve and keep the Road Performance Standards as defined by the Service Quality Levels and to receive full payment of the monthly fee under the contract.

Service Quality Levels are the minimum performance standards for the level of quality of conditions of the Road defined in the Technical Specifications which the Contractor shall comply with.

The Site is the area defined as such in the SCC.

Site Investigation Reports are those that were included in the bidding documents and are factual and interpretative reports about the surface and subsurface conditions at the Site.

The Start Date is given in the SCC. It is the latest date when the Contractor shall commence execution of the Works and Services. It does not necessarily coincide with any of the Site Possession Dates.

A Subcontractor is a person or corporate body who has a contractual agreement with the Contractor to carry out certain activities related to the services to be provided under the contract, which may include work on the Site.

Technical Specification means the Specification of the Works and Services included in the Contract and any modification or addition made or approved by the Project Manager.

A Variation is an instruction given by the Project Manager which varies the Works.

The Works are what the Contract requires the Contractor to construct,
install, and turn over to the Employer, as covered under Rehabilitation Works, Improvement Works and Emergency Works.

*Work Order* is an order issued by the Project Manager to the Contractor authorizing the execution of Improvement Works, Emergency Works, as provided for in Clause 27 hereunder.

### 2. Interpretation

2.1 In interpreting these General Conditions of Contract (GCC), singular also means plural, male also means female or neuter, and vice versa. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Project Manager will provide instructions clarifying queries about these General Conditions of Contract (GCC).

2.2 If partial completion for Initial Rehabilitation Works or for Improvement Works is specified in the Special Conditions of Contract (SCC) to be carried out by Sections, references in the General Conditions of Contract to the Works and Services, the Completion Date, and the Intended Completion Date apply to any Section of the Works and Services (other than references to the Completion Date and Intended Completion Date for the whole of the Works and Services).

### 3. Documents Forming the Contract

3.1 The documents forming the Contract shall be interpreted in the following order of priority:

1. Agreement,
2. Letter of Acceptance,
3. Contractor’s Bid,
4. Special Conditions of Contract (SCC),
5. General Conditions of Contract (GCC),
6. Technical Specifications,
7. Drawings,
8. Bill of Quantities, and
9. any other document listed in the SCC as forming part of the Contract.

### 4. Language and Law

4.1 The language of the Contract and the law governing the Contract are stated in the SCC.

### 5. Notices

5.1 Unless otherwise stated in the Contract, all notices to be given under the Contract shall be in writing, and shall be sent by personal delivery, airmail post, special courier, cable, telegraph, telex, facsimile or Electronic Data Interchange (EDI) to the address of the relevant party set out in the SCC, with the following provisions:
5.1.1 Any notice sent by cable, telegraph, telex, facsimile or EDI shall be confirmed within two (2) days after dispatch by notice sent by airmail post or special courier, except as otherwise specified in the Contract.

5.1.2 Any notice sent by airmail post or special courier shall be deemed (in the absence of evidence of earlier receipt) to have been delivered ten (10) days after dispatch. In proving the fact of dispatch, it shall be sufficient to show that the envelope containing such notice was properly addressed, stamped and conveyed to the postal authorities or courier service for transmission by airmail or special courier.

5.1.3 Any notice delivered personally or sent by cable, telegraph, telex, facsimile or EDI shall be deemed to have been delivered on date of its dispatch.

5.1.4 Either party may change its postal, cable, telex, facsimile or EDI address or addressee for receipt of such notices by ten (10) days’ notice to the other party in writing.

5.2 Notices shall be deemed to include any approvals, consents, instructions, orders and certificates to be given under the Contract.

5.3 The Contractor shall provide at its own cost, and maintain in operation permanently during the duration of the Contract, such communications equipment which ensures that both written (fax or e-mail) and oral (voice) communications can be established at all times

(a) between the Road Manager and his senior field staff;

(b) between the Project Manager and the Road Manager;

(c) between the public telephone system and the Road Manager;

(d) The equipment to be provided and maintained includes the equipment located at the Project Manager’s office.

5.4 Within 28 days of the Start Date of the Contract, the Contractor must communicate to the Employer the address of his office, including the postal, cable, telex, facsimile and EDI address, which for the purposes of this contact is called the Road Management Office, where Notices will be addressed to. The Employer may require that the physical location of the Road Management Office is within the close geographical area of the Road. If the Contractor fails to communicate the address of his Road Management Office, and the Employer is otherwise unable to locate the Road Manager, all notifications to the Contractor shall be valid if they are deposited at a designated location within the office of the Project Manager, and if a copy is sent to the Contractor’s legal address.
6. Settlement of Disputes (Alternative when using a Dispute Review Board)

6.1 Dispute Review Board

6.1.1 If any dispute of any kind whatsoever shall arise between the Employer and the Contractor in connection with or arising out of the Contract, including without prejudice to the generality of the foregoing, any question regarding its existence, validity or termination, or the execution of the Works and Services—whether during the progress of the execution or after completion and whether before or after the termination, abandonment or breach of the Contract—the parties shall seek to resolve any such dispute or difference by mutual consultation. If the parties fail to resolve such a dispute or difference by mutual consultation, then the matter in dispute shall, in the first place, be referred in writing by either party to the Disputes Review Board ("the Board"), with a copy to the other party.

6.1.2 The Board shall be established when each of the three Board Members has signed a Board Member’s Declaration of Acceptance as required by the DRB’s Rules and Procedures (which, along with the Declaration of Acceptance form, are attached to the Contract). The Board shall comprise three Members experienced with the type of construction and services involved in the Contract and with the interpretation of contractual documents. One Member shall be selected by each of the Employer and the Contractor and approved by the other. If either of these Members is not so selected and approved within 28 days of the date of the Letter of Acceptance, then upon the request of either or both parties such Member shall be selected as soon as practicable by the Appointing Authority specified in the SCC. The third Member shall be selected by the other two and approved by the parties. If the two Members selected by or on behalf of the parties fail to select the third Member within 14 days after the later of their selections, or if within 14 days after the selection of the third Member, the parties fail to approve that Member, then upon the request of either or both parties such third Member shall be selected promptly by the same Appointing Authority specified in the SCC who shall seek the approval of the proposed third Member by the parties before selection but, failing such approval, nevertheless shall select the third Member. The third Member shall serve as Chairman of the Board.

6.1.3 In the event of death, disability, or resignation of any Member, such Member shall be replaced in the same manner as the Member being replaced was selected. If for whatever other reason a Member shall fail or be unable to serve, the Chairman (or failing the action of the Chairman then either of the other Members) shall inform the parties and such nonserving Member shall be replaced in the same manner as the Member being replaced was selected. Any replacement made by the parties shall be completed within 28 days after the event giving rise to the vacancy on the Board, failing which the
replacement shall be made by the Appointing Authority in the same manner as described above. Replacement shall be considered completed when the new Member signs the Board Member’s Declaration of Acceptance. Throughout any replacement process the Members not being replaced shall continue to serve and the Board shall continue to function and its activities shall have the same force and effect as if the vacancy had not occurred, provided, however, that the Board shall not conduct a hearing nor issue a Recommendation until the replacement is completed.

6.1.4 Either the Employer or the Contractor may refer a dispute to the Board in accordance with the provisions of the DRB’s Rules and Procedures, attached to the Contract. The Recommendation of the Board shall be binding on both parties, who shall promptly give effect to it unless and until the same shall be revised, as hereinafter provided, in an arbitral award. Unless the Contract has already been repudiated or terminated, the Contractor shall continue to proceed with the Works and Services in accordance with the Contract.

6.1.5 If either the Employer or the Contractor is dissatisfied with any Recommendation of the Board, or if the Board fails to issue its Recommendation within 56 days after receipt by the Chairman of the Board of the written Request for Recommendation, then either the Employer or the Contractor may, within 14 days after his receipt of the Recommendation, or within 14 days after the expiry of the said 56-day period, as the case may be, give notice to the other party of his intention to commence arbitration, as hereinafter provided, as to the matter in dispute. Such notice shall establish the entitlement of the party giving the same to commence arbitration, as hereinafter provided, as to such dispute and, subject to Sub-Clause 6.3, no arbitration in respect thereof may be commenced unless such notice is given.

6.1.6 If the Board has issued a Recommendation to the Employer and the Contractor within the said 56 days and no notice of intention to commence arbitration as to such dispute has been given by either the Employer or the Contractor within 14 days after the parties received such Recommendation from the Board, the Recommendation shall become final and binding upon the Employer and the Contractor.

6.1.7 Whether or not it has become final and binding upon the Employer and the Contractor, a Recommendation shall be admissible as evidence in any subsequent dispute resolution procedure, including any arbitration or litigation having any relation to the dispute to which the Recommendation relates.

6.1.8 All Recommendations that have become final and binding shall be
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6. Settlement of Disputes

6.1 Dispute Review Expert

6.1.1 If any dispute of any kind whatsoever shall arise between the Employer and the Contractor in connection with or arising out of the Contract, including without prejudice to the generality of the
foregoing, any question regarding its existence, validity or termination, or the execution of the Works and Services—whether during the progress of the execution or after completion and whether before or after the termination, abandonment or breach of the Contract—the parties shall seek to resolve any such dispute or difference by mutual consultation. If the parties fail to resolve such a dispute or difference by mutual consultation, then the matter in dispute shall, in the first place, be referred in writing by either party to the Disputes Review Expert (‘DRE’), with a copy to the other party.

6.1.2 The DRE shall take up his functions after having signed a DRE’s Declaration of Acceptance as required by the DRE’s Rules and Procedures (which, along with the Declaration of Acceptance form, are attached to the Contract). The DRE shall be a person experienced with the type of construction and services involved in the Contract and with the interpretation of contractual documents and shall be selected by agreement between the Employer and the Contractor. If the DRE is not selected within 28 days of the date of the Letter of Acceptance, then upon the request of either or both parties the DRE shall be selected as soon as practicable by the Appointing Authority specified in the SCC.

6.1.3 In the event of death, disability, or resignation of the DRE, the latter shall be replaced by agreement between the Employer and the Contractor. Any replacement made by the parties shall be completed within 28 days after the event giving rise to the need for a replacement, failing which the replacement shall be made by the same international appointing authority as above.

6.1.4 Either the Employer or the Contractor may refer a dispute to the DRE in accordance with the provisions of the DRE’s Rules and Procedures, attached to the Contract. The Recommendation of the DRE shall be binding on both parties, who shall promptly give effect to it unless and until the same shall be revised, as hereinafter provided, in an arbitral award. Unless the Contract has already been repudiated or terminated, the Contractor shall continue to proceed with the Works and Services in accordance with the Contract.

6.1.5 If either the Employer or the Contractor is dissatisfied with any Recommendation of the DRE, or if the DRE fails to issue his Recommendation within 56 days after he has received the written Request for Recommendation, then either the Employer or the Contractor may, within 14 days after his receipt of the Recommendation, or within 14 days after the expiry of the said 56-day period, as the case may be, give notice to the other party of his intention to commence arbitration, as hereinafter provided, as to the matter in dispute. Such notice shall establish the entitlement of the party giving the same to commence arbitration, as hereinafter
provided, as to such dispute and, subject to Sub-Clause 6.3, no arbitration in respect thereof may be commenced unless such notice is given.

6.1.6 If the DRE has issued a Recommendation to the Employer and the Contractor within the said 56 days and no notice of intention to commence arbitration as to such dispute has been given by either the Employer or the Contractor within 14 days after the parties received such Recommendation from the DRE, the Recommendation shall become final and binding upon the Employer and the Contractor.

6.1.7 Whether or not it has become final and binding upon the Employer and the Contractor, a Recommendation shall be admissible as evidence in any subsequent dispute resolution procedure, including any arbitration or litigation having any relation to the dispute to which the Recommendation relates.

6.1.8 All Recommendations that have become final and binding shall be implemented by the parties forthwith.

6.2 Arbitration

6.2.1 If either the Employer or the Contractor is dissatisfied with the DRE’s decision, then either the Employer or the Contractor may, in accordance with Sub-Clause 6.1.5, give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. The arbitral tribunal shall have full power to open up, review, and revise any decision, opinion, instruction, determination, certificate, and any Recommendation(s) of the DRE.

6.2.2 Any dispute in respect of which a notice of intention to commence arbitration has been given, in accordance with GCC Sub-Clause 6.2.1, shall be finally settled by arbitration. Neither party shall be limited in the proceedings before such arbitration tribunal to the evidence or arguments put before the DRE for the purpose of obtaining his Recommendation(s) pursuant to Sub-Clause 6.2.1. No Recommendation shall disqualify the DRE from being called as a witness and giving evidence before the arbitrator(s) on any matter whatsoever relevant to the dispute. Arbitration may be commenced prior to or after completion of the Works and Services.

6.2.3 Arbitration proceedings shall be conducted in accordance with the rules of procedure designated in the SCC.

6.3 Where neither the Employer nor the Contractor has given notice of intention to commence arbitration of a dispute within the period stated in
Sub-Clause 6.1.5 and the related Recommendation has become final and binding, either party may, if the other party fails to comply with such Recommendation and without prejudice to any other right it may have, refer the failure to arbitration in accordance with Sub-Clause 6.2. The provisions of Sub-Clause 6.1 shall not apply to any such reference.

6.4 Notwithstanding any reference to the DRE or Arbitration herein,

(a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree

(b) the Employer shall pay the Contractor any monies due the Contractor.

### B. ASSIGNMENT OF RESPONSIBILITIES

7. Scope of Works and Services

7.1 Unless otherwise expressly limited in the Technical Specifications, the Contractor’s obligations cover the Design, the carrying out of all Works and the performance of all Services required for keeping the Road in accordance with the Service Quality Levels defined in the Technical Specifications, while at the same time respecting the plans, procedures, specifications, drawings, codes and any other documents as specified in the Technical Specifications. Such specifications include, but are not limited to, the provision of supervision and engineering services; the supply of labor, materials, equipment; Contractor’s Equipment; construction utilities and supplies; temporary materials, structures and facilities; transportation (including, without limitation, unloading and hauling to, from and at the Site); and storage, except for those supplies, works and services that will be provided or performed by the Employer, as set forth in the corresponding Technical Specifications.

7.2 The Contractor shall, unless specifically excluded in the Contract, perform all such work, services and/or supply all such items and materials not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for attaining the Performance Standards (as specified in Clause 24 of GCC) as if such work, services and/or items and materials were expressly mentioned in the Contract.

8. Design Responsibility

8.1 The Contractor shall be responsible for the Design and programming of the Works and Services, and for the accuracy and completeness of the information used for that design and programming in accordance with the requirements established in the Technical Specifications.

8.2 Specifications and Drawings
8.2.1 The Contractor shall execute the basic and detailed design and the engineering work in compliance with the provisions of the Contract and the Technical Specifications, or where not so specified, in accordance with good engineering practice.

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

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

8.3 Codes and Standards

Wherever references are made in the Contract to codes and standards in accordance with which the Contract shall be executed, the edition or the revised version of such codes and standards current at the date twenty-eight (28) days prior to date of bid submission shall apply unless otherwise specified. During Contract execution, any changes in such codes and standards shall be applied after approval by the Employer and shall be treated in accordance with GCC Clause 63.

8.4 Approval/Review of Technical Documents by Project Manager

8.4.1 For those Works specified in the SCC, the Contractor shall prepare (or cause its Subcontractors to prepare) and furnish to the Project Manager the documents listed in the Technical Specifications (List of Documents for Approval or Review) for its approval or review.

Unless otherwise specified in the SCC, the Contractor shall not be required to submit for the Employer’s approval the Design or other technical documents concerning the Maintenance Services remunerated through monthly lump-sum payments.

Any part of the Works covered by or related to the documents to be approved by the Project Manager shall be executed only after the Project Manager’s approval thereof.

GCC Sub-Clauses 8.4.2 through 8.4.7 shall apply only to those documents requiring the Project Manager’s approval, but not to
those furnished to the Project Manager for his information or review only.

8.4.2 Within fourteen (14) days after receipt by the Project Manager of any document requiring the Project Manager’s approval in accordance with GCC Sub-Clause 8.4.1, the Project Manager shall either return one copy thereof to the Contractor with its approval endorsed thereon or shall notify the Contractor in writing of its disapproval thereof and the reasons therefor and the modifications that the Project Manager proposes.

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

8.4.3 The Project Manager shall not disapprove any document, except on the grounds that the document does not comply with some specified provision of the Contract or that it is contrary to good engineering practice.

8.4.4 If the Project Manager disapproves the document, the Contractor shall modify the document and resubmit it for the Project Manager’s approval in accordance with GCC Sub-Clause 8.4.2. If the Project Manager approves the document subject to modification(s), the Contractor shall make the required modification(s), whereupon the document shall be deemed to have been approved.

8.4.5 If any dispute or difference occurs between the Employer and the Contractor in connection with or arising out of the disapproval by the Project Manager of any document and/or any modification(s) thereto that cannot be settled between the parties within a reasonable period, then such dispute or difference may be referred to the DRB (or DRE) for determination in accordance with GCC Sub-Clause 6.1 hereof. If such dispute or difference is referred to the DRB (or DRE), the Project Manager shall give instructions as to whether and if so, how, performance of the Contract is to proceed. The Contractor shall proceed with the Contract in accordance with the Project Manager’s instructions, provided that if the DRB (or DRE) upholds the Contractor’s view on the dispute and if the Employer has not given notice under GCC Sub-Clause 6.1.5 hereof, then the Contractor shall be reimbursed by the Employer for any additional costs incurred by reason of such instructions and shall be relieved of such responsibility or liability in connection with the dispute and the execution of the instructions as the DRB (or DRE) shall decide, and the Time for Completion shall be extended accordingly.
8.4.6 The Project Manager’s approval, with or without modification of the document furnished by the Contractor, shall not relieve the Contractor of any responsibility or liability imposed upon it by any provisions of the Contract except to the extent that any subsequent failure results from modifications required by the Project Manager.

8.4.7 The Contractor shall not depart from any approved document unless the Contractor has first submitted to the Project Manager an amended document and obtained the Project Manager’s approval thereof, pursuant to the provisions of this GCC Sub-Clause 8.4.

If the Project Manager requests any change in any already approved document and/or in any document based thereon, the provisions of GCC Clause 63.2 shall apply to such request.

9. Copyright

9.1 The copyright in all drawings, documents and other materials containing data and information furnished to the Employer by the Contractor herein shall remain vested in the Contractor or, if they are furnished to the Employer directly or through the Contractor by any third party, including suppliers of materials, the copyright in such materials shall remain vested in such third party.

10. Time for Commencement and Completion

10.1 The Contractor shall commence the Works and Services within the period specified in the SCC and shall thereafter proceed in accordance with the time schedule specified in the corresponding Time Schedule stated in the SCC for the achievement of specific Service Quality Levels detailed in the Technical Specifications.

10.2 The Contractor shall attain Completion of the Works and Services at the required Service Quality Levels (or of a part where a separate time for Completion of such part is specified in the Contract) within the Time Schedule included in the SCC or within such extended time to which the Contractor shall be entitled under GCC Clause 64 hereof.

11. Contractor’s Responsibilities

11.1 The Contractor shall design and carry out the Works and Services (including associated purchases and/or subcontracting) necessary to comply with the requirements established in the Technical Specifications with due care and diligence in accordance with the Contract.

11.2 The Contractor confirms that it has entered into this Contract on the basis of a proper examination of the data relating to the Works and Services required, including any data and tests provided by the Employer, and on the basis of information that the Contractor could have obtained from a visual inspection of the Site and of other data readily available to it relating to the Road as of the date twenty-eight
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(28) days prior to bid submission. The Contractor acknowledges that any failure to acquaint itself with all such data and information shall not relieve its responsibility for properly estimating the difficulty or cost of successfully performing the Works and Services.

11.3 The Contractor shall acquire in its name all permits, approvals and/or licenses from all local, state or national government authorities or public service undertakings in the country of the Employer that are necessary for the performance of the Contract, including, without limitation, visas for the Contractor’s and Subcontractor’s personnel and entry permits for all imported Contractor’s Equipment. The Contractor shall acquire all other permits, approvals and/or licenses that are not the responsibility of the Employer under GCC Sub-Clause 14.3 hereof and that are necessary for the performance of the Contract.

11.4 The Contractor shall comply with all laws in force in the country of the Employer and where the Works and Services are carried out. The laws will include all local, state, national or other laws that affect the performance of the Contract and bind upon the Contractor. The Contractor shall indemnify and hold harmless the Employer from and against any and all liabilities, damages, claims, fines, penalties and expenses of whatever nature arising or resulting from the violation of such laws by the Contractor or its personnel, including the Subcontractors and their personnel, but without prejudice to GCC Sub-Clause 14.1 hereof.

11.5 Any Plant, Material and Services that will be incorporated in or be required for the Works and Services and other supplies shall have their origin in an eligible Country as defined under the Bank’s procurement guidelines.

11.6 The Contractor shall permit the World Bank to inspect the Contractor’s accounts and records relating to the performance of the Contractor and to have them audited by auditors appointed by the World Bank, if so required by the World Bank.

12. Subcontracting

12.1 The Contractor may subcontract activities listed in the SCC. Any other activity under the Contract may be subcontracted only when approved by the Project Manager. The Contractor may not assign the entire Contract without the approval of the Employer in writing. Subcontracting shall not alter the Contractor’s obligations nor relieve the Contractor from any liability or obligation under the Contract and he shall be responsible for the acts, defaults and neglects of any Subcontractor, his agents, servants or workmen as fully as if they were the acts, defaults or neglects of the Contractor, his agents, servants or workmen.

12.2 Notwithstanding GCC Sub-Clause 12.1, the Contractor may subcontract
under his own responsibility and without prior approval of the Employer the small Works and Services also listed in the SCC.

13. Assignment of Contract

13.1 Neither the Employer nor the Contractor shall, without the express prior written consent of the other party (which consent shall not be unreasonably withheld), assign to any third party the Contract or any part thereof, or any right, benefit, obligation or interest therein or thereunder, except that the Contractor shall be entitled to assign either absolutely or by way of charge any monies due and payable to it or that may become due and payable to it under the Contract.

14. Employer’s Responsibilities

14.1 The Employer shall apply due diligence to ensure the accuracy of all information and/or data to be supplied to the Contractor as described in the Technical Specifications, except when otherwise expressly stated in the Contract.

14.2 The Employer shall be responsible for acquiring and providing legal and physical possession of the Site and access thereto, and for providing possession of and access to all other areas reasonably required for the proper execution of the Contract, including all requisite rights of way, as specified in the corresponding Technical Specifications. The Employer shall give full possession of and accord all rights of access thereto on or before the date(s) specified in the SCC.

14.3 The Employer shall acquire and pay for all permits, approvals and/or licenses from all local, state or national government authorities or public service undertakings in the country where the Site is located, when such authorities or undertakings require the Employer to obtain them in the Employer’s name, are necessary for the execution of the Contract, and are specified in the corresponding Technical Specifications.

14.4 If requested by the Contractor, the Employer shall use its best endeavors to assist the Contractor in obtaining in a timely and expeditious manner all permits, approvals and/or licenses necessary for the execution of the Contract from all local, state or national government authorities or public service undertakings that such authorities or undertakings require the Contractor or Subcontractors or the personnel of the Contractor or Subcontractors, as the case may be, to obtain.

14.5 The Employer shall be responsible for the continued operation of the Road after Completion, in accordance with GCC Sub-Clause 28, and shall be responsible for facilitating the Guarantee Test(s) for the Road, in accordance with GCC Sub-Clause 20.

14.6 All costs and expenses involved in the performance of the obligations under this GCC Clause 14 shall be the responsibility of the Employer, save those to be incurred by the Contractor with respect to the performance of Guarantee Tests, in accordance with GCC Sub-Clause
15. Confidential Information

15.1 The Employer and the Contractor shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following termination of the Contract. Notwithstanding the above, the Contractor may furnish to its Subcontractor(s) such documents, data and other information it receives from the Employer to the extent required for the Subcontractor(s) to perform its work under the Contract, in which event the Contractor shall obtain from such Subcontractor(s) an undertaking of confidentiality similar to that imposed on the Contractor under this GCC Clause 15.

15.2 The Employer shall not use such documents, data and other information received from the Contractor for any purpose other than the operation and maintenance of the Road. Similarly, the Contractor shall not use such documents, data and other information received from the Employer for any purpose other than the design, procurement of Plant and Equipment, construction or such Works and Services as are required for the performance of the Contract.

15.3 The obligation of a party under GCC Sub-Clauses 15.1 and 15.2 above, however, shall not apply to that information which

(a) now or hereafter enters the public domain through no fault of that party;

(b) can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party hereto;

(c) otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.

15.4 The above provisions of this GCC Clause 15 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Works and Services or any part thereof.

15.5 The provisions of this GCC Clause 15 shall survive termination, for whatever reason, of the Contract.

C. Execution of Works and Services
16. Representatives

16.1 Project Manager

If the Project Manager is not named in the Contract, then within fourteen (14) days of the Effective Date, the Employer shall appoint and notify the Contractor in writing of the name of the Project Manager. The Employer may from time to time appoint some other person as the Project Manager in place of the person previously so appointed, and shall give a notice of the name of such other person to the Contractor without delay. No such appointment shall be made at such a time or in such a manner as to impede the progress of the Works and Services. Such appointment shall only take effect upon receipt of such notice by the Contractor. The Project Manager shall represent and act for the Employer at all times during the currency of the Contract. All notices, instructions, orders, certificates, approvals and all other communications under the Contract shall be given by the Project Manager, except as herein otherwise provided.

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

The Project Manager may delegate any of his duties and responsibilities to other people, except to the Adjudicator, after notifying the Contractor, and may cancel any delegation after notifying the Contractor.

16.2 Road Manager

16.2.1 If the Road Manager is not named in the Contract, then within fourteen (14) days of the Effective Date, the Contractor shall appoint the Road Manager and shall request the Employer in writing to approve the person so appointed. If the Employer makes no objection to the appointment within fourteen (14) days, the Road Manager shall be deemed to have been approved. If the Employer objects to the appointment within fourteen (14) days giving the reason therefor, then the Contractor shall appoint a replacement within fourteen (14) days of such objection, and the foregoing provisions of this GCC Sub-Clause 16.2.1 shall apply thereto.

16.2.2 The Road Manager shall represent and act for the Contractor at all times during the currency of the Contract and shall give to the Project Manager all the Contractor’s notices, instructions, information and all other communications under the Contract. The Road Manager shall be in charge of the day-to-day management of the services to be provided under the contract on behalf of the Contractor, and shall have legal and all other faculties to take all necessary decisions related to the execution of the contract.
All notices, instructions, information and all other communications given by the Employer or the Project Manager to the Contractor under the Contract shall be given to the Road Manager or, in its absence, its deputy, except as herein otherwise provided.

The Contractor shall not revoke the appointment of the Road Manager without the Employer’s prior written consent, which shall not be unreasonably withheld. If the Employer consents thereto, the Contractor shall appoint some other person as the Road Manager, pursuant to the procedure set out in GCC Sub-Clause 16.2.1.

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

Any act or exercise by any person of powers, functions and authorities so delegated to him or her in accordance with this GCC Sub-Clause 16.2.3 shall be deemed to be an act or exercise by the Road Manager.

16.2.4 From the commencement of the Works and Services at the Site until Completion, the Road Manager shall supervise all work done at the Site by the Contractor and shall be present at the Site throughout normal working hours except when on leave, sick or absent for reasons connected with the proper performance of the Contract. Whenever the Road Manager is absent from the Site, a suitable person shall be appointed to act as his or her deputy.

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

16.2.6 If any representative or person employed by the Contractor is removed in accordance with GCC Sub-Clause 16.2.5, the
Contractor shall, where required, promptly appoint a replacement.

17. **Work Program**

17.1 **Contractor’s Organization**

The Contractor shall supply to the Project Manager a chart showing the proposed organization to be established by the Contractor for carrying out the Works and Services. The chart shall include the identities of the key personnel together with the curricula vitae of such key personnel to be employed as included in the Contractor’s Bid. The Contractor shall promptly inform the Project Manager in writing of any revision or alteration of such an organization chart.

17.2 **Program of Performance**

Within twenty-eight (28) days after the date of signing the Contract Agreement, the Contractor shall prepare and supply to the Project Manager a program of performance of the Contract, made in the form specified in the Technical Specifications and showing the sequence in which it proposes to design and carry out the Works and Services, as well as the date by which the Contractor reasonably requires that the Employer shall have fulfilled its obligations under the Contract so as to enable the Contractor to execute the Contract in accordance with the program and to achieve Completion in accordance with the Contract. The Contractor shall update and revise the program as and when appropriate, but without modification in the Times for Completion given in the SCC and any extension granted in accordance with GCC Clause 64, and shall supply all such revisions to the Project Manager.

17.3 **Progress Report**

The Contractor shall monitor progress of all the activities specified in the program referred to in GCC Sub-Clause 17.2 above, and supply a progress report to the Project Manager every month together with his Monthly Statement. The progress report shall be in a form acceptable to the Project Manager in accordance with the Technical Specifications.

17.4 **Progress of Execution**

If at any time the Contractor’s actual progress falls behind the program referred to in GCC Sub-Clause 17.2, or it becomes apparent that it will so fall behind, the Contractor shall prepare and supply to the Project Manager a revised program, taking into account the prevailing circumstances, and shall notify the Project Manager of the steps being taken to expedite progress so as to attain Completion of the Works and Execution of Services activities within the Time for Completion under GCC Sub-Clause 10.2, any extension thereof entitled under GCC Sub-Clause 64, or any extended period as may otherwise be agreed upon.
17.5 Work Procedures

The Contract shall be executed in accordance with the Contract Documents and the procedures given in the Technical Specifications.

18. Execution of Works

18.1 Setting Out/Supervision/Labor

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

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

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

18.2 Contractor’s Equipment

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

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

18.2.3 The Employer will, if requested, use its best endeavors to assist the Contractor in obtaining any local, state or national government
permission required by the Contractor for the export of the Contractor’s Equipment imported by the Contractor for use in the execution of the Contract that is no longer required for the execution of the Contract.

18.3 Site Regulations and Safety

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

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

18.4 Opportunities for Other Contractors

18.4.1 The Contractor shall, upon written request from the Employer or the Project Manager, give all reasonable opportunities for carrying out the work to any other contractors employed by the Employer on or near the Site.

18.4.2 If the Contractor, upon written request from the Employer or the Project Manager, makes available to other contractors any roads or ways the maintenance of which the Contractor is responsible, permits the use by such other contractors of the Contractor’s Equipment, or provides any other service of whatsoever nature for such other contractors, the Employer shall fully compensate the Contractor for any loss or damage caused or occasioned by such other contractors in respect of any such use or service, and shall pay to the Contractor reasonable remuneration for the use of such equipment or the provision of such services.

18.4.3 The Contractor shall also so arrange to perform its work and services as to minimize, to the extent possible, interference with the work of other contractors. The Project Manager shall determine the resolution of any difference or conflict that may arise between the Contractor and other contractors and the workers of the Employer in regard to their work and services.

18.4.4 The Contractor shall notify the Project Manager promptly of any defects in the other contractors’ work that come to its notice, and that could affect the Contractor’s work. The Project Manager shall determine the corrective measures, if any, required to rectify the situation after inspection of the Facilities. Decisions made by the
Project Manager shall be binding on the Contractor.

18.5 Site Clearance

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

18.5.2 *Clearance of Site after Completion:* After Completion of all parts of the Works, the Contractor shall clear away and remove all wreckage, rubbish and debris of any kind from the Site, and shall leave the Site and the Road clean and safe.

18.6 Watching and Lighting

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

18.7 Access to the Site

The Contractor shall allow the Project Manager and any person authorized by the Project Manager access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out.

18.8 Management Meetings

18.8.1 Either the Project Manager or the Contractor may require the other to attend a management meeting. The business of a management meeting shall be to review the plans for remaining work and to deal with matters raised by either the Contractor or the Employer.

18.8.2 The Project Manager shall record the business of management meetings and provide copies of the record to those attending the meeting and to the Employer. The responsibility of the parties for actions to be taken shall be decided by the Project Manager either during or after the management meeting and stated in writing to all who attended the meeting.

19. Staff and Labor

19.1 The Contractor shall employ the key personnel named in the Contractor’s Bid, to carry out the functions stated in the Technical
Specifications or other personnel approved by the Project Manager. The Project Manager will approve any proposed replacement of key personnel only if their relevant qualifications and abilities are substantially equal to or better than those of the personnel listed in the Contractor’s Bid.

19.2 Labor

(a) The Contractor shall provide and employ on the Site for the execution of the Works and Services such skilled, semi-skilled and unskilled labor as is necessary for the proper and timely execution of the Contract. The Contractor is encouraged to use local labor that has the necessary skills.

(b) Unless otherwise provided in the Contract, the Contractor shall be responsible for the recruitment, transportation, accommodation and catering of all labor, local or expatriate, required for the execution of the Contract and for all payments in connection therewith.

(c) The Contractor shall be responsible for obtaining all necessary permit(s) and/or visa(s) from the appropriate authorities for the entry of all labor and personnel to be employed on the Site into the country where the Site is located.

(d) The Contractor shall at its own expense provide the means of repatriation to all of its and its Subcontractor’s personnel employed on the Contract at the Site to their various home countries. It shall also provide suitable temporary maintenance of all such persons from the cessation of their employment on the Contract to the date programmed for their departure. In the event that the Contractor defaults in providing such means of transportation and temporary maintenance, the Employer may provide the same to such personnel and recover the cost of doing so from the Contractor.

(e) The Contractor shall at all times during the progress of the Contract use its best endeavors to prevent any unlawful, riotous or disorderly conduct or behavior by or amongst its employees and the labor of its Subcontractors.

(f) The Contractor shall provide lodging, medical assistance, alimentation and sanitary installations for the employees living in the field working places to comply with the Social, Sanitary and Health Conditions of Labor requirements established in the Technical Specifications. The Contractor shall also take all necessary actions to control the spread of communicable diseases.
(g) The Contractor shall, in all dealings with its labor and the labor of its Subcontractors currently employed on or connected with the Contract, pay due regard to all recognized festivals, official holidays, religious or other customs and all local laws and regulations pertaining to the employment of labor.

19.3 Removal of staff

If the Project Manager asks the Contractor to remove a person who is a member of the Contractor’s staff or work force, stating the reasons, the Contractor shall ensure that the person leaves the Site within seven days and has no further connection with the work in the Contract.

19.4 Work at Night and on Holidays

19.4.1 Unless otherwise provided in the Contract, if and when the Contractor considers it necessary to carry out work at night or on public holidays so as to meet the Time for Completion and requests the Employer’s consent thereto (if such consent is needed), the Employer shall not unreasonably withhold such consent.

20. Test and Inspection

20.1 The Contractor shall at its own expense carry out on the Site all such tests and/or inspections as are specified in the Technical Specifications, and in accordance with the procedures described in the Technical Specifications.

20.2 The Employer and the Project Manager or their designated representatives shall be entitled to attend the aforesaid test and/or inspection.

20.3 For tests to be carried out on the initiative of the Contractor, whenever the Contractor is ready to carry out any such test and/or inspection, he shall give a reasonable advance notice of such test and/or inspection and of the place and time thereof to the Project Manager. The Contractor shall obtain from any relevant third party any necessary permission or consent to enable the Employer and the Project Manager (or their designated representatives) to attend the test and/or inspection. The Contractor shall provide the Project Manager with a certified report of the results of any such test and/or inspection.

20.4 If the Employer or Project Manager (or their designated representatives) fails to attend a scheduled test and/or inspection, or if it is agreed between the parties that such persons shall not attend, then the Contractor may proceed with the test and/or inspection in the absence of such persons, and may provide the Project Manager with a certified report of the results thereof.
20.5 The Project Manager may require the Contractor to carry out any test and/or inspection not required by the Contract, provided that the Contractor’s reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of the works and/or the Contractor’s performance of its other obligations under the Contract, due allowance will be made in respect of the Time for Completion and the other obligations so affected.

20.6 If Initial Rehabilitation Works, Improvement Works or Emergency Works fail to pass any test and/or inspection, the Contractor shall either rectify or replace such works and shall repeat the test and/or inspection upon giving a notice under GCC Sub-Clause 20.3.

20.7 If any dispute or difference of opinion shall arise between the parties in connection with or arising out of the test and/or inspection of the Works and Services, or part of them, that cannot be settled between the parties within a reasonable period of time, it may be referred to the RDB (or DRE) for determination in accordance with GCC Sub-Clause 6.1.

20.8 The Contractor agrees that neither the execution of a test and/or inspection of the Works and Services or any part of them, nor the attendance by the Employer or the Project Manager, nor the issue of any test certificate pursuant to GCC Sub-Clause 20.4, shall release the Contractor from any other responsibilities under the Contract.

20.9 No part or foundations shall be covered up on the Site without the Contractor carrying out any test and/or inspection required under the Contract. The Contractor shall give a reasonable notice to the Project Manager whenever any such part or foundations are ready or about to be ready for test and/or inspection; such test and/or inspection and notice thereof shall be subject to the requirements of the Contract.

20.10 The Contractor shall uncover any part of the Works or foundations, or shall make openings in or through the same as the Project Manager may from time to time require at the Site, and shall reinstate and make good such part or parts.

If any parts of the Works or foundations have been covered up at the Site after compliance with the requirement of GCC Sub-Clause 20.9 and are found to be executed in accordance with the Contract, the expenses of uncovering, making openings in or through, reinstating, and making good the same shall be borne by the Employer, and the Time for Completion shall be reasonably adjusted to the extent that the Contractor has thereby been delayed or impeded in the performance of any of its obligations under the Contract.

21. Initial

21.1 If so indicated in the SCC, specific Initial Rehabilitation Works shall be
Rehabilitation Works carried out explicitly in accordance with the Technical Specifications and as specified in the bidding documents and in the Contractor’s Bid. Input quantities for Initial Rehabilitation Works were estimated by the Contractor to achieve the performance criteria for Initial Rehabilitation Works given in the Technical Specifications. The specific Initial Rehabilitation Works were offered by the Contractor at a Lump-Sum price.

22. Improvement Works

22.1 If so indicated in the SCC, Improvement Works will consist of a set of interventions that add new characteristics to the roads in response to new traffic and safety or other conditions. Improvement Works quantities were offered at unit prices included in the Bill of Quantities.

22.2 The execution of Improvement Works shall be requested by the Project Manager, who will issue a Work Order defining the requested works to be carried out by the Contractor, based on the activities priced in the Bill of Quantities. The Work order shall specify the activities to be carried out and the corresponding price. The Road Manager shall confirm his acceptance by signing the Work Order.

23. Maintenance Services

23.1 Maintenance Services are those activities necessary for keeping the Road in compliance with the Performance Standards pursuant to GCC Clause 24. Maintenance Services shall include all activities required to achieve and keep the Road Performance Standards and Service Quality Levels. These Services will be remunerated by Lump-Sum amount for the period of the contract paid in fixed monthly payments during the entire Contract period.

24. Performance Standards

24.1 The Contractor shall carry out the Works in accordance with the performance standards indicated in the Technical Specifications and the Maintenance Services to achieve and keep the Road complying with the Service Quality Levels defined in the Technical Specifications.

25. Contractor’s Self-Control of Quality and Safety

25.1 The Contractor shall, throughout the execution and completion of the Works and Services, maintain a System which shall ensure that the work methods and procedures are adequate and safe at all times and do not pose any avoidable risks and dangers to the health, safety and property of the workers and agents employed by him or any of his subcontractors, of road users, of persons living in the vicinity of the roads under contract, and any other person who happens to be on or along the roads under contract.

25.2 Unless specified otherwise in the SCC, the Contractor shall establish, within his own organizational structure, a specific Unit staffed with qualified personnel, whose task is to verify continuously the degree of compliance by the Contractor with the required Service Quality Levels. That Unit will also be responsible for the generation and presentation of the information needed by the contractor for the documentation required as
defined in the Technical Specifications. The Unit will be responsible for maintaining a detailed and complete knowledge of the condition of the Road and to provide to the Road Manager all the information needed in order to efficiently manage and maintain the Road. The Unit shall also carry out, in close collaboration with the Project Manager, the verifications on the Service Quality Levels.

25.3 The Contractor’s Self-Control Unit mentioned in GCC Sub-Clause 25.2 shall report the level of compliance with the required Service Quality Levels in the standard format presented in the Technical Specifications.

26. Environmental and Safety Requirements

26.1 The Contractor shall, throughout the design execution and completion of the Works and Services, and the remedying of any defects therein:

(a) have full regard for the safety of all persons entitled to be on the Site and keep the Site (so far as the same is under his control) and the Works and Services (so far as the same are not completed or occupied by the Employer) in an orderly state appropriate to the avoidance of danger to such persons;

(b) provide and maintain at his own cost all lights, guards, fencing, warning signs and watching, when and where necessary or required by Sub-Clause 18.3 of the Contract or by any duly constituted authority, for the protection of the Works and Services or for the safety and convenience of the public or others; and

(c) carry out the required Environmental Impact Assessment studies to comply with environmental standards defined in the Technical Specifications and carry out the Works and Services in accordance with the recommendations of these studies. In addition, the Contractor shall take all reasonable steps to protect the environment on and off the Site and to avoid damage or nuisance to persons or to property of the public or others resulting from pollution, noise or other causes arising as a consequence of his methods of operation.

27. Work Orders for Improvement Works and Emergency Works

27.1 Improvement Works and Emergency Works shall be executed by the Contractor on the basis of Work Orders issued by the Project Manager.

27.2 Work Orders shall be issued in writing and shall include the date on which the Work Order was issued and the signature of the Project Manager. Two copies of the Work Order shall be transmitted by the Project Manager to the Contractor, who shall immediately countersign one copy, including the date of acceptance, and return it to the Project Manager.

27.3 If the Contractor has any objection to a Work Order, the Road Manager shall notify the Project Manager of his reasons for such objection within ten (10) days of the date of issuing the Work Order. Within five (5) days of the Road Manager’s objection, the Project Manager shall cancel, modify or confirm the Work Order in writing.

28. Taking Over

28.1 When the whole of the Works and Services have been substantially
completed and have satisfactorily passed any Tests on Completion prescribed by the Contract, the Contractor may give a notice to that effect to the Project Manager, accompanied by a written undertaking to finish with due expedition any outstanding work during the Defects Liability Period. Such notice and undertaking shall be deemed to be a request by the Contractor for the Project Manager to issue a Taking-Over Certificate in respect of the Works and Services. The Project Manager shall, within twenty-one (21) days of the date of delivery of such notice, either issue to the Contractor a Taking-Over Certificate, stating the date on which the Works and Services were substantially completed in accordance with the Contract, or give instructions in writing to the Contractor specifying all the conditions to be complied with and all the work which is required to be done by the Contractor before the issue of such Certificate. The Project Manager shall also notify the Contractor of any defects in the Works and Services affecting substantial completion that may appear after such instructions and before completion of Taking-Over Certificate within twenty-one (21) days of completion, to the satisfaction of the Project Manager, of the Works and Services so specified and remedying any defects so notified.

28.2 Similarly, in accordance with the procedure set out in Sub-Clause 28.1, the Contractor may request and the Project Manager shall issue a Taking-Over Certificate in respect of:

(a) any Section in respect of which a separate Time for Completion is provided in the SCC;

(b) any substantial part of the Works and Services which has been both completed to the satisfaction of the Project Manager and, otherwise than as provided for in the Contract, occupied or used by the Employer, or

(c) any part of the Works and Services which the Employer has elected to occupy or use prior to completion (where such prior occupation or use is not provided for in the Contract or has not been agreed by the Contractor as a temporary measure).

29. Emergency Works

29.1 The need for execution of Emergency Works is jointly identified by the Employer and the Contractor and the starting of the execution of Emergency Works shall always require a Work Order issued by the Project Manager.

29.2 The execution of Emergency Works shall be requested by the Contractor based on losses or damages occurred as a result of natural phenomena (such as strong storms, flooding or earthquakes) with imponderable consequences, or on the possibility of damages losses occurring, or the safety of individuals, works, services or equipment being at risk as result of the natural phenomena. In order to characterize the Emergency Works, the Contractor shall forward a Technical Report to the Project Manager requesting the execution of Emergency Works and characterizing the
situation. On the basis of the said report, and of his own judgment of the situation, the Project Manager may issue a Work Order to the Contractor.

29.3 The Employer or even Government authorities may declare an Emergency Situation on the basis of local legislation. In those cases, the Project Manager may issue a Work Order for Emergency Works to the Contractor even without a request by the Contractor.

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

30. Quality of materials used by Contractor

30.1 The quality of materials used by the Contractor for the execution of the Contract shall be in compliance with the requirements of the Technical Specifications. If the Contractor is of the opinion that materials of higher quality than those stated in the Technical Specifications need to be used in order to ensure compliance with the Contract, he shall use such better materials, without being entitled to higher prices or remunerations.

30.2 Under no circumstances may the Contractor make any claim based on the insufficient quality of materials used by him, even if the material used was authorized by the Project Manager.

30.3 The Contractor shall carry out at his own cost the laboratory and other tests that he needs to verify if materials to be used comply with the Technical Specifications, and shall keep records of such tests. If requested by the Project Manager, the Contractor shall hand over the results of the tests.

31. Signalling and demarcation of work zones and bypasses

31.1 To ensure the safety of road users, including non-motorized road users and pedestrians, the Contractor is responsible to install and maintain at his cost the adequate signalling and demarcation of work sites, which in addition must comply with the applicable legislation.

31.2 If the execution of services and works under the contract is likely to interfere with traffic, the Contractor shall take at his cost the measures necessary to limit such interference to the strict minimum, or any danger to the workers or others. For that purpose, he is entitled to install, within the right-of-way of the road, temporary bypasses, structures or other modifications to be used by traffic during the execution of works and
services. The Contractor shall notify the Project Manager.

31.3 If the execution of works and services by the Contractor makes it necessary to temporarily close a road section, and a traffic detour has to be implemented over other public roads or streets, the Contractor shall be responsible for the adequate signalling of the detour, under the same conditions as stated in GCC Sub-Clause 31.1.

31.4 The Contractor shall inform the local authorities and the local police about such activities to be carried out by him which may cause any significant interruptions or changes to the normal traffic patterns. Such information shall be made in writing and at least seven (7) days before the beginning of such activities. Upon request from the Contractor, the Employer shall assist the Contractor in the coordination with the local authorities and the local police.

D. ALLOCATION OF RISKS

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<tr>
<th>32. Employer’s Risks</th>
<th>32.1 From the Start Date until the Defects Correction Certificate has been issued, the following are Employer’s risks insofar as they directly affect the execution of the Works and Services included in this Contract:</th>
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<td>(a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies;</td>
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<td>(b) rebellion, revolution, insurrection, military or usurped power, or civil war;</td>
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<td>(c) ionising radiations, contamination by radioactivity from any nuclear fuel, or any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;</td>
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<td>(d) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds;</td>
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<td>(e) riot, commotion or disorder, unless solely restricted to employees of the Contractor or of his Subcontractors and arising from the conduct of the Works and Services;</td>
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<td>(f) loss or damage due to the use or occupation by the Employer of any Section or part of the Permanent Works, except as may be provided for in the Contract;</td>
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<td>(g) any operation of the forces of nature against which an experienced contractor could not reasonably have been expected to take precautions.</td>
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Risks

34. Loss of or Damage to Property; Accident or Injury to Workers; Indemnification

34.1 Subject to GCC Sub-Clause 34.3, the Contractor shall indemnify and hold harmless the Employer and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney’s fees and expenses, in respect of the death or injury of any person or loss of or damage to any property (other than the Facilities whether accepted or not), arising in connection with the execution and by reason of the negligence of the Contractor or its Subcontractors, or their employees, officers or agents, except any injury, death or property damage caused by the negligence of the Employer, its contractors, employees, officers or agents.

34.2 If any proceedings are brought or any claim is made against the Employer that might subject the Contractor to liability under GCC Sub-Clause 34.1, the Employer shall promptly give the Contractor a notice thereof and the Contractor may at its own expense and in the Employer’s name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

If the Contractor fails to notify the Employer within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Employer shall be free to conduct the same on its own behalf. Unless the Contractor has so failed to notify the Employer within the twenty-eight (28) day period, the Employer shall make no admission that may be prejudicial to the defense of any such proceedings or claim.

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

34.3 The Employer shall indemnify and hold harmless the Contractor and its employees, officers and Subcontractors from any liability for loss of or damage to property of the Employer, other than the Facilities not yet taken over, that is caused by fire, explosion or any other perils, in excess of the amount recoverable from insurances procured under GCC Clause 35, provided that such fire, explosion or other perils were not caused by any act or failure of the Contractor.

34.4 The party entitled to the benefit of an indemnity under this GCC Clause 34 shall take all reasonable measures to mitigate any loss or damage which has occurred. If the party fails to take such measures, the other party’s liabilities shall be correspondingly reduced.
35. Insurance

35.1 To the extent specified in the SCC, the Contractor shall at its expense take out and maintain in effect, or cause to be taken out and maintained in effect, during the performance of the Contract, the insurances set forth below in the sums and with the deductibles and other conditions specified in the said SCC. The identity of the insurers and the form of the policies shall be subject to the approval of the Employer, who should not unreasonably withhold such approval.

(a) Loss of or damage to the Plant and Materials

   Covering loss or damage occurring prior to Completion.

(b) Third Party Liability Insurance

   Covering bodily injury or death suffered by third parties (including the Employer’s personnel) and loss of or damage to property occurring in connection with the supply and installation of the Facilities.

(c) Automobile Liability Insurance

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

(d) Workers’ Compensation

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

(e) Employer’s Liability

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

(g) Other Insurances

   Such other insurances as may be specifically agreed upon by the parties.

35.2 The Employer shall be named as co-insured under all insurance policies taken out by the Contractor pursuant to GCC Sub-Clause 35.1, except for the Third Party Liability, Workers’ Compensation and Employer’s Liability Insurances, and the Contractor’s Subcontractors shall be named as co-insured under all insurance policies taken out by the Contractor pursuant to GCC Sub-Clause 35.1 except for the Cargo Insurance During Transport, Workers’ Compensation and Employer’s Liability Insurances. All insurer’s rights of subrogation against such co-insured for losses or claims arising out of the performance of the Contract shall be waived under such policies.

35.3 The Contractor shall deliver to the Employer certificates of insurance (or copies of the insurance policies) as evidence that the required policies are in full force and effect. The certificates shall provide that no less than
twenty-one (21) days’ notice shall be given to the Employer by insurers prior to cancellation or material modification of a policy.

35.4 The Contractor shall ensure that, where applicable, its Subcontractor(s) shall take out and maintain in effect adequate insurance policies for their personnel and vehicles and for work executed by them under the Contract, unless such Subcontractors are covered by the policies taken out by the Contractor.

35.5 If the Contractor fails to take out and/or maintain in effect the insurances referred to in GCC Sub-Clause 35.1, the Employer may take out and maintain in effect any such insurances and may from time to time deduct from any amount due the Contractor under the Contract any premium that the Employer shall have paid to the insurer, or may otherwise recover such amount as a debt due from the Contractor.

35.6 Unless otherwise provided in the Contract, the Contractor shall prepare and conduct all and any claims made under the policies effected by it pursuant to this GCC Clause 35, and all monies payable by any insurers shall be paid to the Contractor. The Employer shall give to the Contractor all such reasonable assistance as may be required by the Contractor. With respect to insurance claims in which the Employer’s interest is involved, the Contractor shall not give any release or make any compromise with the insurer without the prior written consent of the Employer. With respect to insurance claims in which the Contractor’s interest is involved, the Employer shall not give any release or make any compromise with the insurer without the prior written consent of the Contractor.

36. Unforeseen Conditions

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

(a) the physical conditions or artificial obstructions on the Site that could not have been reasonably foreseen;

(b) the additional work and/or Plant and Equipment and/or Contractor’s Equipment required, including the steps which the Contractor will or
proposes to take to overcome such conditions or obstructions;
(c) the extent of the anticipated delay;
(d) the additional cost and expense that the Contractor is likely to incur.

On receiving any notice from the Contractor under this GCC Sub-Clause 36.1, the Project Manager decide upon the actions to be taken to overcome the physical conditions or artificial obstructions encountered. Following such consultations, the Project Manager shall instruct the Contractor, with a copy to the Employer, of the actions to be taken.

36.2 Any reasonable additional cost and expense incurred by the Contractor in following the instructions from the Project Manager to overcome such physical conditions or artificial obstructions referred to in GCC Sub-Clause 36.1 shall be paid by the Employer to the Contractor as an addition to the Contract Price.

36.3 If the Contractor is delayed or impeded in the performance of the Contract because of any such physical conditions or artificial obstructions referred to in GCC Sub-Clause 36.1, the Time for Completion shall be extended in accordance with GCC Clause 64.

37. Change in Laws and Regulations

37.1 If, after the date twenty-eight (28) days prior to the date of Bid submission, in the country where the Site is located, any law, regulation, ordinance, order or by-law having the force of law is enacted, promulgated, abrogated or changed (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the costs and expenses of the Contractor and/or the Time for Completion, the Contract Price shall be correspondingly increased or decreased, and/or the Time for Completion shall be reasonably adjusted to the extent that the Contractor has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced costs shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with the SCC.

38. Force Majeure

38.1 “Force Majeure” shall mean any event beyond the reasonable control of the Employer or of the Contractor, as the case may be, insofar as they directly affect the execution of the Services and Works included in this Contract and which is unavoidable notwithstanding the reasonable care of the party affected, and shall include, without limitation, the following:

(a) war, hostilities or warlike operations (whether a state of war be declared or not), invasion, act of foreign enemy and civil war;
(b) rebellion, revolution, insurrection, mutiny, usurpation of civil or military government, conspiracy, riot, civil commotion and terrorist acts;
(c) confiscation, nationalization, mobilization, commandeering, requisition by or under the order of any government or de jure or de facto authority or ruler or any other act or failure to act of any local state or national government authority;

(d) strike, sabotage, lockout, embargo, import restriction, port congestion, lack of usual means of public transportation and communication, industrial dispute, shipwreck, shortage or restriction of power supply, epidemics, quarantine and plague;

(e) earthquake, landslide, volcanic activity, fire, flood or inundation, tidal wave, typhoon or cyclone, hurricane, storm, lightning, or other inclement weather condition, nuclear and pressure waves or other natural or physical disaster;

(f) shortage of labor, materials or utilities where caused by circumstances that are themselves Force Majeure.

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

38.3 The party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such party’s performance is prevented, hindered or delayed. The Time for Completion shall be extended in accordance with GCC Clause 64.

38.4 The party or parties affected by the event of Force Majeure shall use reasonable efforts to mitigate the effect thereof upon its or their performance of the Contract and to fulfill its or their obligations under the Contract, but without prejudice to either party’s right to terminate the Contract under GCC Sub-Clause 38.6.

38.5 No delay or nonperformance by either party hereto caused by the occurrence of any event of Force Majeure shall

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

(b) give rise to any claim for damages or additional cost or expense occasioned thereby;

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

38.6 If the performance of the Contract is substantially prevented, hindered or delayed for a single period of more than sixty (60) days or an aggregate period of more than one hundred and twenty (120) days on account of one
or more events of Force Majeure during the currency of the Contract, the parties will attempt to develop a mutually satisfactory solution, failing which either party may terminate the Contract by giving a notice to the other, but without prejudice to either party’s right to terminate the Contract under GCC Clause 59.

38.7 In the event of termination pursuant to GCC Sub-Clause 38.6, the rights and obligations of the Employer and the Contractor shall be as specified in GCC Sub-Clauses 59.1.2 and 59.1.3.

38.8 Notwithstanding GCC Sub-Clause 38.5, Force Majeure shall not apply to any obligation of the Employer to make payments to the Contractor herein.

E. GUARANTEES AND LIABILITIES

39. Completion Time Guarantee and Liability

39.1 The Contractor guarantees that it shall attain Completion of the Works and Services (or a part for which a separate time for completion is specified in the SCC) within the Time for Completion specified in the SCC pursuant to GCC Sub-Clause 10.2, or within such extended time to which the Contractor shall be entitled under GCC Clause 64 hereof.

39.2 If the Contractor fails to attain Completion of the Works and Services or any part thereof within the Time for Completion or any extension thereof under GCC Clause 64, the Contractor shall pay to the Employer liquidated damages, or shall receive reduced payments, for such default and not as a penalty (which sum shall be the only monies due from the Contractor for such default) for every day or part of the day which shall elapse between the relevant Time for Completion and the date stated in a Taking-Over Certificate of the whole of the Works and Services or the relevant Section, in accordance with the SCC. The aggregate amount of such liquidated damages and payment reductions shall in no event exceed the “aggregate liability” in accordance with GCC Clause 42. Once the “aggregate liability” is reached, the Employer may consider termination of the Contract, pursuant to GCC Sub-Clause 59.2. The payment or deduction of such damages shall not relieve the Contractor from his obligation to complete the Works and Services, or from any other of his obligations and liabilities under the Contract.

40. Performance Guarantee and Liability

40.1 The Contractor guarantees that during the Performance Test and Inspections, the Road and all parts thereof shall attain the Performance Standards specified in the corresponding Technical Specifications, subject to and upon the conditions therein specified.
40.2 If, for reasons attributable to the Contractor, the minimum level of the Performance Standards specified in the corresponding Technical Specifications are not met either in whole or in part, the Contractor shall at its cost and expense make such changes, modifications and/or additions to the Road or any part thereof as may be necessary to meet at least the minimum level of such Standards. The Contractor shall notify the Employer upon completion of the necessary changes, modifications and/or additions, and shall request the Employer to repeat the Test until the minimum level of the Standards has been met. If the Contractor eventually fails to meet the minimum level of Performance Standard, the Employer may consider termination of the Contract, pursuant to GCC Sub-Clause 59.2.2.

40.3 If, for reasons attributable to the Contractor, the Performance Standards relating to Rehabilitation and Improvement Works specified in the corresponding Technical Specifications are not attained either in whole or in part, the Contractor shall, at the Contractor’s choice, either

(a) make such changes, modifications and/or additions to the Works and Services or any part thereof that are necessary to attain the Performance Standards at its cost and expense, and shall request the Employer to repeat the Test, or

(b) pay liquidated damages to the Employer in respect of the Works and Services which fail to meet the Performance Standards in accordance with the provisions in the corresponding Technical Specifications.

40.4 The payment of liquidated damages under GCC Sub-Clause 40.3, up to the limitation of liability specified in the SCC, shall completely satisfy the Contractor’s guarantees under GCC Sub-Clause 40.1, and the Contractor shall have no further liability whatsoever to the Employer in respect thereof. Upon the payment of such liquidated damages by the Contractor, the Project Manager shall issue the Operational Acceptance Certificate for the Facilities or any part thereof in respect of which the liquidated damages have been so paid.

41. Defect Liability

41.1 The Contractor warrants that the Works and Services or any part thereof shall be free from defects in the design, engineering, materials and workmanship of the Works and Services executed.

41.2 The Defect Liability Period shall be eighteen (18) months from the date of Completion of the Contract (or any part thereof) or twelve (12) months from the date of Operational Acceptance of the Works and Services (or any part thereof), whichever occurs first, unless specified otherwise in the SCC.

If during the Defect Liability Period any defect should be found in the design, engineering, materials and workmanship of the Works and Services executed by the Contractor, the Contractor shall promptly, in
consultation and agreement with the Employer regarding appropriate 
remedying of the defects, and at its cost, repair, replace or otherwise make 
good (as the Contractor shall, at its discretion, determine) such defect as 
well as any damage to the Road caused by such defect. The Contractor 
shall not be responsible for the repair, replacement or making good of any 
defect or of any damage to the Road arising out of or resulting from 
improper operation or maintenance of the Road by the Employer after 
taking over.

41.3 The Contractor’s obligations under this GCC Clause 41 shall not apply to 
(a) any materials that are supplied by the Employer, are normally 
consumed in operation, or have a normal life shorter than the Defect 
Liability Period stated herein;
(b) any designs, specifications or other data designed, supplied or 
specified by or on behalf of the Employer or any matters for which the 
Contractor has disclaimed responsibility herein;
(c) any other materials supplied or any other work executed by or on 
behalf of the Employer, except for the work executed by the Employer 
under GCC Sub-Clause 41.6.

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

41.5 The Employer shall afford the Contractor all necessary access to the 
Facilities and the Site to enable the Contractor to perform its obligations 
under this GCC Clause 41.

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

41.6 If the Contractor fails to commence the work necessary to remedy such 
defect or any damage to the Road caused by such defect within a 
reasonable time (which shall in no event be considered to be less than 
fifteen (15) days), the Employer may, following notice to the Contractor, 
proceed to do such work, and the reasonable costs incurred by the 
Employer in connection therewith shall be paid to the Employer by the 
Contractor or may be deducted by the Employer from any monies due the 
Contractor or claimed under the Performance Security.

41.7 If the Road or any part thereof cannot be used by reason of such defect 
and/or making good of such defect, the Defect Liability Period of the 
Road or such part, as the case may be, shall be extended by a period equal 
to the period during which the Road or such part cannot be used because
of any of the aforesaid reasons.

41.8 Except as provided in GCC Clauses 40 and 41, the Contractor shall be under no liability whatsoever and howsoever arising, and whether under the Contract or at law, in respect of defects in the Road or any part thereof, the Plant and Equipment, design or engineering or work executed that appear after Completion of the Works and Services, except where such defects are the result of the gross negligence, fraud, criminal or willful action of the Contractor.

42. Limitation of Liability

42.1 Except in cases of criminal negligence or willful misconduct,

(a) the Contractor shall not be liable to the Employer, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Contractor to pay liquidated damages to the Employer and

(b) the aggregate liability of the Contractor to the Employer, whether under the Contract, in tort or otherwise, shall not exceed the total amount specified in the SCC, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

43. Liability for Damages through Traffic Accidents and Traffic Interruptions

43.1 The Contractor cannot be held liable for damages of any kind arising out of traffic accidents on the roads included in the Contract, unless those traffic accidents have been caused directly by potholes or other defects of the Road covered by the Contract he failed to repair in a timely manner, criminal acts, willful misconduct or gross negligence of the Contractor.

43.2 Under no circumstances can the Contractor be held liable for damages of any kind and to anyone arising out of interruptions of traffic or traffic delays on the road included in the Contract, including any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs.

F. PAYMENT

44. Contract Price

44.1 The Contract Price shall be as specified in the Form of Contract Agreement to be paid in the currencies indicated in the SCC.

44.2 Unless indicated otherwise in the SCC, and except in the event of a Change as provided for in the Contract, the Contract Price shall be:

(a) For Initial Rehabilitation Works, a firm lump sum not subject to any alteration;

(b) For Maintenance Services, a firm lump sum to be paid in monthly
installments;

(c) For Improvement Works, unit prices, using the prices included in the Bill of Quantities;

(d) For Emergency Works, unit prices, using the prices included in the Bill of Quantities.

44.3 The Contractor shall be deemed to have satisfied itself as to the correctness and sufficiency of the Contract Price, which shall, except as otherwise provided for in the Contract, cover all its obligations under the Contract.

45. Advance Payment

45.1 The Employer shall make advance payment to the Contractor of the amounts and by the date stated in the SCC, against provision by the Contractor of an Unconditional Bank Guarantee in a form and by a bank acceptable to the Employer in amounts and currencies equal to the advance payment. The Guarantee shall remain effective until the advance payment has been repaid, but the amount of the Guarantee shall be progressively reduced by the amounts repaid by the Contractor. Interest will not be charged on the advance payment.

45.2 The Contractor is to use the advance payment only to pay for Equipment, Plant, Materials, and mobilization expenses required specifically for the execution of the Contract. The Contractor shall demonstrate that advance payment has been used in this way by supplying copies of invoices or other documents to the Project Manager.

45.3 The advance payment shall be repaid by deducting proportionate amounts from payments otherwise due to the Contractor, following the schedule of completed percentages of the Works and Services on a payment basis as indicated in the SCC.

46. Bill of Quantities

46.1 The Bill of Quantities shall contain items for Groups of Activities which include the provision of Services (measured by performance standards) and Works (measured by unit of outputs or of products). The Bill of Quantities for Works shall include, where applicable, the lump-sum and unit price for Initial Rehabilitation Works, and unit rates for Improvement Works and for Emergency Works.

46.2 Maintenance Services shall be measured and billed separately and will be remunerated by lump-sum amount for the period of the contract paid in fixed monthly payments during the entire Contract period. The values for remuneration of the Maintenance Services are those stated in the Bill of Quantities.

46.3 Initial Rehabilitation Works will be remunerated by Lump-Sum amount for the period of the contract, however, indicating the quantities of measurable outputs to be executed in order that the Road achieves the performance standards specified in the bidding documents. Payments will
be made in accordance with the execution of those measured outputs paid by executed works output. The prices shall be those stated in the Bill of Quantities.

46.4 Improvement Works will be remunerated after acceptance by the Employer and shall be paid according to the product unit price using the prices included in the Bill of Quantities.

46.5 Each Emergency Work Order issued by the Project Manager will include a lump-sum price for the works to be performed. The Lump-Sum price for the Emergency Works will be submitted by the Contractor to the Project Manager in each emergency pursuant to GCC Clauses 29 and 61 and will be prepared based on the Technical Specifications and on the unit prices included in the Bill of Quantities for Emergency Works, and will remunerate all Emergency Activities. The prices include compliance with all Performance Indices described in the Technical Specifications. Once approved, Emergency Works will be paid as lump sum in accordance with the schedule of payment proposed by the Contractor for the specific Emergency and approved by the Employer.

46.6 The Bill of Quantities is used to calculate the Contract Price. The amounts for Maintenance Services and Initial Rehabilitation Works are the Lump-Sum prices offered in the Contractor’s Bid. The Improvement Works amount included in the Contract is an estimate on the basis of the unit prices included in the Contractor’s Bid. The Provisional Sum included in the Contract Price is an estimate for use when authorized by the Employer for Emergency Works and Contingencies.

47. Measurement

47.1 Maintenance Services will not be measured in volume, however its payment will be affected by compliance with the Performance Standards pursuant to GCC Clause 24. Maintenance Services shall be billed in fixed monthly amounts as per the Bill of Quantities Lump-Sum amount for Maintenance Services. Payments will be made with Reduction if the Performance Standards are not achieved, as defined in the Technical Specifications. The Reductions for non-compliance with the Performance Standards will be applied on a daily basis for the period under which the Road does not achieve the Performance Standards, in accordance with the methodology specified in the Technical Specifications.

47.2 Initial Rehabilitation Works will be measured on the basis indicated in the SCC, either per kilometer or per product actually concluded by the Contractor and approved by the Project Manager. The prices shall be those stated in the Bill of Quantities.

47.3 Improvement Works will be measured on the basis indicated in the SCC and in accordance with the unit of measurement used for product unit price included in the Bill of Quantities. The prices shall be those stated in
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47.4 Emergency Works will not be measured and shall be billed in accordance with the Schedule of Payments agreed for each specific Emergency Work as approved by the Employer.

48. Price Adjustments

48.1 Prices shall be adjusted for fluctuations in the cost of inputs only if provided for in the SCC. If so provided, the amounts certified in each payment certificate, after deducting for Advance Payment, shall be adjusted by applying the respective price adjustment factor to the payment amounts due in each currency. A separate formula of the type indicated below applies to each Contract currency:

\[ p_c = A_c + B_c \frac{I_m c}{I_o c} \]

where:

- \( p_c \) is the adjustment factor for the portion of the Contract Price payable in a specific currency “c”
- \( A_c \) and \( B_c \) are coefficients specified in the SCC, representing the nonadjustable and adjustable portions, respectively, of the Contract Price payable in that specific currency “c”, and
- \( I_m c \) is the index prevailing at the end of the month being invoiced and \( I_o c \) is the index prevailing twenty-eight (28) days before Bid opening for inputs payable; both in the specific currency “c”.

48.2 If the value of the index is changed after it has been used in a calculation, the calculation shall be corrected and an adjustment made in the next payment certificate. The index value shall be deemed to take account of all changes in cost due to fluctuations in costs.

49. Monthly Statements and Payments

49.1 The Contractor shall submit to the Project Manager monthly statements in the format indicated in the Technical Specifications of the estimated value of Maintenance Services, Initial Rehabilitation Works, Improvement Works, and Emergency Works in separated items covering the Works and Services for the corresponding month.

49.2 The Project Manager shall check the Contractor’s monthly statement and certify within fourteen (14) days the amount to be paid to the Contractor.

49.3 The value of Services executed shall be certified by the Project Manager taking into account the monthly amount included in the Bill of Quantities.

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7 The sum of the two coefficients \( A_c \) and \( B_c \) should be 1 (one) in the formula for each currency. Normally, both coefficients will be the same in the formulae for all currencies, since coefficient \( A_c \), for the nonadjustable portion of the payments, is a very approximate figure (usually 0.15) to take account of fixed cost elements or other nonadjustable components. The sum of the adjustments for each currency is added to the Contract Price.
for Maintenance Services and the achievement of the Performance Standards for the Maintenance Services adjusted for any penalty in accordance with GCC Sub-Clause 47.1.

49.4 The value of Works executed shall be certified by the Project Manager taking into account the value of the quantities of products executed and the prices in the Bill of Quantities.

49.5 The Project Manager may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information.

50. Payments

50.1 Payments shall be adjusted for deductions for advance payments, retention, and reduction for not achieving Performance Standards for Maintenance Services. The Employer shall pay the Contractor the amounts certified by the Project Manager in accordance with GCC Clause 49, within twenty-eight (28) days of the date of each certificate. If the Employer makes a late payment, the Contractor shall be paid interest on the late payment in the next payment. Interest shall be calculated from the date by which the payment should have been made up to the date when the late payment is made at the prevailing rate of interest for commercial borrowing for each of the currencies in which payments are made.

50.2 If an amount certified is increased in a later certificate or as a result of an award by the Adjudicator or an Arbitrator, the Contractor shall be paid interest upon the delayed payment as set out in this clause. Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute. The interest rate shall be determined as per Sub-Clause 50.1.

50.3 Unless otherwise stated, all payments and deductions will be paid or charged in the proportions of currencies comprising the Contract Price.

50.4 Items of the Works for which no rate or price has been entered in the Bill of Quantities will not be paid for by the Employer and shall be deemed covered by other rates and prices in the Contract.

51. Retention and Reductions

51.1 The Employer shall retain the percentage indicated in the SCC from each payment due to the Contractor for Initial Rehabilitation Works and the Improvement Works. The regular monthly lump-sum payments for performance-based Maintenance Services will not be subject to retentions, unless indicated in the SCC.

51.2 On completion of the Works, half the total amount retained shall be repaid to the Contractor and the other half after twelve (12) months have passed and the Project Manager has certified that all Defects notified by the Project Manager to the Contractor have been corrected before the end of
51.3 On completion of the whole Works, the Contractor may substitute retention money with an “on demand” Bank guarantee.

51.4 Reduction of monthly payments for Maintenance Services due to non-compliance with the Service Quality Levels will be made as indicated in GCC Sub-Clause 47.1. The amount of Reduction for the days in which the Road was not complying with the Performance Standards will not be paid, even after the Contractor re-establishes the quality levels to the standards.

52. Taxes and Duties

52.1 Except as otherwise specifically provided in the Contract, the Contractor shall bear and pay all taxes, duties, levies and charges assessed on the Contractor, its Subcontractors or their employees by all municipal, state or national government authorities in connection with the Works and Services in and outside of the country where the Site is located.

52.2 If any tax exemptions, reductions, allowances or privileges may be available to the Contractor in the country where the Site is located, the Employer shall use its best endeavors to enable the Contractor to benefit from any such tax savings to the maximum allowable extent.

52.3 For the purpose of the Contract, it is agreed that the Contract Price specified in the Form of Contract Agreement is based on the taxes, duties, levies and charges prevailing at the date twenty-eight (28) days prior to the date of bid submission in the country where the Site is located (hereinafter called “Tax” in this GCC Sub-Clause 52.4). If any rates of Tax are increased or decreased, a new Tax is introduced, an existing Tax is abolished, or any change in interpretation or application of any Tax occurs in the course of the performance of the Contract, which was or will be assessed on the Contractor, Subcontractors or their employees in connection with performance of the Contract, an equitable adjustment of the Contract Price shall be made to fully take into account any such change by addition to the Contract Price or deduction therefrom, as the case may be, in accordance with GCC Clause 37 hereof.

53. Securities

53.1 Issuance of Securities

The Contractor shall provide the securities specified below in favor of the Employer at the times, and in the amount, manner and form specified below.

53.2 Advance Payment Security

53.2.1 The Contractor shall, within twenty-eight (28) days of the notification of contract award, provide a security in an amount equal to the advance payment calculated in accordance with the corresponding SCC to the Contract Agreement, and in the same
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53.2.2 The security shall be in the form provided in the bidding documents or in another form acceptable to the Employer. The amount of the security shall be reduced in proportion to the value of the Facilities executed by and paid to the Contractor from time to time, and shall automatically become null and void when the full amount of the advance payment has been recovered by the Employer. The security shall be returned to the Contractor immediately after its expiration.

53.3 Performance Security

53.3.1 The Contractor shall, within twenty-eight (28) days of the notification of contract award, provide a security for the due performance of the Contract in the amount specified in the SCC.

53.3.2 The security shall be denominated in the currency or currencies of the Contract, or in a freely convertible currency acceptable to the Employer, and shall be in one of the forms of guarantees provided in the bidding documents, as stipulated by the Employer in the SCC, or in another form acceptable to the Employer.

53.3.3 The security shall automatically be reduced by half on the date of the Operational Acceptance and shall become null and void, eighteen (18) months after Completion of the Facilities or twelve (12) months after Operational Acceptance of the Facilities, whichever occurs first, provided, however, that if the Defects Liability Period has been extended on any part of the Facilities pursuant to GCC Sub-Clause 41.8 hereof, the Contractor shall issue an additional security in an amount proportionate to the Contract Price of that part. The security shall be returned to the Contractor immediately after its expiration, provided.

54. Statement of Completion

54.1 The Contractor shall request the Project Manager to issue a certificate of Completion of the Initial Rehabilitation Works and of the Improvement Works, as applicable, and the Project Manager will do so upon deciding that the work is completed.

55. Final Statement

55.1 The Contractor shall supply the Project Manager with a detailed account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period. The Project Manager shall issue a Defects Liability Certificate and certify any final payment that is due to the Contractor within fifty-six (56) days of receiving the Contractor’s account if it is correct and complete. If it is not, the Project Manager shall issue within fifty-six (56) days a schedule that states the scope of the corrections or additions that are necessary. If the Final Account is still unsatisfactory after it has been resubmitted, the
56. Discharge

56.1 Upon submission of the Final Statement, the Contractor shall give to the Project Manager, a written discharge confirming that the total of the Final Statement represents full and final settlement of all monies due to the Contractor arising out of or in respect of the Contract. Provided that such discharge shall become effective only after payment due under the Final Payment Certificate issued pursuant to Sub-Clause 55 has been made and the performance security referred to in Sub-Clause 53.3, if any, has been returned to the Contractor.

57. As Built Drawings and Manuals

57.1 If “as built” Drawings and/or manuals are required, the Contractor shall supply them by the dates stated in the SCC.

57.2 If the Contractor does not supply the Drawings and/or manuals by the dates stated in the SCC, or they do not receive the Project Manager’s approval, the Project Manager shall withhold the amount stated in the SCC from payments due to the Contractor.

G. REMEDIES

58. Suspension

58.1 The Employer may request the Project Manager, by notice to the Contractor, to order the Contractor to suspend performance of any or all of its obligations under the Contract. Such notice shall specify the obligation of which performance is to be suspended, the effective date of the suspension and the reasons therefor. The Contractor shall thereupon suspend performance of such obligation (except those obligations necessary for the care or preservation of the Facilities) until ordered in writing to resume such performance by the Project Manager.

If, by virtue of a suspension order given by the Project Manager, other than by reason of the Contractor’s default or breach of the Contract, the Contractor’s performance of any of its obligations is suspended for an aggregate period of more than ninety (90) days, then at any time thereafter and provided that at that time such performance is still suspended, the Contractor may give a notice to the Project Manager requiring that the Employer shall, within twenty-eight (28) days of receipt of the notice, order the resumption of such performance or request and subsequently order a change in accordance with GCC Sub-Clause 63.1, excluding the performance of the suspended obligations from the Contract.

If the Employer fails to do so within such period, the Contractor may, by a further notice to the Project Manager, elect to treat the suspension as
termination of the Contract under GCC Sub-Clause 59.1.

58.2 If

(a) the Employer has failed to pay the Contractor any sum due under the Contract within the specified period, has failed to approve any invoice or supporting documents without just cause pursuant to the Contract, or commits a substantial breach of the Contract, the Contractor may give a notice to the Employer that requires payment of such sum, with interest thereon as stipulated in GCC Sub-Clause 50.1, requires approval of such invoice or supporting documents, or specifies the breach and requires the Employer to remedy the same, as the case may be. If the Employer fails to pay such sum together with such interest, fails to approve such invoice or supporting documents or give its reasons for withholding such approval, or fails to remedy the breach or take steps to remedy the breach within fourteen (14) days after receipt of the Contractor’s notice; or

(b) the Contractor is unable to carry out any of its obligations under the Contract for any reason attributable to the Employer, including but not limited to the Employer’s failure to provide possession of or access to the Site, or failure to obtain any governmental permit under the Employer’s responsibility and necessary for the execution and/or completion of the Works and Services,

then the Contractor may by fourteen (14) days’ notice to the Employer suspend performance of all or any of its obligations under the Contract, or reduce the rate of progress.

58.3 If the Contractor’s performance of its obligations is suspended or the rate of progress is reduced pursuant to this GCC Clause 58, then the Time for Completion shall be extended in accordance with GCC Sub-Clause 64, and any and all additional costs or expenses incurred by the Contractor as a result of such suspension or reduction shall be paid by the Employer to the Contractor in addition to the Contract Price, except in the case of suspension order or reduction in the rate of progress by reason of the Contractor’s default or breach of the Contract.

58.4 During the period of suspension, the Contractor shall not remove from the Site any Plant and Equipment or any Contractor’s Equipment, without the prior written consent of the Employer.
59. Termination

59.1 Termination for Employer’s Convenience

59.1.1 The Employer may at any time terminate the Contract for any reason by giving the Contractor a notice of termination that refers to this GCC Sub-Clause 59.1.

59.1.2 Upon receipt of the notice of termination under GCC Sub-Clause 59.1.1, the Contractor shall either immediately or upon the date specified in the notice of termination

(a) cease all further work, except for such work as the Employer may specify in the notice of termination for the sole purpose of protecting that part of the Works and Services already executed, or any work required to leave the Site in a clean and safe condition,

(b) terminate all subcontracts, except those to be assigned to the Employer pursuant to paragraph (d) (ii) below,

(c) remove all Contractor’s Equipment from the Site, repatriate the Contractor’s and its Subcontractors’ personnel from the Site, remove from the Site any wreckage, rubbish and debris of any kind, and leave the whole of the Site in a clean and safe condition.

(d) In addition, the Contractor, subject to the payment specified in GCC Sub-Clause 59.1.3, shall

(i) deliver to the Employer the parts of the Works executed by the Contractor up to the date of termination,

(ii) to the extent legally possible, assign to the Employer all right, title and benefit of the Contractor to the Works and Services and to the Plant and Equipment as of the date of termination, and, as may be required by the Employer, in any subcontracts concluded between the Contractor and its Subcontractors

(iii) deliver to the Employer all non-proprietary drawings, specifications and other documents prepared by the Contractor or its Subcontractors as at the date of termination in connection with the Facilities.

59.1.3 In the event of termination of the Contract under GCC Sub-Clause 59.1.1, the Employer shall pay to the Contractor the following amounts:

(a) the Contract Price, properly attributable to the parts of the Facilities executed by the Contractor as of the date of termination,

(b) the costs reasonably incurred by the Contractor in the
removal of the Contractor’s Equipment from the Site and in the repatriation of the Contractor’s and its Subcontractors’ personnel,

(c) any amounts to be paid by the Contractor to its Subcontractors in connection with the termination of any subcontracts, including any cancellation charges,

(d) the costs incurred by the Contractor in protecting and leaving the Site in a clean and safe condition pursuant to paragraph (a) of GCC Sub-Clause 59.1.2,

(e) the cost of satisfying all other obligations, commitments and claims that the Contractor may in good faith have undertaken with third parties in connection with the Contract and that are not covered by paragraphs (a) through (d) above.

59.2 Termination for Contractor’s Default

59.2.1 The Employer, without prejudice to any other rights or remedies it may possess, may terminate the Contract forthwith in the following circumstances by giving a notice of termination and its reasons therefor to the Contractor, referring to this GCC Sub-Clause 59.2:

(a) if the Contractor becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, if the Contractor is a corporation, a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Contractor takes or suffers any other analogous action in consequence of debt;

(b) if the Contractor assigns or transfers the Contract or any right or interest therein in violation of the provision of GCC Clause 13;

(c) if the Contractor, in the judgment of the Employer has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

For the purpose of this Sub-Clause:

“corrupt practice” means the offering, giving, receiving or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.

“fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Employer, and includes collusive practice among bidders (prior to or after bid
submission) designed to establish bid prices at artificial non-
competitive levels and to deprive the Employer of the
benefits of free and open competition.

59.2.2 If the Contractor

(a) has abandoned or repudiated the Contract

(b) has without valid reason failed to commence work on the
Road promptly or has suspended (other than pursuant to
GCC Sub-Clause 58.2) the progress of Contract performance
for more than twenty-eight (28) days after receiving a written
instruction from the Employer to proceed,

(c) persistently fails to execute the Contract in accordance with
the Contract or persistently neglects to carry out its
obligations under the Contract without just cause,

(d) refuses or is unable to provide sufficient materials, services
or labor to execute and complete the Works and Services in
the manner specified in the program furnished under GCC
Clause 17 at rates of progress that give reasonable assurance
to the Employer that the Contractor can attain Completion of
the Facilities by the Time for Completion as extended,

then the Employer may, without prejudice to any other rights it
may possess under the Contract, give a notice to the Contractor
stating the nature of the default and requiring the Contractor to
remedy the same. If the Contractor fails to remedy or to take steps
to remedy the same within fourteen (14) days of its receipt of such
notice, then the Employer may terminate the Contract forthwith by
giving a notice of termination to the Contractor that refers to this
GCC Sub-Clause 59.2.

59.2.3 Upon receipt of the notice of termination under GCC Sub-Clauses
59.2.1 or 59.2.2, the Contractor shall, either immediately or upon
such date as is specified in the notice of termination,

(a) cease all further work, except for such work as the Employer
may specify in the notice of termination for the sole purpose of
protecting that part of the Facilities already executed, or any
work required to leave the Site in a clean and safe condition

(b) terminate all subcontracts, except those to be assigned to the
Employer pursuant to paragraph (d) below,

(c) deliver to the Employer the parts of the Facilities executed by
the Contractor up to the date of termination,

(d) to the extent legally possible, assign to the Employer all right,
title and benefit of the Contractor to the Works and Services
and to the Plant and Equipment as of the date of termination,
and, as may be required by the Employer, in any subcontracts
concluded between the Contractor and its Subcontractors,

(e) deliver to the Employer all drawings, specifications and other
documents prepared by the Contractor or its Subcontractors as
of the date of termination in connection with the Works and
Services.

59.2.4 The Employer may enter upon the Site, expel the Contractor, and
complete the Works and Services itself or by employing any third
party. The Employer may, to the exclusion of any right of the
Contractor over the same, take over and use with the payment of a
fair rental rate to the Contractor, with all the maintenance costs to
the account of the Employer and with an indemnification by the
Employer for all liability including damage or injury to persons
arising out of the Employer’s use of such equipment, any
Contractor’s Equipment owned by the Contractor and on the Site in
connection with the Works and Services for such reasonable period
as the Employer considers expedient for the completion of the
Works and Services.

Upon completion or at such earlier date as the Employer thinks
appropriate, the Employer shall give notice to the Contractor that
such Contractor’s Equipment will be returned to the Contractor at
or near the Site and shall return such Contractor’s Equipment to the
Contractor in accordance with such notice. The Contractor shall
thereafter without delay and at its cost remove or arrange removal
of the same from the Site.

59.2.5 Subject to GCC Sub-Clause 59.2.6, the Contractor shall be entitled
to be paid the Contract Price attributable to the Works and Services
executed as of the date of termination, the value of any unused or
partially used Plant and Equipment on the Site, and the costs, if
any, incurred in protecting and in leaving the Site in a clean and
safe condition pursuant to paragraph (a) of GCC Sub-Clause
59.2.3. Any sums due the Employer from the Contractor accruing
prior to the date of termination shall be deducted from the amount
to be paid to the Contractor under this Contract.

59.2.6 If the Employer completes the Facilities, the cost of completing the
Facilities by the Employer shall be determined.

If the sum that the Contractor is entitled to be paid, pursuant to
GCC Sub-Clause 59.2.5, plus the reasonable costs incurred by the
Employer in completing the Facilities, exceeds the Contract Price,
the Contractor shall be liable for such excess.

If such excess is greater than the sums due the Contractor under
GCC Sub-Clause 59.2.5, the Contractor shall pay the balance to the
Employer, and if such excess is less than the sums due the Contractor under GCC Sub-Clause 59.2.5, the Employer shall pay the balance to the Contractor.

The Employer and the Contractor shall agree, in writing, on the computation described above and the manner in which any sums shall be paid.

59.3 Termination by Contractor

59.3.1 If

(a) the Employer has failed to pay the Contractor any sum due under the Contract within the specified period, has failed to approve any invoice or supporting documents without just cause pursuant to GCC Clause 50, or commits a substantial breach of the Contract, the Contractor may give a notice to the Employer that requires payment of such sum, with interest thereon as stipulated in GCC Sub-Clause 50.2, requires approval of such invoice or supporting documents, or specifies the breach and requires the Employer to remedy the same, as the case may be. If the Employer fails to pay such sum together with such interest, fails to approve such invoice or supporting documents or give its reasons for withholding such approval, fails to remedy the breach or take steps to remedy the breach within fourteen (14) days after receipt of the Contractor’s notice, or

(b) the Contractor is unable to carry out any of its obligations under the Contract for any reason attributable to the Employer, including but not limited to the Employer’s failure to provide possession of or access to the Site or other areas or failure to obtain any governmental permit under the Employer’s responsibility and necessary for the execution and/or completion of the Facilities,

then the Contractor may give a notice to the Employer thereof, and if the Employer has failed to pay the outstanding sum, to approve the invoice or supporting documents, to give its reasons for withholding such approval, or to remedy the breach within twenty-eight (28) days of such notice, or if the Contractor is still unable to carry out any of its obligations under the Contract for any reason attributable to the Employer within twenty-eight (28) days of the said notice, the Contractor may by a further notice to the Employer referring to this GCC Sub-Clause 59.3.1, forthwith terminate the Contract.

59.3.2 The Contractor may terminate the Contract forthwith by giving a notice to the Employer to that effect, referring to this GCC Sub-
Clause 59.3.2, if the Employer becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, being a corporation, if a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Employer takes or suffers any other analogous action in consequence of debt.

59.3.3 If the Contract is terminated under GCC Sub-Clauses 59.3.1 or 59.3.2, then the Contractor shall immediately

(a) cease all further work, except for such work as may be necessary for the purpose of protecting that part of the Road already executed, or any work required to leave the Site in a clean and safe condition,

(b) terminate all subcontracts, except those to be assigned to the Employer pursuant to paragraph (d) (ii),

(c) remove all Contractor’s Equipment from the Site and repatriate the Contractor’s and its Subcontractors’ personnel from the Site.

(d) In addition, the Contractor, subject to the payment specified in GCC Sub-Clause 59.3.4, shall

(i) deliver to the Employer the parts of the Road executed by the Contractor up to the date of termination,

(ii) to the extent legally possible, assign to the Employer all right, title and benefit of the Contractor to the Road and to the Plant and Equipment as of the date of termination, and, as may be required by the Employer, in any subcontracts concluded between the Contractor and its Subcontractors,

(iii) deliver to the Employer all drawings, specifications and other documents prepared by the Contractor or its Subcontractors as of the date of termination in connection with the Facilities.

59.3.4 If the Contract is terminated under GCC Sub-Clauses 59.3.1 or 59.3.2, the Employer shall pay to the Contractor all payments specified in GCC Sub-Clause 59.1.3, and reasonable compensation for all loss, except for loss of profit, or damage sustained by the Contractor arising out of, in connection with or in consequence of such termination.

59.3.5 Termination by the Contractor pursuant to this GCC Sub-Clause 59.3 is without prejudice to any other rights or remedies of the Contractor that may be exercised in lieu of or in addition to rights
59.4 In this GCC Clause 59, in calculating any monies due from the Employer to the Contractor, account shall be taken of any sum previously paid by the Employer to the Contractor under the Contract, including any advance payment paid pursuant to the Contract.

### H. PROVISIONAL SUM

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>60. Provisional Sum</td>
<td>“Provisional Sum” means a sum included in the Contract and so designated in the Bill of Quantities for use when authorized by the Employer for Emergency Works and for contingencies, which sum may be used, in whole or in part, or not at all, on the instructions of the Employer. The Contractor shall be entitled to only such amounts in respect of the work, supply or contingencies to which such Provisional Sums relate as the Project Manager shall determine in accordance with this Clause.</td>
</tr>
<tr>
<td>61. Use of Provisional Sum for Emergency Works</td>
<td>After detecting a situation which in the opinion of the Contractor justifies the execution of Emergency Works or otherwise as defined in GCC Clause 29, the Contractor shall submit a Technical Report to the Project Manager characterizing the situation, estimated quantities and expected costs to correct the emergency and a Lump Sum Price Quotation to correct the emergency. The Price Quotation should be based on the specifications stated in Section VII using the unit prices included in the Bill of Quantities.</td>
</tr>
<tr>
<td>62. Use of Provisional Sum for Contingencies</td>
<td>The use of the Provisional Sum to cover for Contingencies will be done under the control and initiative of the Project Manager in accordance with the conditions of the Contract.</td>
</tr>
</tbody>
</table>
I. CHANGE IN CONTRACT ELEMENTS

63. Change in Assignments to Contractor

63.1 Introducing a Change

63.1.1 If so indicated in the SCC, the Employer shall have the right to propose, and subsequently require, that the Project Manager order the Contractor from time to time during the performance of the Contract to make any change, modification, addition or deletion to, in or from the Assignments to the Contractor (hereinafter called “Change”), provided that such Change falls within the general scope of the Assignment and does not constitute unrelated work and that it is technically practicable, taking into account both the state of advancement of the Works and Services and the technical compatibility of the Change envisaged with the nature of the Works and Services as specified in the Contract.

63.1.2 If so indicated in the SCC, the Contractor may from time to time during its performance of the Contract propose to the Employer (with a copy to the Project Manager) any Change that the Contractor considers necessary or desirable to improve the quality, efficiency or safety of the Works and Services. The Employer may at its discretion approve or reject any Change proposed by the Contractor. The Employer shall however approve any Change proposed by the Contractor in order to ensure the safety of the Works and Services.

63.1.3 Notwithstanding GCC Sub-Clauses 63.1.1 and 63.1.2, no change made necessary because of any default of the Contractor in the performance of its obligations under the Contract shall be deemed to be a Change, and such change shall not result in any adjustment of the Contract Price or the Time for Completion.

63.1.4 The procedure on how to proceed with and execute Changes is specified in GCC Sub-Clauses 63.2 and 63.3, further details and sample forms are provided in the Sample Forms and Procedures section in the bidding documents.

63.2 Changes Originating from Employer

63.2.1 If the Employer proposes a Change pursuant to GCC Sub-Clause 63.1.1, it shall send to the Contractor a “Request for Change Proposal,” requiring the Contractor to prepare and furnish to the Project Manager, as soon as reasonably practicable, a “Change Proposal,” which shall include the following:
Section IV. General Conditions of Contract

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

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

(a) accept the Contractor’s estimate with instructions to the Contractor to proceed with the preparation of the Change Proposal,

(b) advise the Contractor of any part of its Estimate for Change Proposal that is unacceptable and request the Contractor to review its estimate,

(c) advise the Contractor that the Employer does not intend to proceed with the Change.

63.2.3 Upon receipt of the Employer’s instruction to proceed under GCC Sub-Clause 63.2.2 (a), the Contractor shall, with proper expedition, proceed with the preparation of the Change Proposal, in accordance with GCC Sub-Clause 63.2.1.

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

63.2.5 If before or during the preparation of the Change Proposal it becomes apparent that the aggregate effect of compliance therewith, and with all other Change Orders that have already become binding upon the Contractor under this GCC Clause 63, would be to increase or decrease the Contract Price as originally set forth in the Contract Agreement by more than fifteen percent (15%), the Contractor may give a written notice of objection thereto prior to furnishing the Change Proposal as aforesaid. If the Employer accepts the Contractor’s objection, the Employer shall withdraw the proposed Change and shall notify the Contractor in writing thereof.

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

63.2.6 Upon receipt of the Change Proposal, the Employer and the Contractor shall mutually agree upon all matters therein contained. Within fourteen (14) days after such agreement, the Employer shall, if it intends to proceed with the Change, issue the Contractor with a Change Order.

If the Employer is unable to reach a decision within fourteen (14) days, it shall notify the Contractor with details of when the Contractor can expect a decision.

If the Employer decides not to proceed with the Change for whatever reason, it shall, within the said period of fourteen (14) days, notify the Contractor accordingly. Under such circumstances, the Contractor shall be entitled to reimbursement of all costs reasonably incurred by it in the preparation of the Change Proposal, provided that these do not exceed the amount given by the Contractor in its Estimate for Change Proposal submitted in accordance with GCC Sub-Clause 63.2.2.

63.2.7 If the Employer and the Contractor cannot reach agreement on the price for the Change, an equitable adjustment to the Time for Completion, or any other matters identified in the Change Proposal, the Employer may nevertheless instruct the Contractor to proceed with the Change by issue of a “Pending Agreement Change Order.”

Upon receipt of a Pending Agreement Change Order, the Contractor shall immediately proceed with effecting the Changes covered by such Order. The parties shall thereafter attempt to reach agreement on the outstanding issues under the Change Proposal.

If the parties cannot reach agreement within sixty (60) days from the date of issue of the Pending Agreement Change Order, then the matter may be referred to the Adjudicator in accordance with the provisions of GCC Sub-Clause 6.1.

63.3 Changes Originating from Contractor

63.3.1 If the Contractor proposes a Change pursuant to GCC Sub-Clause 63.1.2, the Contractor shall submit to the Project Manager a written “Application for Change Proposal,” giving reasons for the proposed Change and including the information specified in GCC Sub-Clause 63.2.1.

Upon receipt of the Application for Change Proposal, the parties
shall follow the procedures outlined in GCC Sub-Clauses 63.2.6 and 63.2.7. However, should the Employer choose not to proceed, the Contractor shall not be entitled to recover the costs of preparing the Application for Change Proposal.

### 64. Extension

#### Time for Completion

**64.1** The Time(s) for Completion specified in the SCC shall be extended if the Contractor is delayed or impeded in the performance of any of its obligations under the Contract by reason of any of the following:

(a) any Change in the Works and Services as provided in GCC Clause 63,

(b) any occurrence of Force Majeure as provided in GCC Clause 38 and unforeseen conditions as provided in GCC Clause 36,

(c) any suspension order given by the Employer under GCC Clause 58,

(d) any changes in laws and regulations as provided in GCC Clause 37, or

(e) any default or breach of the Contract by the Employer, or any activity, act or omission of any other contractors employed by the Employer, or

(f) any other matter specifically mentioned in the Contract by such period as shall be fair and reasonable in all the circumstances and as shall fairly reflect the delay or impediment sustained by the Contractor.

**64.2** Except where otherwise specifically provided in the Contract, the Contractor shall submit to the Project Manager a notice of a claim for an extension of the Time for Completion, together with particulars of the event or circumstance justifying such extension as soon as reasonably practicable after the commencement of such event or circumstance. As soon as reasonably practicable after receipt of such notice and supporting particulars of the claim, the Employer and the Contractor shall agree upon the period of such extension. In the event that the Contractor does not accept the Employer’s estimate of a fair and reasonable time extension, the Contractor shall be entitled to refer the matter to an Adjudicator, pursuant to GCC Sub-Clause 6.1.

**64.3** The Contractor shall at all times use its reasonable efforts to minimize any delay in the performance of its obligations under the Contract.

### 65. Release from Performance

**65.1** If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the Employer or the Contractor, the Project Manager shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all work carried out before receiving it and for any work carried out afterwards to which a commitment was made.
SECTION V. SPECIAL CONDITIONS OF CONTRACT (SCC)

Notes on the Specific Conditions of Contract

Except where otherwise indicated, all Data should be filled in by the Employer prior to issuance of the bidding documents.

Reference to GCC clauses

<table>
<thead>
<tr>
<th>Clause</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>[1.]</td>
<td>The site is the area <em>(insert description of site location)</em></td>
</tr>
<tr>
<td>[3.]</td>
<td>The following documents are also part of the Contract: <em>(list the documents, if any, which are not already mentioned in GCC Clause 3.)</em></td>
</tr>
<tr>
<td>[4.]</td>
<td>The language of the Contract and the law governing the Contract is <em>(insert language)</em>.</td>
</tr>
<tr>
<td>[5.]</td>
<td>The address of the Employer is: <em>(insert exact street address, including telephone and fax numbers, and E-Mail address)</em>. The address of the Contractor is: <em>(insert exact street address, including telephone and fax numbers, and E-Mail address)</em>.</td>
</tr>
<tr>
<td>[6.1.2]</td>
<td>The Appointing Authority is: <em>(insert)</em></td>
</tr>
<tr>
<td>[6.2.3]</td>
<td>Arbitration Proceedings shall be conducted in accordance with the following rules of procedure: <em>(insert which set of rules is to be used)</em></td>
</tr>
</tbody>
</table>
| [8.4.1] | The Contractor is obliged to prepare and to furnish to the Project Manager for Approval the following documents: *(list documents)*.  
*Note: The documents to be furnished and needing approval by the Project Manager will normally be related to Improvement Works and in some cases to Initial Rehabilitation Works.* |
| [10.1]  | The Contractor shall commence the Services and Works within the following period: *(insert specific date or event)* |
| [10.2]  | The Time Schedule for the achievement of specific Service Quality Levels is: *(insert date or indicate in which section or annex of the Contract the Time Schedule is presented)* |
### Section V. Special Conditions of Contract

<table>
<thead>
<tr>
<th>Rule</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>[12.1]</td>
<td>The Contractor is specifically allowed to subcontract the following activities: [list specific major activities or works required under the contract]</td>
</tr>
</tbody>
</table>
| [12.2] | The Contractor may subcontract under his own responsibility and without prior approval of the Employer the following Works and Services provided they do not represent more than (insert number) percentage of the contract value: [list the generic description of Works and Services allowed to be subcontracted]  
**Note:** Under normal circumstances, the Contractor should be allowed to subcontract without prior approval of the Employer all the small works related to normal and recurrent maintenance services. However, the Contractor should normally not be allowed to subcontract the management and self-control activities. |
| [14.2] | The Employer shall give full possession of and access to the Site on (insert date here) |
| [21.] | The Contractor shall carry out the following Initial Rehabilitation Works, which are detailed in the Technical Specifications: (insert listing of Rehabilitation Works) |
| [22.] | The Contractor shall carry out the following Improvement Works, which are detailed in the Technical Specifications and Bill of Quantities: (insert listing of Improvement Works) |
| [25.2] | The Contractor shall establish a Self Control Quality Unit (insert “not” after “shall” if this Unit is not required) |
| [35.1] | The Contractor shall take out and maintain in effect the following insurances in the sums and deductibles shown below: (insert list of insurances, including sums and deductibles of each insurance) |
| [39.1] | The Time for Completion are the following: (insert dates or periods for completion of specific activities required by the contract)  
**Note:** Besides the date for completion of the entire contract, there may be specific times for the completion of Improvement or Rehabilitation Works. |
| [39.2] | For **Maintenance Services,** the payment reductions are specified in the Technical Specifications.  
For **Initial Rehabilitation Works,** the liquidated damages are (insert percentage) per calendar day of delay, of the remuneration normally due for the specific Works for which completion is delayed.  
For **Improvement Works,** the liquidated damages are (insert percentage) per calendar day of delay, of the remuneration normally due for the specific Works. |
Works for which completion is delayed.

For Emergency Works, the liquidated damages are (insert percentage) per calendar day of delay, of the remuneration normally due for the specific Works for which completion is delayed.

[42.1] The aggregate liability of the Contractor to the Employer, excluding payment reductions defined in GCC 47.1, shall not exceed the amount of (insert fixed amount, or percentage of contract amount).

[44.1] The payment of the Contract Price will be made in the following currencies: (insert currencies and the percentage of each currency)

[45.1] The amount of the Advance Payment is (insert amount or percentage of Contract Price as specified in the Form of Contract)

The Advance payment will be made by (insert date or event)

[45.3] The Advance payment will be repaid during the (insert number of payments) initial monthly payments at the rate of (insert percentage) percentage of the amount advanced in each monthly payment until the repayment of the total amount.

[47.2] Initial Rehabilitation Works will be measured on the following basis: (indicate)

Note: Rehabilitation Works should normally be measured on the basis of work outputs.

[47.3] Improvement Works will be measured on the following basis: (indicate)

Note: Depending on their nature, Improvement Works may be measured on the basis of work outputs or work inputs.

[48.] Price adjustment (indicate if applies / does not apply)

The coefficients are:

\[ A_c = \]

\[ B_c = \]

[51.] The retention for Rehabilitation and Improvement Works is fixed at (indicate) percent.

[53.2.1] The amount of the Advance payment security is the same of the advance payment amount.

[53.3.1] The amount of the Performance Security is (indicate amount, or percentage of Contract amount).
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>[53.3.2]</td>
<td>The form of guarantee is <em>(indicate which of the options applies).</em></td>
</tr>
<tr>
<td>[57.1]</td>
<td>The following Drawings and/or Manuals are required at the following dates: <em>(If applicable, specify type of document and date by which they are to be supplied. If not applicable, state “none”).</em></td>
</tr>
<tr>
<td>[57.2]</td>
<td>If the required documents are not supplied in accordance with SCC 57.1, the amount to be withheld is <em>(state amount).</em></td>
</tr>
<tr>
<td>[63.1.1]</td>
<td>Employer has the right to propose a change in the contract: Yes or No <em>(Indicate if applicable or not by deleting Yes or No as applicable).</em></td>
</tr>
<tr>
<td>[63.1.2]</td>
<td>Contractor’s right to propose a change in the contract: Yes or No <em>(Indicate if applicable or not by deleting Yes or No as applicable).</em></td>
</tr>
</tbody>
</table>
PART A: Performance Specifications

This part includes a detailed description of (i) the concepts on which the Performance-Based Management and Maintenance of Roads is prepared; (ii) the service quality levels required on the roads included in the contract; (iii) the methods and procedures to be applied for measuring compliance with service quality levels; (iv) the penalties and/or...
payment reductions applied in case of non-compliance, (v) the initial rehabilitation works and the improvement works the contractor will have to carry out in addition to the general Management and Maintenance Services and Works, and (vi) other aspects, such as the internal organization of the contractor, etc. *This document provides sample text for this part.*

**Part B: General Specifications for Roadworks**

This part is very country-specific and should present the norms and specifications generally applied for roadworks in a specific country, mainly in terms of quality and workmanship. Part B is applicable mainly for specific Rehabilitation and Improvement Works described in Part A, but at least parts of it may also be applicable for Maintenance Services and Emergency Works. *This document provides no sample text for this part.*

**Part C: Specifications for Emergency Works**

This part must describe the procedures and other rules to be applied if Emergency Works are to be carried out within the contract. *This document provides sample text for this section.* Use of the sample text would help to ensure that the concept of Emergency Works is not misused.

**Part D: Environmental and Social Specifications**

This part would provide a set of rules to be followed by the contractor in order to avoid unnecessary damage to the environment and social aspects on housing, sanitation, and health of labor. *This document provides no sample text for this part.*

Other Specifications may be needed concerning the use of materials, plant and equipment by the contractor, if the provisions included in the General Conditions of Contract (GCC, Section IV) and complemented in the Specific Conditions of Contract (SCC, Section V) are deemed insufficient by the Employer. Also, these issues may already be covered in the General Specifications for Roadworks.

Only if the various parts of the Specifications are completed adequately and included in the bidding document, will the objectives of economy, efficiency, and equality in procurement be realized, responsiveness of bids be ensured, and the subsequent task of bid evaluation facilitated.

The clauses describing the scope of the services are to be included in Part A of the Specifications.
It is nevertheless important to remember again that this sample bidding document should not be used for roads or road networks in poor condition which require a very substantial and costly upgrading and/or rehabilitation before they can be maintained. It is suggested that whenever the initial upgrading and/or rehabilitation or improvement works are estimated to cost more than 40 percent of the total contract amount, this sample bidding document should not be used.

The use of metric units is encouraged by IBRD.

Care must be taken in drafting Specifications to ensure that they are not too restrictive. In the specification of standards for materials, plant, other supplies, and workmanship, recognized international standards should be used as much as possible.

These Notes for Preparing Technical Specifications are intended only as information for the Employer or the person drafting the bidding documents. They should not be included in the final bidding documents.
Proposed sample text for Section VI, Part A
Performance Specifications

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Part A1. Basic concepts of Performance-Based Contracts Management and Maintenance of Roads

Note: The basic concept of Performance-Based Management and Maintenance of Roads is presented in the Preface of this bidding document. It should simply be copied and inserted here, starting with the third paragraph of the Preface.

Part A2. Description of Services to Be Provided

2.1 General Specifications (for unpaved and paved roads)

2.1.1 Scope of Services to Be Provided

Notwithstanding the provisions of Clause 7 of the contract, the services to be provided by the Contractor include all activities, physical or others, which the Contractor needs to carry out, in order to comply with the service quality levels and other performance criteria indicated under the contract, or with any other requirements of the contract. In particular, they include management tasks and physical works.

2.1.2 Description of the Roads Included in Contract

The road sections included in the contract are the following: [provide detailed listing of roads and/or road sections included in the contract, with precise description of the beginning and end of each section].

2.1.3 Reference Information

As a general reference, the following information is provided to the Bidder. The Employer provides this information to the best of his knowledge, but does not guarantee its correctness, and the Contractor may not make any claim based on potential errors or omissions in the information provided.

Provide information which may be useful to the bidder for the preparation of his bid, such as

- Traffic volumes for each road section
- Traffic composition
- Rainfall quantities and patterns
- Technical information of each road, such as original design, previous works executed, etc.
- Other information as available.

2.1.4 Initial Rehabilitation Works to Be Carried out by Contractor

2.1.4.1 Description of the Initial Rehabilitation Works

The Contractor will have to carry out the following Initial Rehabilitation Works:

*Indicate quantities and type of works, including drawings and technical documents provided by Employer, and the time frame for the execution of the Initial Rehabilitation Works.*

The Initial Rehabilitation Works indicated above may not be interpreted as to be sufficient in order to assure compliance with any of the service quality levels required by the contract.

2.1.4.2 List of Documents Related to the Initial Rehabilitation Works for Approval or Review

The following documents are specified in accordance with sub-clause 8.4.1 of the GCC:

*[Insert here a list of documents related to Rehabilitation Works to be provided by the Contractor.]*

2.1.4.3 Payment for Rehabilitation Works

The Rehabilitation Works indicated above will be priced through a lump-sum amount included in the Contract Price. The Contractor will invoice Rehabilitation Works in Monthly Statements and in accordance with the rehabilitation Works actually carried out and measured by product unit price as stated in the Bill of Quantities.

*[Note: It is recommended to keep any mandatory rehabilitation works to a minimum. Any detailed specification of substantial physical rehabilitation works at precise locations, based on a detailed design provided by the employer, would be contrary to the underlying concept of a lump-sum price included in this contract. If the Employer intends to do so, the document should be modified and prices should be asked for a unit price “input” based on a bill of quantities similar to the one used for Emergency Works.*

For unpaved roads, it may however be useful to make mandatory certain minimum physical quantities, such as, for example, a certain number of cubic meters of gravel or other materials to be added to the road during the first half of the contract period, without necessarily specifying the exact locations of where the materials are to be added. The quantity could be based on a technical study, or on qualified estimates made by the technical staff of the Employer. The main purpose of making this type of works mandatory is to avoid a gross miscalculation by any of the bidders as to the quantity of works necessary, and thus reduce the risk that a bidder wins the contract based on a very low bid, but is then unable to comply. Another type of obligation could be, for example, to build a certain number of culverts of a certain capacity, or the construction of a certain number of linear meters of retaining walls.
For paved roads, it could be mandated that the Contractor applies a certain minimum quantity (in cubic meters or metric tons) of asphalt concrete to the roads, during the first half of the contract.

2.1.5 Improvement Works to Be Carried out by Contractor

2.1.5.1 Description of Improvement Works

The contractor will have to carry out the following Improvement Works:

[Indicate quantities and type of works, and the time frame for their execution]

2.1.5.2 List of Documents Related to Improvement Works for Approval or Review

The following documents are specified in accordance with sub-clause 8.4.1 of the GCC:

[Insert here a list of documents related to Improvement Works to be provided by the Contractor]

2.1.5.3 Payment for Improvement Works

The Rehabilitation Works indicated above will be remunerated based on the unit prices shown in the Bill of Quantities. The Contractor will invoice Improvement Works as part of his Monthly Statements and in accordance with the Improvement Works actually carried out and measured by product unit price as stated in the Bill of Quantities.

2.1.6 Extraction of Materials

The materials used by the Contractor shall comply with or exceed the following quality criteria:

[Indicate a list of different types of materials likely to be needed by the Contractor, and the minimum quality criteria for each of those materials]

The Contractor is informed of the existence of the following borrowing pits and or extraction sites which may be used to extract materials:

[Provide a list including site plans of gravel borrowing pits and other sites where suitable materials are known to exist which may be extracted by contractor. If available, indicate qualities of materials, with disclaimer. Indicate the conditions for extraction, especially the type of additional permits needed, if any, and payments to be made, if any]

Previously to the extraction of materials for use on the roads included in the contract, the contractor is obliged (i) to carry out the laboratory tests necessary to determine the quality of the materials, and (ii) to satisfy himself that the quality of the materials is sufficient for the purpose intended.

The Contractor may also utilize materials from other sources, in conformity with the GCC, provided that (i) the extraction is in conformity with the legislation, (ii) he has informed the Employer of his intention to utilize the material, and (iii) he has satisfied himself as to the sufficiency of the technical characteristics and the quality of the materials he intends to use for the intended purposes. Under no circumstances may the Contractor make any claims based on the insufficient quality of any of the materials he has used.
2.1.7 Self-Control Unit of Contractor

In conformity with sub-clause 25.2 of the GCC, the Contractor is obliged to establish, within his own organizational structure, a specific Unit staffed with qualified personnel, whose task is to verify continuously the degree of compliance by the Contractor with the required service quality levels. That Unit will also be responsible for the generation and presentation of the information needed by the Contractor for the documentation required for the Monthly Statement. In general terms, the Unit will be responsible to maintain at all times a detailed and complete knowledge of the condition of the roads or road sections included in the contract and to provide to the management of the Contractor all the information needed in order to efficiently manage and maintain the roads included in the contract. The Self-control Unit is also obliged to carry out, in close collaboration with the Project Manager, the formal and scheduled inspections of service quality levels which will take place regularly.

The compliance (or non-compliance) of the Contractor will be reported by the Self-control Unit to the Project Manager in the form of tables for which a mandatory standard format is adopted. There is one table for each road or road section. The tables are part of the Contractor’s monthly statement, and they may be complemented by comments for which a specific format is not required. The format of the mandatory standard table is as follows: [insert samples of mandatory standard tables, one for unpaved and one for paved roads]

[Note: The following format is recommended for unpaved roads.]
### STANDARD REPORTING TABLE FOR COMPLIANCE WITH SERVICE QUALITY LEVELS (for unpaved roads)

**INSPECTION OF SERVICE QUALITY LEVELS FOR THE MONTH OF ……………………20…**

<table>
<thead>
<tr>
<th>SECTIONS</th>
<th>ROAD USER COMFORT</th>
<th>DURABILITY OF THE ROAD</th>
<th>SUB-CRITERION</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>From</td>
<td>To</td>
<td>Complied with</td>
</tr>
<tr>
<td>[specify]</td>
<td>[specify]</td>
<td>[insert cross “X” or leave empty]</td>
<td>[insert cross “X” or leave empty]</td>
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</tbody>
</table>

**Usability of the Road:** ………………. [insert “complied with” or “not complied with”]  **Traffic Speed:** ………………. [insert “complied with” or “not complied with”]  

………km/h [insert average speed measured, if available]

Prepared by Contractor’s Self-Control Unit  
Certified by Employer or his agent

………………………………………… [signature]  
………………………………………… [signature]
2.1.8 Form for Program of Performance and Progress Reports

[If required, insert sample format for Program of Performance and Progress Report]

2.1.9 Communications Equipment

[Note: In accordance with sub-clause 5.3 of the GCC, the Contractor is obliged to provide and maintain in operation permanently certain communications equipment. Depending on the country conditions, it may be useful to specify here the type of equipment and the number and location of units. The equipment may consist of cellular phones, satellite phones, radio equipment, fax machines, computers, and/or similar.]

2.1.10 Longitudinal Profile (applicable for unpaved roads only)

In accordance with sub-clause 18.1.1 of the GCC, at the time of commencement of works, the Contractor will immediately start to carry out a topographical survey of all the roads or road sections included in the contract, and based thereon:

- Establish the actual longitudinal profile of the roads at the time of commencement of works, and
- Determine the required longitudinal profile which in the opinion of the Contractor will be necessary in order to ensure not only the compliance with the service level required under the contract, but also the long-term durability of the road. In the determination of the required longitudinal profile, the Contractor must (i) take into consideration any Rehabilitation and/or Improvement Works which may be required by the contract, (ii) pay particular attention to adequate drainage and protection from flooding, and (ii) collaborate closely with the Project Manager. In particular, he must provide to the Project Manager all the information utilized, and the criteria applied, in the determination of the required longitudinal profile.

If the actual longitudinal profile for some or all of the roads exists already and has been provided to the Contractor by the Employer, the Contractor will nevertheless take all the measures which are necessary to satisfy himself and the Project Manager as to the correctness of the actual longitudinal profile at the time of commencement of works.

In the topographic survey, as well as in the preparation of the actual and required longitudinal profiles, the Contractor will closely cooperate with the Project Manager. In particular, he will ensure that the Project Manager has access to all information gathered by the Contractor and used in the preparation of the longitudinal profile.

In any case, the Contractor will complete and formally transmit to the Project Manager the completed longitudinal profiles (actual and required) within [indicate number of days] days after the commencement of works. The Project Manager may reject the required longitudinal profiles presented by the Contractor if (i) there is clear evidence that the required longitudinal profile as presented by the Contractor is insufficient to reasonably assure all of the service levels required by the contract, or (ii) if it does not comply with requirements concerning Rehabilitation and/or Improvement Works indicated in the contract. A rejection by the Project Manager must be accompanied by clear and detailed explanations of the reasons for the rejection, and suggestions for
modifications which would remedy the reasons for rejection. If the Project Manager does not reject the required longitudinal profile presented by the Contractor within twenty (20) calendar days after receipt, it will automatically become the benchmark for compliance with the criteria of durability, as described elsewhere in this contract.

Nevertheless, the Contractor cannot make any claim based on actual or potential insufficiencies in the height or other characteristics of the required longitudinal profile, even (i) if a case arises in which a non-compliance with service level criteria can directly be related to such insufficiency, or (ii) if the Project Manager has approved, or failed to reject, the required longitudinal profile proposed by the Contractor.

2.1.11 Site Regulations and Work Procedures

[Insert Site Regulations in accordance with sub-clause 16.2.5 GCC, if any]

[Insert Work Procedures in accordance with sub-clause 17.5 GCC, if any]

2.1.12 Functions of Key Personnel

[If needed, insert here a list of required key positions within contractor’s staff and their functions]

2.2 Specification of Service Quality Criteria for Unpaved Roads

The following service quality criteria will be applied for all unpaved roads included in the contract:

2.2.1 Usability of the Road

The Contractor will have to ensure that the road is open to traffic and free of interruptions at all times. **Permitted exceptions are:** [specify exceptions, if any]

[Note: Permitted exceptions will have to be specified depending on the local conditions of each road. They may vary between two extremes: from a minimum of a few hours closure after severe road accidents, to a maximum of several months per year for roads which are subject to regular flooding during the rainy season. Roads in mountainous areas may be subject to landslides and require more exceptions than roads in flat areas. For countries with pronounced rainy seasons, permitted exceptions may vary between the rainy season and the dry season. In some other countries, the Contractor may be allowed to install rain barriers which may remain closed during rains and up to a certain number of hours afterwards. If the contract covers a road network which includes several different classes of roads, there may also be several classes of exceptions. In general, when defining exceptions it is very important to closely look into the local conditions and to avoid excessively restrictive conditions.]

2.2.2 Average Traffic Speed

The Contractor has to ensure that a vehicle of the type defined further below is able to circulate in a safe manner (i) at a certain average speed defined below, and (ii) that road surface conditions never constrain the vehicle speed below a certain minimum.
Vehicle: [indicate vehicle, including brand and model]

[Note: The vehicle selected should be the most typical vehicle used by road users on the road in question. The purpose of this is to allow road users to participate, at least informally, in the inspection of compliance of the Contractor with this service quality criteria.]

Average traffic speed: [insert average speed]
Constrained minimum speed: [insert constrained minimum speed]

[Note: (i) There may be more than one speed defined, if there are different requirements for different classes of roads in the network. (ii) The speed requirement may increase over time, if the Contractor is expected to gradually improve the service quality of the road. (iii) In area with very pronounced rainy seasons and difficult soil conditions, it may be advisable to reduce both the average and minimum speed requirement during the rainy season.]

2.2.3 Road User Comfort

The road user must be able to circulate at a certain level of comfort and safety, which depends on several criteria which are defined below. The enforcement of the criteria for road user comfort is gradual, in the sense that it is applied to a certain percentage of the network which is growing according to the timetable shown further below, until a 100 compliance is reached after some time.

[Note: In most cases, the initial condition of the roads under contract is such that it would not be realistic to expect full compliance with the road user comfort criteria from the very beginning of the contract. It is recommended to use a timetable for compliance, a sample of which is shown further below.]

<table>
<thead>
<tr>
<th>Road Corrugation Amplitude</th>
<th>Permitted maximum value at any single point of road: [insert value, the recommended maximum is between 2.5 cm and 4.0 cm]</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Permitted maximum for 50 m average: [insert maximum allowed average value for any 50 m section of road, the recommended value is between 1.5 cm and 3.0 cm]</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Rut Depth</th>
<th>Permitted maximum value at any single point of road: [insert value, the recommended maximum is between 3.5 and 5 cm]</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Permitted maximum for 100 m average: [insert maximum allowed average value for any 100 m section of road, the recommended value is between 1.5 and 3 cm]</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Other Surface degradations (potholes, erosions and similar types of degradations, other than corrugation and rutting)</th>
<th>Permitted maximum surface of any single degradation: [insert value, the suggested value is between 0.7 m² and 1 m²]</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Permitted maximum accumulation of degradations for</td>
</tr>
</tbody>
</table>
and rutting) | any 1000 m section:  
[Insert value, suggested value is between 40 m² and 60 m² of accumulated degradations per km of road]

Vertical Traffic Signs | Presence and function of the vertical traffic signs (according to inventory)  
[Indicate location of inventory in the bidding document]

### 2.2.4 Durability of the Road

The activities of management and maintenance of the road carried out by the Contractor during the entire period of the contract must not endanger the long-term sustainability of the road, which depends of several criteria defined below.

[Note: “Durability of the Road” is a group of criteria most of which do not directly and immediately affect the usage of the road in the short term, but which are nevertheless very important for the long-term “survival” of the substance of the road. In most cases, the initial condition of the roads under contract is such that it would not be realistic to expect full compliance with the durability criteria from the very beginning of the contract. It is recommended to use a timetable for compliance, a sample of which is shown further below.]

| Required longitudinal profile | Accepted maximum negative vertical tolerance:  
[Insert value, recommended value is minus three centimeters (3.0 cm below the height of the required longitudinal profile); no limit on the positive side]

| Useable Road Surface width | Road 1: ……[insert value] meters  
Road 2: ……[insert value] meters  
Road …………  
Accepted maximum negative tolerance:  
[Insert value, recommended is a value in the order of minus 20 centimeters (20 cm less than the width of the useable road surface]

Cleanliness and condition of drainage structures (culverts, Irish crossings, ditches, etc.) | All structures must be clean, fully functional and structurally sound. The criteria for cleanliness is that [insert number] percent of the theoretical cross-section of the structure or device is unobstructed.

Vegetation (Height) within 2 meters of the outer edges of drainage ditches or outer edge of road embankment | Permitted maximum height of any individual plant at any single point of road:  
[Insert value, the recommended maximum is between 20 and 50 cm]  
Permitted maximum for 50 m average:
exclude trees, or make specific provisions for trees] [Insert value for any 50 m section of road, the recommended value is between 10 cm and 20 cm]

Vegetation (Clearance): Height of tree branches above road surface [Indicate value, recommended is a minimum of 4.5 meters]

2.2.5 Variations and Gradual Compliance with Service Quality Levels

In order to respect the Contractor's initial mobilization period, compliance with any of the service level criteria is not expected until: [insert number of days after signature or full legal notification of contract, recommended are between 60 and 90 days]

The following table summarizes the variations and gradual compliance requirements with service quality levels over time: [insert table]

[Note: The following table is an example from a 4-year contract which may be adapted to the specific conditions of the contract and the roads included therein.]

SAMPLE TIMETABLE (for illustration purposes only)

<table>
<thead>
<tr>
<th>No. months since beginning of Contract</th>
<th>Usability of the road(s) Compliance required on (% of total length of roads under contract)</th>
<th>Average Traffic Speed Minimum safe traffic speed which can be maintained (in Km/h)</th>
<th>Road User Comfort Compliance required on (% of total length of roads under contract)</th>
<th>Durability of the road(s) Compliance required on (% of total length of roads under contract)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 and 2</td>
<td>No minimum set</td>
<td>No minimum set</td>
<td>No minimum set</td>
<td>No minimum set</td>
</tr>
<tr>
<td>3</td>
<td>100</td>
<td>40</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>4</td>
<td>100</td>
<td>40</td>
<td>8</td>
<td>4</td>
</tr>
<tr>
<td>5</td>
<td>100</td>
<td>50</td>
<td>13</td>
<td>7</td>
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<td>100</td>
<td>50</td>
<td>18</td>
<td>11</td>
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<td>100</td>
<td>60</td>
<td>90</td>
<td>57</td>
</tr>
<tr>
<td>16</td>
<td>100</td>
<td>60</td>
<td>100</td>
<td>63</td>
</tr>
</tbody>
</table>
2.3 Methods of Inspection of Service Quality Levels for Unpaved Roads

2.3.1 Formal Inspections of Service Quality Levels

Formal inspections are those scheduled in advance by the Project Manager, and carried out by the Contractor (through his self-control Unit) under the supervision of the Project Manager. The main purpose of the formal inspections is to enable the Project Manager to verify the information presented in the Contractor’s monthly statement and to issue the Interim Payment Certificate. The Project Manager must inform the Contractor of his intention to carry out a formal inspection at least 48 hours in advance, indicating the exact date, hour and location where the formal inspection is to begin. The Contractor is obliged to be present at the date, hour and location specified by the Project Manager, providing the physical means needed for the inspection as indicated further below. Formal inspections will normally, but not necessarily, be scheduled to begin within less than five (5) days after the presentation by the Contractor of the monthly statement to the Project Manager; and they should normally be completed within a maximum of three (3) days. The formal inspections allow to compare the information on compliance provided by the Contractor in the standard tables which are part of his monthly statement, with actual measurements taken in locations to be determined by the Project Manager. During the formal inspections, the Project Manager will prepare a brief Memorandum describing (i) the general circumstances of the site visit, including date, road sections visited, persons present, etc., (ii) any non-compliance which may have been detected, and (iii) the time granted by the Project Manager to the Contractor to remedy the detected defects. Based on the outcome of the formal inspection, the Project Manager will immediately correct any possible errors or misrepresentations in the Contractor’s statement, countersign it and present it to the Employer for payment, and to the Contractor for information.

Formal inspections will also be scheduled for the follow-up site visits, whose purpose is to verify if the Contractor has remedied the causes of earlier non-compliance, within the time frame granted by the Project Manager and specified in the Memorandum.

<p>| | | | | |</p>
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>17</td>
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<td>21</td>
<td>100</td>
<td>60</td>
<td>100</td>
<td>93</td>
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<tr>
<td>22 until End of contract period</td>
<td>100</td>
<td>60</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

[Note: If the contract includes several groups of roads with different service quality level requirements, a separate table must be presented for each group. In countries with very pronounced rainy seasons, it may not be reasonable to request full compliance with all criteria during the rainy season, and different tables may be presented for the dry and rainy seasons. In particular, it might be necessary to suspend any increase in the percentage of the network where the Contractor must comply with User Comfort and Durability requirements. These and other potential limitations must be carefully evaluated by those preparing the Technical Specifications.]
2.3.2 Informal Inspections of Service Quality Levels

The Project Manager may carry out informal inspections of service quality levels as part of his general mandate given to him by the Employer. He may do so on his own initiative, at any time and anywhere on the roads included in the contract. He must use his own means for those inspections. If he detects any road sections where the service quality criteria are not met, he is obliged to inform the Contractor within 24 hours in writing, in order to enable him to take remedial action as soon as possible. The results of informal inspections may not be used by the Project Manager for purposes of correcting the Contractor’s monthly statements or applying penalties or liquidated damages, except for cases in which the road has been completely interrupted and the criteria of Road Usability has not been met.

2.3.3 Means Used for Inspections

For the formal inspections of compliance with service quality levels, the Contractor’s Self-control Unit will work in close collaboration with, and under supervision of the Project Manager. The physical means needed for the inspections will be provided by the Contractor; they are the same which are normally used by the Self-control Unit for the continuous self-evaluation of the Contractor’s compliance, in particular:

a. Vehicles of the following type: [specify number and type of vehicle]. The vehicle(s) must be in good condition and must be in conformity with its original factory specifications, without any alterations which would change its driving characteristics. [Note: The vehicle(s) should be of the type most typically used by road users. Different types of vehicles may need to be specified for different groups of roads].

b. Qualified and support staff [specify number and type of staff, normally it should include as a minimum the qualified staff of the Self-control Unit plus two helpers].

c. All tools and instruments needed, as indicated in the paragraphs describing the methodologies for inspection.

2.3.4 Methodologies to Be Used for Inspections of Service Quality Levels

(a) Usability of the Road(s): There is no particular testing method for the usability of a road, other than driving on the road in a normal manner, utilizing the type of vehicle indicated in the previous paragraph. The condition is not complied if the road is interrupted at any point. The condition is however complied with if it is possible to continue to drive on the road, and without the vehicle suffering any damage caused by the bad condition of the road.

[Note: For example, if the vehicle hits an obstacle on the road surface which causes damage to the exhaust system, the conditions is obviously not complied with. On the other hand, if there is a landslide which covers one half of the road, but it is easily possible to pass the area on the other side of the road, the condition is complied with.]

(b) Average Traffic Speed: When verifying the Average Traffic Speed, the first step is to define the road sections to be tested. The lengths of the test sections should be equivalent to at least one half hour driving time (e.g. 30 km lengths for a required average speed of 60 km/h). The second
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Step is to travel on the defined test section in a normal and safe fashion, in the vehicle provided by
the Contractor and driven by a driver provided by the Contractor. The driver must at all times respect
the traffic regulation, in particular speed limits. The time of unforeseen stops which are unrelated to
the road condition (such as checkpoints, breakdowns or other incidents) is to be deducted from the
overall travel time. Except for normal and obligatory slowdowns and stops (at intersections, speed
limits, stop signs, pedestrian crossings, village crossings, etc.), the travel speed should never be
constrained by road conditions to less than a certain minimum speed given in the contract, and the
average travel speed which can be maintained on the defined road section should be above the
threshold value which is given in the Summary Table further below in the Technical Specifications.

In any case, the safety of the passengers of the test vehicle, as well as the safety of other participants
of road traffic, must never be put in danger. The judgement of whether a speed is safe or not is left to
the Project Manager.

At the end of the test, the vehicle used must not have suffered any mechanical damage which is due
to the speed which may have been excessive given the condition of the tested road section. If the
vehicle has suffered such damages, the test is negative and the service level has not been complied
with.

(c) Road corrugation amplitude: The road corrugation amplitude is one of the criteria for
“Road User Comfort”. It will be checked at road sections selected by the Project Manager based on
visual appearance. Measurement is carried out by placing a ruler (three meters long) on the road,
parallel to the road axis, at a place determined by the Project Manager, and measuring the space
between the ruler and the lowest point of the corrugation wave.

The average amplitude of the corrugation in a one km section will be equal to the average of the
values measured in this section. For the average value to be representative of a one km section, it
must be based on measurements taken in at least five (5) subsections of 50 meters each, spaced
roughly equally over the one km section. For each subsection of 50 meters, ten (10) measurements
will be taken (5 on each lane or side). The average value is calculated on the basis of the fifty (50)
measurements taken for the one km section.

For any one km of road, compliance with this criterion requires that (i) the corrugation measured
anywhere within the section of one km is below the maximum value stated in the Summary Table
below, and (ii) the average value for the one km section, as defined above, is below the threshold
value shown in the Summary Table below.

(d) Rut depth: Rut depth is one of the criteria for “Road User Comfort”. It will be checked at
road sections selected by the Project Manager based on visual appearance. Measurement is carried
out by placing a ruler (three meters long) on the road surface, perpendicularly to the road axis, at a
place determined by the Project Manager, and measuring the space between the ruler and the lowest
point of the rut.

The average rut depth in a one km section will be equal to the average of the values measured in this
section. For the average value to be representative of a one km section, it must be based on
measurements taken in at least two (2) subsections of 100 meters each, spaced roughly 500 meters
apart. For each subsection of 100 meters, ten (10) measurements will be taken, spaced 10 meters
apart from each other. The average value is calculated on the basis of the twenty (20) measurements taken for the one km section.

For any one km of road, compliance with this criterion requires that (i) the rut depth measured anywhere within the section of one km is below the maximum value stated in the Summary Table below, and (ii) the average value for the one km section, as defined above, is below the threshold value shown in the Summary Table below.

(e) **Other surface degradations:** Other surface degradations are part of the criteria for “Road User Comfort”. They will be measured at road sections selected by the Project Manager based on their visual appearance. Individual surface degradations (such as potholes) are measured by using a square measuring frame (1m x 1m). The degradation is enclosed in a rectangle or square inside the frame, and the full surface of the square or rectangle is measured. If a degradation does not fit inside the frame, four rulers may also be used, applying the same principle as described above.

For any one km of road, compliance with this criterion requires that (i) no individual surface degradation (other than ruts and corrugation) has a surface of more than the maximum value specified in the Summary Table below, and (ii) the sum of all individual degradations on a one km section is less than the threshold value shown in the Summary Table below.

(f) **Vertical traffic signaling:** The presence of vertical traffic signalling is part of the criteria for “Road User Comfort”. Compliance is verified by checking the presence and good condition of all traffic signs, based on the list/inventory included in the Technical Specifications or its annexes. In addition, the placement of adequate signing of work sites will be verified. All signs must conform to the legislation, and must be easily legible.

(g) **Vegetation:** The height of vegetation, and its clearance above the road surface, is part of the criteria for the “Durability of the Road”. They will be measured at road sections selected by the Project Manager based on their visual appearance. The height is measured by using a ruler; it is defined as the vertical distance between the ground and the highest point of the vegetation. Clearance is also measured with a ruler; it is defined as the distance between the lowest point of the tree (or other plant) above the road surface.

The average height of vegetation in a one km section will be equal to the average of the values measured in this section. For the average value to be representative of a one km section, it must be based on measurements taken in at least five (5) subsections of 50 meters each, spaced roughly equally over the one km section. For each subsection of 50 meters, ten (10) measurements will be taken (5 on each side of the road). The average value is calculated on the basis of the fifty (50) measurements taken for the one km section.

For any one km section of road, compliance with this criterion requires that (i) the vegetation height measured anywhere within the section of one km is below the maximum value stated in the contract, and (ii) the average value for the one km section, as defined above, is below the threshold value shown in the Summary Table further below.

(h) **Useable road surface width:** The useable road surface width is part of the criteria for the “Durability of the Road”. It will be measured at road sections selected by the Project Manager based on their visual appearance, in particular at places where erosions or other degradations exist which
restrict the useful width of the road. The useful width is measured by using a measuring tape and/or rulers.

For any one km section of the road, the Project Manager will select one 50-meter subsection where the measurement will take place. Within that subsection, the Project Manager will select on each side of the road the individual degradation which constitutes the largest restriction of the usable surface. For each of those two points, he will then measure the distance (L) between the theoretical edge of the usable road surface and the innermost point of the degradation, obtaining two values (L1 and L2). The actual usable road surface width is obtained by subtracting (L1 + L2) from the theoretical road surface width specified in the contract.

For any one km section of road, compliance with this criterion requires that there is no sub-section of 50 meters in which the actual useful width is less than the width specified in the Summary Table below, minus the tolerance allowed as indicated in the Summary Table.

(i) Required longitudinal profile: The required longitudinal profile is part of the criteria for the “Durability of the Road”. It will be measured at road sections selected by the Project Manager. During the initial period in which the Contractor carries out works destined to gradually increase the percentage of the road network in compliance, frequent measurements will be carried out, and their location will be based on the location of the works carried out by the Contractor. Once the 100% compliance is reached, the Project Manager may choose, during the remaining duration of the contract, to limit inspections to zones he considers “critical”. Nevertheless, towards the end of the contract period, the entire longitudinal profile of all roads included in the contract must be verified. Measurements will be taken at the same points which were used for the establishment of the original longitudinal profile at the beginning of the contract. The pieces of equipment to be used are the instruments normally used in topographical surveys.

To be representative of a one km section, twenty (20) measurements must be taken which are spaced 50 meters apart from each other (distance between profiles of 50 meter).

Compliance with this criterion requires that not more than one (1) profile shows a negative tolerance superior of the value specified in the contract. Positive tolerances are accepted, unless otherwise stated in the technical specifications.

(j) Cleanliness and condition of drainage structures: The cleanliness and condition of drainage structures (including ditches, Irish crossings and all other types of drainage devices) is part of the criteria for the “Durability of the Road”. It is verified on a regular basis, in particular before and during the rainy season. The drainage structures to be verified are determined by the Project Manager. Inspection is done visually.

The basic principle used to determine the cleanliness of drainage structures or devices is “the percentage of the theoretical cross-section of the structure or device which is unobstructed”. This percentage is specified in the Summary Table below. For a one km road section, the cleanliness of drainage ditches must be verified at least on two subsections of 50 meters each.

For any one km section of the road, compliance with this criteria requires that (i) all drainage structures are clean in the sense defined above, (ii) all structures and devices are structurally sound,
based on the judgment of the Project Manager, and (iii) not more than one 50-meter subsection is found to be not clean.

2.3.5 **Summary Table for Maximum and Threshold Values**

[Insert table indicating actual values for the criteria mentioned in 2.3.4]

2.4 **Specification of Service Quality Criteria for Paved Roads**

This section specifies the service quality levels to be complied with in the case of paved roads. There are three overall criteria:

- General aspects of the road: Pavements, shoulders, structures, drainage system, right-of-way and road safety aspects/signaling (excluding roughness and deflection)
- Road roughness
- Road deflection

2.4.1 **General Aspects of the Road**

2.4.1.1 **Pavement, Shoulders and Right-of-Way**

The service level criteria for pavements, shoulders and right-of-way are defined as follows:

[Note: The table below is a sample which may be used as a basis for the actual table to be prepared for the bidding document. Modifications and additions may be needed in order to take into consideration the specific conditions of any given country or road network. Additional text may need to be added in order to explain in more detail any specific criteria, if deemed necessary.]
<table>
<thead>
<tr>
<th>Item</th>
<th>Service quality</th>
<th>Measurement/Detection</th>
<th>Time allowed for repairs or Tolerance permitted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pavement width</td>
<td>Pavement width must be at least wide as specified in the contract.</td>
<td>Manual measurement using a metallic measuring tape.</td>
<td>No tolerance allowed.</td>
</tr>
<tr>
<td>Potholes</td>
<td>No potholes allowed.</td>
<td>Visual inspection.</td>
<td>Potholes must be repaired within three (3) days after their detection.</td>
</tr>
</tbody>
</table>
| Patching                    | Patches (i) shall be square or rectangular, (ii) shall be level with surrounding pavement, (iii) shall be made using materials similar to those used for the surrounding pavement, and (iv) shall not have cracks wider than three (3) mm. | • Visual inspection (for detection of shape and material used  
  • Ruler (to check if patch is level with surrounding pavement  
  • Small transparent ruler (for cracks) | Non-complying patches must be repaired within three (3) days after their detection. |
| Cracking in pavement        | There shall not be cracks more than 3 mm wide.                                  | Crack widths measured with small transparent ruler.                                  | Cracks more than 3 mm wide must be sealed within seven (7) days after their detection. |
| (a crack is a linear opening in pavement with a width of more than 3 mm.) | For any 50m section of the pavement, the cracked area cannot be more than ten (10) percent of the pavement surface. | For isolated cracks, the “cracked area” includes 0.5 m on each side of the crack, multiplied by the length of the crack plus 0.5 m at each end.  
  For multiple cracks and cracks crossing each other, the “cracked area” is equivalent to a square area, parallel to the lanes, which fully encloses the cracks, and where the closest crack is at least 0.25 m away from the sides of the square. |                                                                                   |
| Cleanliness of the pavement surface and shoulders. | The road surface must always be clean and free of soil, debris, trash and other objects. | Visual inspection                                                                      | Dirt, debris and obstacles must be removed:  
  • within 1 (one) hour if they pose a danger to traffic safety  
  • within 36 hours if they do not pose any danger to traffic safety. |
<table>
<thead>
<tr>
<th><strong>Pavement roughness</strong></th>
<th>Average value for section must be below the threshold value given below (in IRI average)</th>
<th>Measured with calibrated equipment (Bump Integrator).</th>
<th>No tolerance allowed.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 1: ........ IRI</td>
<td></td>
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<tr>
<td>Section 2: ........ IRI</td>
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<tr>
<td>Section 3: ........ IRI</td>
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<tr>
<td>Section ....</td>
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</tr>
<tr>
<td><strong>Deflection</strong></td>
<td>Average of section must be below the threshold values indicated for each road section.</td>
<td>Measured with Benkelman beam every 50 meters. Threshold value is average for sections of .......meters.</td>
<td>No tolerance allowed.</td>
</tr>
<tr>
<td><strong>Rutting</strong></td>
<td>There shall not be ruts deeper than 15 mm.</td>
<td>Measured with 2 rulers (horizontal ruler of three 3 m length placed perpendicularly across lane; rut depth measured as space between horizontal ruler and lowest point of rut, using a small ruler with scale in mm)</td>
<td>Rutting above threshold value must be eliminated within fifteen (15) days.</td>
</tr>
<tr>
<td></td>
<td>Rutting of more than ten (10) mm shall not be present in more than 5 percent of any of the road sections defined in the contract.</td>
<td></td>
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</tr>
<tr>
<td><strong>Raveling</strong></td>
<td>Raveled areas must not exist.</td>
<td>Visual inspection.</td>
<td>Raveled areas must be sealed within thirty (30) days after their detection.</td>
</tr>
<tr>
<td><strong>Loose Pavement edges</strong></td>
<td>There shall not be loose pavement edges, or pieces of pavement breaking off at the edges.</td>
<td>Visual inspection</td>
<td>Repairs must be completed within seven (7) days after the detection of the defect.</td>
</tr>
<tr>
<td><em>loose</em></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Height of shoulders vs.</strong></td>
<td>Difference in height at edge of pavement shall not be more than 15 mm.</td>
<td>Measured with ruler, with scale in mm.</td>
<td>Repairs must be completed within seven (7) days after the detection of the defect.</td>
</tr>
<tr>
<td><strong>Paved shoulders</strong></td>
<td>Must always be</td>
<td>Visual inspection</td>
<td>Repairs must be completed within seven (7) days after the detection of the defect.</td>
</tr>
<tr>
<td></td>
<td>▪ sealed to avoid water penetration</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>▪ without deformations and erosions</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>▪ free of potholes and erosions</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Embankment slopes</strong></td>
<td>Without deformations and erosions.</td>
<td>Visual inspection</td>
<td>Repairs must be completed within seven (7) days after the detection of the defect.</td>
</tr>
<tr>
<td><strong>Slopes in cuts</strong></td>
<td>Slopes in cuts must be stable and/or adequate retaining walls and slope stabilization measures must be in place.</td>
<td>Visual inspection for slope material on shoulders or pavement</td>
<td>Fallen slope material must be removed Quantities below 50 m³:</td>
</tr>
<tr>
<td>Section VI. Specifications</td>
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</tr>
<tr>
<td>Trees within right-of-way</td>
<td>Trees within right-of-way must be protected as necessary.</td>
<td>Visual inspection.</td>
<td>None.</td>
</tr>
<tr>
<td>Right-of-way (outside pavement and shoulders).</td>
<td>Height of vegetation (except trees) must be:</td>
<td>Visual inspection. Measurement with ruler.</td>
<td>Vegetation exceeding the threshold height must be cut back within seven (7) days after detection.</td>
</tr>
<tr>
<td></td>
<td>- less than 20 cm on slopes towards the road</td>
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<td></td>
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<tr>
<td></td>
<td>- less than 1.0 m otherwise</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>- must not disturb drainage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Trash, debris, etc.</td>
<td>Visual inspection.</td>
<td>Trash, debris and other objects must be removed within seven (7) days after detection.</td>
<td></td>
</tr>
<tr>
<td>Removal of slides</td>
<td>Slides of slope material onto the road are considered an Emergency if</td>
<td>If the contractor intends to invoke the contract provisions for emergencies, he estimates the quantities and immediately informs Project Managers, who them verifies.</td>
<td>Traffic flow to be reestablished within a maximum of 6 hours.</td>
</tr>
<tr>
<td></td>
<td>- the quantity of the material is above 500 m³, or</td>
<td></td>
<td>Period for removal of other slide material is set by Project Manager as specified under provisions for emergencies.</td>
</tr>
<tr>
<td></td>
<td>- if the slide blocks all lanes and the road traffic is completely interrupted, and quantity is above 50 m³.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
2.4.1.2 Structures

The Contractor is responsible for the maintenance of all bridges and similar structures along the roads and road sections included in the contract. In particular, he will be responsible for the correct functioning of the structures (paint of metallic structures, road surface on structures, condition and presence of guardrails) and the safety and comfort of road users while using the structures at normal speeds. Nevertheless, the reconstruction and improvement of bridges and similar structures is excluded from the Contractor’s obligations, unless specified elsewhere in the Technical Specifications.

The service quality level requirements for bridges and similar structures are as shown in the following table:

[Note: The table below is a sample which may be used as a basis for the actual table to be prepared for the bidding document and the contract. Modifications and additions may be needed in order to take into consideration the specific conditions of any given country or road network. Additional text may need to be added in order to explain in more detail any specific criteria, if deemed necessary.]

<table>
<thead>
<tr>
<th>Item</th>
<th>Service quality</th>
<th>Measurement/Detection</th>
<th>Time allowed for repairs or Tolerance permitted</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Steel or other metal structures</strong></td>
<td>Guardrails must be present and painted. All metal parts of overall structure painted and free of corrosion. Drainage system in good condition and fully functional.</td>
<td>Visual inspection</td>
<td>Guardrails damaged by accidents must be replaced within seven (7) days.</td>
</tr>
<tr>
<td><strong>Concrete structures</strong></td>
<td>Guardrails must be present and painted. Beams all other structural parts must be in good conditions and fully functional. Drainage system in good condition and fully functional.</td>
<td>Visual inspection</td>
<td>Guardrails damaged by accidents must be replaced within seven (7) days.</td>
</tr>
<tr>
<td><strong>Expansion joints</strong></td>
<td>Clean and in good condition</td>
<td>Visual inspection</td>
<td>Damages and defects must be repaired within seven (7) days.</td>
</tr>
<tr>
<td><strong>Retention walls</strong></td>
<td>Contractor must control presence and adequate condition of retention walls and their drainage.</td>
<td>Visual inspection</td>
<td>Contractor must immediately notify Project Manager in case of any condition which threatens structural integrity of bridge.</td>
</tr>
<tr>
<td><strong>Riverbeds</strong></td>
<td>Contractor must ensure free flow of water under bridge and up to 100 meters upstream. Contractor must maintain design clearance under bridge.</td>
<td>Visual inspection</td>
<td>Causes for non-compliance must be eliminated within fourteen (14) days after water has sufficiently receded to allow minimum working conditions.</td>
</tr>
</tbody>
</table>
2.4.1.3 **Drainage systems**

In general terms, the Contractor must ensure that all drainage elements and structures are without any obstructions which may reduce their normal cross-section and impede the free flow of water.

The service quality level requirements for drainage structures or devices are as shown in the following table: [see sample table below]

<table>
<thead>
<tr>
<th>Item</th>
<th>Service quality</th>
<th>Measurement/Detection</th>
<th>Time allowed for repairs or Tolerance permitted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ditches and vertical drains with lining</td>
<td>Must be clean and lining without any significant damage of the lining.</td>
<td>Visual Inspection</td>
<td>Tolerance permitted:</td>
</tr>
<tr>
<td>Ditches and vertical drains without lining</td>
<td>Must be clean and free of obstacles.</td>
<td></td>
<td>Obstructions equivalent to less than 10% of capacity of item.</td>
</tr>
<tr>
<td>Collectors</td>
<td>Must be clean and free of obstacles, and without structural damage. Must be firmly contained by surrounding soil or material.</td>
<td></td>
<td>Obstructions must be cleared within seven (7) days after detection.</td>
</tr>
<tr>
<td>Culverts and similar</td>
<td>Must be clean and free of obstacles, and without structural damage. Must be firmly contained by surrounding soil or material.</td>
<td></td>
<td>Damages must be repaired within three weeks after detection.</td>
</tr>
</tbody>
</table>

2.4.1.4 **Signaling and Road Safety**

The Contractor is responsible for ensuring that all horizontal and vertical signaling, as well as guardrails and other road safety devices fully comply with [insert either a complete inventory for the roads under contract, or a certain national or international standard which may have been adopted].
The service quality level requirements for signaling and road safety devices are as shown in the following table: [see sample table below]

<table>
<thead>
<tr>
<th>Item</th>
<th>Service quality</th>
<th>Measurement/Detection</th>
<th>Time allowed for repairs or Tolerance permitted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Information signs</td>
<td>Signal has to be present, complete, clean and structurally sound; retro-reflectivity must be at least 45 cd/lux$^{-1} \times m^2$ at a light entry angle of $-4^\circ$</td>
<td>Visual inspection</td>
<td>Absent or defect signs must be replaced within fourteen (14) days.</td>
</tr>
<tr>
<td>Warning signs</td>
<td>Signal has to be present, complete, clean and structurally sound; retro-reflectivity must be at least 170 cd/lux$^{-1} \times m^2$ at an observation angle of de $0.2^\circ$ and a light entry angle of $-4^\circ$</td>
<td>Visual inspection</td>
<td>Reflection measured with equipment [specify]</td>
</tr>
<tr>
<td>Traffic ruling signs</td>
<td>Signal has to be present, complete, clean and structurally sound; retro-reflectivity must be at least 250 cd/lux$^{-1} \times m^2$ at an observation angle of de $0.2^\circ$ and a light entry angle of $-4^\circ$</td>
<td>Visual inspection</td>
<td>Reflection measured with equipment [specify]</td>
</tr>
<tr>
<td>Horizontal demarcation: and/or pavement paint</td>
<td>Have to be present and firmly attached to pavement. Micro spheres must be firm and visible. Reflection index: White color: above 250 mcd/lux $^{-1}/m^2$ Yellow color: above 1150 mcd/lux $^{-1}/m^2$</td>
<td>Visual inspection</td>
<td>Reflection measured with equipment [specify]</td>
</tr>
<tr>
<td>Mileposts and guidance posts</td>
<td>Have to be present, complete, clean and structurally sound; surface painted or otherwise covered according to ruling.</td>
<td>Visual inspection</td>
<td></td>
</tr>
<tr>
<td>Guardrails</td>
<td>Have to be present, clean, without any significant damage, without corrosion.</td>
<td>Visual inspection</td>
<td></td>
</tr>
</tbody>
</table>
2.4.2 Road Roughness

The Contractor is responsible for ensuring that the road roughness is below the threshold values given in the table below: [insert table, see sample table below]

(Note: There are two threshold values):

- Average for complete road(s) or road section(s) as specified in Section III: [indicate maximum average IRI for each road or road section]
- Maximum allowed average for any one-km section within road or road section: [indicate maximum one-km average IRI for each road or road section]

<table>
<thead>
<tr>
<th>Item</th>
<th>Service quality</th>
<th>Measurement/Detection</th>
<th>Time allowed for repairs or tolerance permitted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum IRI for any one-km section</td>
<td>Average value for any one-km road section must be less than the threshold value given below (in IRI average)</td>
<td>Measured with calibrated equipment (Bump Integrator).</td>
<td>No tolerance allowed.</td>
</tr>
<tr>
<td></td>
<td>Road 1: ........ IRI</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Road 2: ........ IRI</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Road 3: ........ IRI</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Road ....</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Average Pavement roughness for entire road</td>
<td>Average value for entire road or road section must be less than the threshold value given below (in IRI average)</td>
<td>Measured with calibrated equipment (Bump Integrator).</td>
<td>No tolerance allowed.</td>
</tr>
<tr>
<td></td>
<td>Road 1: ........ IRI</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Road 2: ........ IRI</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Road 3: ........ IRI</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Road ....</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
2.4.3 Road Deflection

The Contractor is responsible for ensuring that the average road deflection of any one-km road section is below the threshold values given in the table below: [insert table, see sample table]

<table>
<thead>
<tr>
<th>Item</th>
<th>Service quality</th>
<th>Measurement/Detection</th>
<th>Time allowed for repairs or tolerance permitted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deflection</td>
<td>Average of section must be below the threshold values indicated for each road section.</td>
<td>Measured with Benkelman beam every 50 meters. Threshold value is average for sections of ……….meters.</td>
<td>No tolerance allowed.</td>
</tr>
<tr>
<td>Road 1</td>
<td>……….</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Road 2</td>
<td>……….</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Road 3</td>
<td>……….</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Road ...</td>
<td>……….</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2.4.4 Variations and gradual compliance with service quality levels

In order to respect the Contractor’s initial mobilization period, compliance with any of the service level criteria is not expected until: [insert number of days after signature or full legal notification of contract recommended are between 60 and 90 days]

Other limitations to the compliance requirement are:

[Note: Limitations may vary between one road and another. On potholes, for example, the Contractor may be required to fully comply from the start with the service level criteria on roads with no potholes, but for some other roads in less-than-perfect conditions initially, compliance may be delayed by some months or introduced gradually over time.

In countries with very pronounced rainy seasons, it may not be reasonable to request full compliance with all criteria during the rainy season, and certain limitations for compliance may be set for the dry and rainy seasons.

In some cases, it may be convenient to prepare a table similar in structure to the table used for unpaved roads.]

2.5 Methods for Inspection of Service Quality Levels for Paved Roads

2.5.1 Formal Inspections of Service Quality Levels

Formal inspections are those which are scheduled in advance by the Project Manager, and carried out by the Contractor (through his self-control Unit) under the supervision of the Project Manager. The main purpose of the formal inspections is to enable the Project Manager to verify the information presented in the Contractor’s monthly statement and to issue the Interim Payment Certificate. The Project Manager must inform the Contractor of his intention to carry out a formal inspection at least
48 hours in advance, indicating the exact date, hour and location where the formal inspection is to begin. The Contractor is obliged to be present at the date, hour and location specified by the Project Manager, providing the physical means of inspection as indicated further below. Formal inspections will normally, but not necessarily, be scheduled to begin within less than five (5) days after the presentation by the Contractor of the monthly statement to the Project Manager; and they should normally be completed within a maximum of five (5) days. The formal inspection allows to compare the information on compliance provided by the Contractor in the standard tables which are part of his monthly statement, with actual measurements taken in locations to be determined by the Project Manager. During the formal inspection, the Project Manager will prepare a brief Memorandum describing (i) the general circumstances of the site visit, including date, road sections visited, persons present, etc., (ii) the nature and location of any non-compliance which may have been detected, and (iii) the time granted by the Project Manager to the Contractor to remedy the detected defects. Based on the outcome of the formal inspection, the Project Manager will immediately correct any possible errors or misrepresentations in the Contractor’s monthly statement, countersign it and present it to the Employer for payment, and to the Contractor for information.

Formal inspections will also be scheduled for the follow-up site visits, whose purpose is to verify if the Contractor has remedied the causes of earlier non-compliance, within the time frame granted by the Project Manager and specified in the Memorandum.

Regular monthly formal inspections (excluding follow-up visits) will cover at least [insert number] percent of each of the paved roads or road sections under contract.

[Note: Recommended is around 10 percent of the total length of the paved roads under contract.]

During the course of the regular monthly inspections, the Project Manager may however increase the total length of the road sections tested, in particular if numerous cases of non-compliance are detected.

2.5.2 Informal Inspections of Service Quality Levels

The Project Manager may carry out informal inspections of service quality levels as part of the general mandate given to him by the Employer. He may do so on his own initiative, at any time and anywhere on the roads included in the contract. He must use his own means for those inspections. If he detects any road sections where the service quality criteria are not met, he is obliged to inform the Contractor within 24 hours in writing, in order to enable him to take remedial action as soon as possible. The results of informal inspections may not be used by the Project Manager for purposes of correcting the Contractor’s monthly statements or applying penalties or liquidated damages, except for cases in which the road has been completely interrupted and the criteria of Road Usability has not been met.

2.5.3 Means Used for Inspection

For the formal inspections of compliance with service quality levels, the Contractor’s Self-control Unit will work in close collaboration with, and under supervision of the Project Manager. The physical means needed for the inspections will be provided by the Contractor; they are the same which are normally used by the Self-control Unit for the continuous self-evaluation of the Contractor’s compliance, in particular:
Section VI. Specifications

2.5.4 Methodologies and Procedures to Be Used for Inspections of Service Quality Levels

2.5.4.1 Methodologies

The methodologies to be used for inspections of service quality levels are presented in the following annexes: [Identify annexes.]

[Note: This section must be complemented by a detailed description of the methodologies to be used for measuring service quality levels for paved roads in particular.]

- Methodology for measurement of Road Roughness
- Methodology for measurement of Deflection
- Methodology for evaluation of conditions of pavement, shoulders and right-of-way
- Methodology for evaluation of conditions of bridges and other structures
- Methodology for evaluation of conditions of drainage system
- Methodology for evaluation of conditions of signaling and road safety devices

2.5.4.2 Procedures for Inspection

The formal inspections of service quality levels on paved roads will be carried out following the procedures presented in this section.

(a) General aspects of the road

General aspects of the road are the aspects which can be evaluated by simple means, such as visual inspections and simple measurements which do not require sophisticated equipment. General aspects include the pavement, shoulders, structures, drainage system, right-of-way and road safety aspects/signaling. However, road roughness and pavement deflection are excluded.

The formal monthly inspection of general aspects for each road (or road section) included in the contract is carried out based on test sections of one (1) km each. The location of the test sections is determined by the Project Manager, with the only restriction that it must vary from month to month.

Each one-km test section is subdivided into ten (10) segments of 100 meters each. The inspection process shall determine, for each segment of 100 meters, if non-compliance exists for any of the aspects to be verified (pavements, shoulders, structures, drainage system, right-of-way and road...
safety aspects/signaling). Each type of non-compliance receives the following weight factor:[Insert table.]

[Note: The table to be inserted should have the structure as shown in the sample below. The weight factors are to be determined for each contract, in accordance with the specific circumstances of the roads included in the contract.]

<table>
<thead>
<tr>
<th>Aspect</th>
<th>Weight Factor (between 1 and 10)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pavement (excl. roughness and deflection)</td>
<td>10</td>
</tr>
<tr>
<td>Shoulders</td>
<td>9</td>
</tr>
<tr>
<td>Structures</td>
<td>7</td>
</tr>
<tr>
<td>Drainage System</td>
<td>8</td>
</tr>
<tr>
<td>Right-of-way</td>
<td>5</td>
</tr>
<tr>
<td>Signaling and Road Safety</td>
<td>8</td>
</tr>
</tbody>
</table>

For each one-km section tested, the following table is filled out during the formal inspection.

**EVALUATION OF SERVICE LEVEL FOR A ONE-KM TEST SECTION**

**Identification of Test Section: from km ................. to km .............**

<table>
<thead>
<tr>
<th>ASPECT</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
<th>9</th>
<th>10</th>
<th>Number of non-complying segments</th>
<th>Weight Factor</th>
<th>Percentage of Non-Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pavement (excl. roughness and deflection)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Insert x if a segment does not comply</td>
<td></td>
<td>(1) * (2)</td>
</tr>
<tr>
<td>Shoulders</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>9</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Structures</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>7</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drainage system</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>8</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Right-of-way</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>5</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Signaling and Road Safety</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>8</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Percentage of non-compliance of the one-km Test Section:**
(if value > 100, insert 100)  

**Coefficient of compliance of the one-km section:**
(\(= 100 - \text{percentage of non-compliance}) / 100)
The overall coefficient of compliance for a specific road (or road section) in a particular month is determined by calculating the simple average of the coefficients of compliance of all test sections of that month within the road concerned.

(b) Road Roughness

Every four (4) months, and each time a pavement has been modified through rehabilitation, overlay or similar works, the road roughness will be measured by the Contractor under supervision of the Project Manager. The methodology to be used for measurement is presented in the corresponding annex.

If the measurement reveals that the road roughness is above the threshold established, the Project Manager will establish a time frame for the Contractor to take the measures necessary to correct the defect. That time frame should normally ensure that the corresponding works are completed within four months and before the next measurement is due to be carried out. The Project Manager may however grant a longer period if, in the opinion of the Project Manager, the circumstances warrant such longer period.

The liquidated damages for non-compliance with the service quality level requirement on road roughness, beyond the time limit determined by the Project Manager, is set at \[\text{insert amount and unit}\].

[Note: It is recommended to set an amount per 100 meter section of each non-complying travel lane; suggested amount is US$ 10 per day of non-compliance. For example, for a non-complying section of 5,000 meter of a two-lane road, the liquidated damages would be US$ 1,000 per day.]

(c) Road Deflection

The Contractor is required to guarantee that the pavement deflection of the roads under contract is below the threshold values indicated in the Technical Specifications, at a certain point of time during the contract. That point of time is: \[\text{insert point of time}\]

[Note: The main purpose of this service quality level criterium is that the roads under contract are in a sound structural condition at the end of the contract period. This criterium must be safeguarded through an adequate warranty, such as a performance guarantee. The point of time for compliance should be determined in such a way as to enable the Contractor to carry out the necessary strengthening works before the end of the contract. For contracts covering larger road networks, a staggered timetable could be set in which different points of time are set for separate parts of the network. For example, 40% of the network must comply 18 months before the end of the contract, another 40% must comply 12 month before the end of the contract, and the remaining 20% must comply 6 month before the end of the contract.]

The methodology to be used for measuring road deflection is described in the corresponding annex to this document.

For each road under contract, the Contractor is obliged to measure pavement deflection at least once a year, as part of his normal activities of monitoring and evaluation. He will inform the Project
Manager at least one week in advance about the time and location of pavement deflection measurements to be carried out, in order to enable the Project Manager to assist the process and verify the results. If during any of those measurements it is revealed that the pavement deflection is above the threshold established, the Project Manager will establish a time frame for the Contractor to take the measures necessary to correct the defect, and to have completed those measures at the point of time established for compliance. The Project Manager may however grant a longer period if, in the opinion of the Project Manager, the circumstances warrant such longer period.

The Employer is entitled to retain the performance guarantee provided by the Contractor until all the roads under contract comply with the pavement deflection criteria. If at the end of the contract period, the Contractor has not complied with the service quality level criteria on pavement deflection, the Employer is further entitled to employ other contractors to carry out the works necessary to ensure compliance with pavement deflection criteria, and use the amount of the performance guarantee, wholly or in part, to pay for those works. In any case, if at the end of the contract period, the Contractor has failed to carry out the works necessary to remedy any non-compliance with the pavement deflection criteria, the Contractor forfeits any right to obtain reimbursement of the performance guarantee.

### 2.6 Payment Reductions and Liquidated Damages

In accordance with the relevant clauses of the GCC, Payment Reductions are applied in case of non-compliance with Service Quality Level requirements, while Liquidated Damages are applied in the case of non-compliance with required Rehabilitation and Improvement Works.

#### 2.6.1 Determination of Payment Reductions

The results of each formal inspection of the service quality levels and other performance criteria will be recorded by the Project Manager in the form of a Memorandum. The Memorandum will state the type and location of any non-compliance detected, in particular those non-compliances already shown in the standard tables provided by the Contractor as part of his monthly statement. For each individual case of non-compliance, the Project Manager will determine a date by which the Contractor must have completed the necessary measures in order to remedy the cause of the non-compliance. A follow-up site visit is therefore necessary at the date fixed by the Project Manager, or soon thereafter, in order to verify that the Contractor has indeed remedied the cause of non-compliance.

If at the date indicated in the Memorandum, the Contractor has not remedied the cause for a non-compliance, independent of the reason given by the him for his failure to do so, the Contractor is subject to Payment Reductions in accordance with the relevant clauses of the GCC.

Payment Reductions are variable over time. If the Contractor fails to remedy a cause of non-compliance for which a payment reduction has already been applied, the amount of the payment reduction increases month by month for that particular cause of non-compliance, without a ceiling being applied, until compliance is established.

The calculation of the initial (first month) amounts of payment reductions, and the formula for their adjustment over time, is to be based on the following rules:
For unpaved roads: The following table applies:

[Insert Table for calculation of Payment Reductions.]

[Note: The following Table is provided as a sample for unpaved roads taken from an existing contract. It may provide some guidance to the staff preparing specific bidding documents. It goes without saying that it needs to be adjusted for the specific situation of the area in which the roads under contract are located. The preparation of this table is probably the most difficult and delicate part of the overall preparation of the bidding document. If the unit rates of the penalties are too high, the potential bidders will perceive a high risk and offer high prices, or not present an offer at all. If the unit rates are too low, the Contractor will have an insufficient incentive to comply with the requirements of the contract. It is strongly advised to carry out a number of simulations taking into consideration likely situations of partial non-compliance which may occur.]
## PAYMENT REDUCTIONS FOR NON-COMPLIANCE WITH SERVICE QUALITY LEVELS  (SAMPLE FOR UNPAVED ROADS)

<table>
<thead>
<tr>
<th>CRITERIA</th>
<th>CONDITIONS FOR APPLICATION OF PAYMENT REDUCTIONS</th>
<th>UNIT RATES PER DAY OF NON COMPLIANCE per calendar day (LD&lt;sub&gt;u&lt;/sub&gt;)</th>
<th>Reference to Technical Specifications</th>
<th>Reference to inspection methodology</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Road Usability</strong></td>
<td>Interruption of motorized traffic (light and/or heavy vehicles) anywhere along a road or road section.</td>
<td>1 % of monthly lump sum for the entire road or road section affected</td>
<td>[Insert section No.]</td>
<td>[Insert section No.]</td>
</tr>
<tr>
<td><strong>Average Traffic Speed</strong></td>
<td>Average traffic speed on road or road section is below the required threshold value.</td>
<td>0,5 % of monthly lump sum, applied to the entire road or road section, for each step of 5km/h below the threshold.</td>
<td>[Insert section No.]</td>
<td>[Insert section No.]</td>
</tr>
<tr>
<td><strong>Road User Comfort</strong></td>
<td>- Corrugation Amplitude (average): For a one-km section to be measured in at least 5 subsections [of 50 m each]. An average amplitude is determined for each of the 5 subsections. If the overall average value is above the threshold, the one-km section does not comply.</td>
<td>10% of the monthly lump sum for one km applied to each one-km section which does not comply.</td>
<td>[Insert section No.]</td>
<td>[Insert section No.]</td>
</tr>
<tr>
<td></td>
<td>- Rut depth (average): For a one-km section to be measured in at least 2 subsections [of 100 m each]. An average rut depth is determined for each of the 2 subsections. If the overall average value is above the threshold, the one-km section does not comply.</td>
<td>10% of the monthly lump sum for one km applied to each one-km section which does not comply.</td>
<td>[Insert section No.]</td>
<td>[Insert section No.]</td>
</tr>
<tr>
<td></td>
<td>- Corrugation amplitude (maximum): The maximum amplitude measured anywhere in a one-km section is above the threshold value.</td>
<td>50% of the monthly lump sum for one km applied to each one-km section which does not comply</td>
<td>[Insert section No.]</td>
<td>[Insert section No.]</td>
</tr>
<tr>
<td></td>
<td>- Rut depth (maximum): the maximum rut depth measured anywhere in a one-km section is above the threshold value.</td>
<td>50% of the monthly lump sum for one km applied to each one-km section which does not comply</td>
<td>[Insert section No.]</td>
<td>[Insert section No.]</td>
</tr>
<tr>
<td></td>
<td>- Potholes and similar surface degradations (individual): The surface of any individual pothole or other surface degradation is above 1 m².</td>
<td>50% of the monthly lump sum for one km applied to each one-km section which does not comply</td>
<td>[Insert section No.]</td>
<td>[Insert section No.]</td>
</tr>
</tbody>
</table>
# LIQUIDATED DAMAGES / REDUCTIONS FOR NON-COMPLIANCE WITH SERVICE QUALITY LEVELS

(SAMPLE FOR UNPAVED ROADS)

<table>
<thead>
<tr>
<th>CRITERIA</th>
<th>CONDITIONS FOR APPLICATION OF PAYMENT REDUCTIONS</th>
<th>UNIT RATES PER DAY OF NON-COMPLIANCE per calendar day ( LD_u )</th>
<th>Reference to Technical Specifications (paragraph No.)</th>
<th>Reference to inspection methodology (paragraph No.)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Road User Comfort (cont.)</strong></td>
<td>- <em>Potholes and similar surface degradations (per km)</em>: The sum of the surfaces of all potholes or other surface degradation, in a one-km section, is above the threshold.</td>
<td>10 % of the monthly lump sum for one km, applied to each one-km section which does not comply.</td>
<td>[Insert section No.]</td>
<td>[Insert section No.]</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>- <em>Vertical Traffic Signaling</em>: One or more traffic signs is absent, destroyed, non-legible, incorrectly placed or non-functional.</td>
<td>50 % of the monthly lump sum for one km, applied to each one-km section which does not comply.</td>
<td>[Insert section No.]</td>
<td>[Insert section No.]</td>
</tr>
<tr>
<td><strong>Road Durability</strong></td>
<td>- <em>Vegetation height (average)</em>: For a one-km section, to be measured in at least 5 subsections ( [5 \text{ of } 50 \text{m}] ). An average height is determined for each of the 5 subsections. If the overall average value is above the threshold, the one-km section does not comply.</td>
<td>10 % of the monthly lump sum for one km, applied to each one-km section which does not comply.</td>
<td>[Insert section No.]</td>
<td>[Insert section No.]</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>- <em>Vegetation height (maximum)</em>: The maximum height measured anywhere in a one-km section is above the threshold value.</td>
<td>50 % of the monthly lump sum for one km, applied to each one-km section which does not comply.</td>
<td>[Insert section No.]</td>
<td>[Insert section No.]</td>
</tr>
<tr>
<td></td>
<td>- <em>Vegetation (clearance above road)</em>: The vertical clearance between the road surface and the lowest point of tree or other plant is less than the threshold value.</td>
<td>50 % of the monthly lump sum for one km, applied to each one-km section which does not comply.</td>
<td>[Insert section No.]</td>
<td>[Insert section No.]</td>
</tr>
<tr>
<td></td>
<td>- <em>Useable road surface width</em>: For a one-km section, to be measured in subsections of 50m each. The useable road width is determined for each subsection. If the useable road width in any of the sub-sections is below the threshold value minus the tolerance allowed, the one-km section does not comply.</td>
<td>10 % of the monthly lump sum for one km, applied to each one-km section which does not comply.</td>
<td>[Insert section No.]</td>
<td>[Insert section No.]</td>
</tr>
<tr>
<td>CRITERIA</td>
<td>CONDITIONS FOR APPLICATION OF PAYMENT REDUCTIONS</td>
<td>UNIT RATES PER DAY OF NON-COMPLIANCE per calendar day ( (L_D_u) )</td>
<td>Reference to Technical Specifications</td>
<td>Reference to inspection methodology</td>
</tr>
<tr>
<td>----------</td>
<td>--------------------------------------------------</td>
<td>---------------------------------------------------------------</td>
<td>-------------------------------------</td>
<td>-----------------------------------</td>
</tr>
<tr>
<td>Road Durability (cont.)</td>
<td>- Required longitudinal profile: for a one-km section, if two or more of the twenty profiles show a height less than the height required in the longitudinal profile, minus the allowed tolerance, the one-km section does not comply.</td>
<td>3 % of monthly lump sum for one km, applied each one-km road section, for each step of 3 cm below the threshold.</td>
<td>[Insert section No.]</td>
<td>[Insert section No.]</td>
</tr>
<tr>
<td></td>
<td>- cleanliness and condition of drainage structures (lateral ditches): For a one-km section, to be determined for subsections of 50m each. If unacceptable obstructions exist in more than one subsection, the one-km section does not comply.</td>
<td>10 % of the monthly lump sum for one km, applied to each one-km section which does not comply.</td>
<td>[Insert section No.]</td>
<td>[Insert section No.]</td>
</tr>
<tr>
<td></td>
<td>- cleanliness and condition of drainage structures (culverts and other structures): (i) The obstruction of a drainage structure is more than the maximum allowed percentage, or, (ii) the structural condition of a structure is not acceptable in the opinion of the Project Manager.</td>
<td>50 % of the monthly lump sum for one km, applied to each one-km section in which non-complying drainage structures are located.</td>
<td>[Insert section No.]</td>
<td>[Insert section No.]</td>
</tr>
</tbody>
</table>

Note: (i) The Unit Rates of payment reductions \( (PR_u) \) shown in the above table are applicable during the first 30 days of non-compliance.

(ii) If a non-compliance has not been remedied within thirty days, liquidated damages for periods beyond 30 days are calculated based on the following formula:

\[
PR = 3^n \times PR_u
\]

considering:

\[
J = \text{number of days of non-compliance, and } n = \left\lfloor \frac{J - 1}{30} \right\rfloor \text{ rounded up to full number (without decimals)}
\]
For paved roads, there are three types of Payment Reductions:

(i) **Payment Reductions for non-compliance with service quality level criteria on the general aspects of roads**: For any road or road section as specified in Section III of this document (Bidding information), the Employer may reduce the monthly lump-sum payment by the percentage of non-compliance determined on the basis of section 2.5.4 of the Technical Specifications. The payment will therefore be the basic lump-sum amount multiplied by the coefficient of compliance.

(ii) **Payment Reductions for non-compliance with service quality level criteria on road roughness**: Calculated based on the provisions shown in section 2.5.4.2 (b) of the Technical Specifications. The amount of the reduction is to be deducted by the Employer from the monthly lump-sum payments due to the Contractor.

(ii) **Payment Reductions for non-compliance with service quality level criteria on pavement deflection**: In case of non-compliance, the payment reductions are equivalent to the amount needed by the Employer to have the works carried out which are necessary to establish the conditions of compliance which the Contractor should have complied with according to the contract. However, the maximum amount of payment reduction applicable by the Employer for non-compliance with service quality level criteria on pavement deflection is equivalent to the performance guarantee provided by the Contractor for the entire contract.

### 2.6.2 Determination of Liquidated Damages

[Insert section on how to determine Liquidated Damages in case of non-compliance with performance criteria for Rehabilitation and Improvement Works.]

### 2.7 Format for Monthly Statement

The Monthly Statement to be submitted in accordance with sub-clause 49.1 shall have the following format:

[Insert sample format for Monthly Statement.]

### 2.8 Quality of Materials to be used

Notwithstanding the provisions of Clause 30 of the GCC, the materials used shall comply or exceed the following quality criteria and/or norms:

[Insert quality criteria for different types of materials to be used by the Contractor, such as for concrete and steel used in structures, gravel, laterite, asphalt, paint, etc.]
Proposed sample text for Section VI, Part C
Specifications for Emergency Works

List of Contents

Part C1 Specifications for Emergency Works
1. Definition of “Unforeseen Natural Phenomena”
2. Procedure for requesting Emergency Works
3. Remuneration of Emergency Works
4. Provision for Emergency Works
5. Obligations of Contractor during Emergencies and Emergency Works
6. Minor repairs made necessary by “Unforeseen Natural Phenomena”

Part C2 Specifications for Emergency Works
1. Definition of “Unforeseen Natural Phenomena”

Emergency Works are designed to repair those damages to the roads under contract which are caused directly by unforeseen natural phenomena with imponderable consequences occurring either in the area of the roads or elsewhere, but with a direct impact on the roads. “Unforeseen Natural Phenomena” are defined as follows: [indicate the type of phenomena and thresholds values]

[Note: “Unforeseen Natural Phenomena” are normally defined as (i) rainfalls and winds of an extraordinary intensity and/or duration, (ii) major landslides which have their origin outside the right-of-way of the road, (iii) floods during which water levels rise above a certain maximum, (iv) earthquakes above a certain intensity, etc. The definition of those phenomena and events is necessarily country-specific, and even specific for different areas within one country. They must be specified in such a way as to exclude “normal” damages, such as trees falling on the road, minor erosions of the road and embankments, and damages caused by traffic accidents; those must be remedied by the Contractor as a part of his normal obligations under the contract.]

Without being limitative, the following is a list of damages requiring Emergency Works: [indicate list.]

[Note: Examples of how eligible damages can be defined are: (i) complete destruction of a culvert as a result of exceptional rainfall quantities, which lead to an interruption of road traffic, (ii) interruption of a road following washouts equivalent of more than 100 (one hundred) cubic meter of material on a road section of 500 meters length, (iii) submersion of the road along more than 100 meters, provided that the submersion is not the result of deficiencies in the drainage system or of insufficient maintenance of drainage structures, etc.]

2. Procedure for Requesting Emergency Works

If damages clearly caused by “Unforeseen Natural Phenomena” result in a reduction of service quality levels below the normal threshold values specified in this contract, the Contractor may make
a formal request to the Project Manager to carry out Emergency Works designed specifically to remedy those damages. If the Contractor decides to make a request for Emergency Works, he must (i) immediately inform the Project Manager of his intention to do so, by telephone, radio or other means, (ii) document the circumstances of the Force Majeure event and the damages caused, through photographs, video and other suitable means, (iii) prepare a written request, stating the type of works he intends to carry out, their exact location and the estimated quantities and costs, including photographic documentation. In any case, a request for Emergency Works must be made immediately after the Contractor gains knowledge of the existence of damages caused by “Unforeseen Natural Phenomena”.

The Project Manager, upon receipt of the request and not later than 24 hours thereafter, will evaluate the request made by the Contractor based on a site visit, and issue an order to carry out the Emergency Works. The order will specify the type of works, their estimated quantities, the remuneration to be paid to the Contractor, and the time allowed for their execution.

3. Remuneration of Emergency Works

Emergency works are remunerated by the Employer on a lump sum for each work order established on the basis of estimated quantities the unit prices being stated in the Bill of Quantities, in accordance with the relevant clauses of the GCC. The work items and the unit prices to be applied are specified in Section VIII (Bill of Quantities) of this bidding document.

[Note: The unit price table for Emergency Works must be provided in Section VIII of the bidding document. The prices are not subject to bidding; they are the same for all bidders and must be established by the Employer. The unit prices should be established during the preparation of the bidding document, by calculating the average prices of several recent contracts in areas presenting similar conditions as the roads under contract.]

4. Provision for Emergency Works

The total contract amount will include a fixed Provisional Sum for Emergency Works during the contract period, in accordance with clause [insert No.] of the bidding data. The financial bids to be submitted by the bidders shall exclude the amount of the provision.

[Note: The Provisional Sum is a fixed amount. It is to be estimated during the preparation of the bidding document. The amount may vary widely from one contract to another, depending on the particular conditions of the area in which the roads under contract are located. It is probably higher for mountain roads than for roads in flat areas, but there are many other factors which may play a role. As a rule of thumb, the provision may be estimated somewhere between 5 and 25 percent of the total contract amount.]

5. Obligations of Contractor during Emergencies and Emergency Works

Given the nature of this contract and the fact that Emergency Works are remunerated separately, the Contractor will, during the execution of Emergency Works, continue to be responsible for assuring the normal service quality levels on all roads included in the contract. In particular, the Contractor will do everything reasonably possible in order to ensure the normal use of all the roads under contract, including the sections affected by emergencies.
If road traffic has been interrupted because of an emergency, the Contractor will take the measures necessary (i) to reopen the road to traffic in the shortest time possible, and (ii) maintain the road open during emergency works, without being entitled to a specific compensation for those measures. This is valid specifically for trees or other objects which may have fallen on the road, damage to access ramps to bridges, erosion of embankments, collapse of slopes, traffic accidents, flooding, etc.

6. **Minor Repairs Made Necessary by “Unforeseen Natural Phenomena”**

If the works necessary to remedy damages caused by a “Unforeseen Natural Phenomena” are below certain threshold values, the Contractor will carry out those works as part of his normal obligations and without having the right to invoke the provision of the contract concerning emergencies and the remuneration of emergency works. In these cases the consent of the Project Manager is not needed and the Contractor will simply carry out the works on his own initiative. He will nevertheless inform the Project Manager of the damages occurred and the remedial measures taken.

The threshold values for minor repairs are as shown in the table below: [Insert table]

[Note: Below is a sample table which may need to be adapted to the specific circumstances of the roads under contract]

<table>
<thead>
<tr>
<th>Activity</th>
<th>Unit</th>
<th>Quantity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Slides of material onto road</td>
<td>M³</td>
<td>500</td>
</tr>
<tr>
<td>Culverts</td>
<td>Number</td>
<td>3</td>
</tr>
<tr>
<td>Asphalt concrete</td>
<td>M³</td>
<td>125</td>
</tr>
<tr>
<td>Base course</td>
<td>M³</td>
<td>250</td>
</tr>
<tr>
<td>Concrete</td>
<td>M³</td>
<td>30</td>
</tr>
<tr>
<td>Reinforcement steel</td>
<td>Kg</td>
<td>2500</td>
</tr>
<tr>
<td>Embankment</td>
<td>M³</td>
<td>500</td>
</tr>
</tbody>
</table>
SECTION VII. FORM OF BID, APPENDIX TO BID, AND BID SECURITY

Notes on Form of Bid

The Bidder shall fill in and submit this Bid Form with the Bid. Additional details on the price should be inserted if the Bid is in various currencies.

[date]

To: [name and address of Employer]

We offer to execute the [name and identification number of Contract] in accordance with the Conditions of Contract accompanying this Bid for the Contract Price of [amount in numbers], [amount in words] [name of currency].

Our price comprises the following components:

(a) Maintenance Services in an amount of [amount in numbers], [amount in words] [name of currency].

(b) Emergency Works in an amount of [amount in numbers], [amount in words] [name of currency].

(c) Initial Rehabilitation Works in an amount of [amount in numbers], [amount in words] [name of currency].

(d) Improvement Works in an amount of [amount in numbers], [amount in words] [name of currency].
The Contract shall be paid in the following currencies:

<table>
<thead>
<tr>
<th>Currency</th>
<th>Percentage payable in currency</th>
<th>Rate of exchange: one foreign equals [insert local]</th>
<th>Inputs for which foreign currency is required</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The advance payment required is:

<table>
<thead>
<tr>
<th>Amount</th>
<th>Currency</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td></td>
</tr>
</tbody>
</table>

This Bid and your written acceptance of it shall constitute a binding Contract between us. We understand that you are not bound to accept the lowest or any Bid you receive.

We hereby confirm that this Bid complies with the Bid validity and Bid Security required by the bidding documents and specified in the Bidding Data.

We also confirm that we have fully read and understood the concept of Performance-Based Management and Maintenance of Roads as described in the bidding document.

Commissions or gratuities, if any, paid or to be paid by us to agents relating to this Bid, and to contract execution if we are awarded the contract, are listed below:

<table>
<thead>
<tr>
<th>Name and address of agent</th>
<th>Amount</th>
<th>Purpose of Commission or gratuity</th>
</tr>
</thead>
<tbody>
<tr>
<td>_______________________</td>
<td>_______</td>
<td>________________________________</td>
</tr>
<tr>
<td>_______________________</td>
<td>_______</td>
<td>________________________________</td>
</tr>
<tr>
<td>_______________________</td>
<td>_______</td>
<td>________________________________</td>
</tr>
<tr>
<td>(if none, state “none”)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Authorized Signature: ____________________________________________

Name and Title of Signatory: ______________________________________

Name of Bidder: _________________________________________________

Address: _______________________________________________________
Appendix to Bid

Note: The Employer should insert relevant data for all the items marked with an asterisk (*) prior to the issue of the bidding documents and for all related clauses that have been included in the Instructions to Bidders.

Bidders should fill in all the appropriate blank spaces. Bidders are required to sign each page of the Appendix to Bid.

The items on the following pages are to be filled in by the bidder as part of its bid, except for the items marked (*)

Alternative A: For Use with Alternatives A of ITB Sub-Clause 15 Currency of Bid and Payment

[see Table Alternative A immediately below]
Table Alternative A

Summary of payment currencies of the Bid for ________________ [insert name of Section of the Works]  

<table>
<thead>
<tr>
<th>Name of payment currency</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local currency</td>
<td></td>
<td>1.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Foreign currency #1</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Foreign currency #2</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Foreign currency #3</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net Bid Price</td>
<td></td>
<td></td>
<td></td>
<td>100.00</td>
</tr>
<tr>
<td>Provisional sums</td>
<td>(*)</td>
<td></td>
<td>(*)</td>
<td></td>
</tr>
<tr>
<td>expressed in local</td>
<td>(*)</td>
<td></td>
<td>(*)</td>
<td></td>
</tr>
<tr>
<td>currency</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**BID PRICE**

*To be entered by Employer.

---

8 Separate tables may be required if the various sections of the Works (or of the Bill of Quantities) will have substantially different foreign and local currency requirements. The Employer should insert the names of each Section of the Works.
Alternative B: For Use with Alternatives B of ITB Sub-Clause 15
Currency of Bid and Payment

Table: Alternative B

Summary of currencies of the bid for [insert name of Section of the Works] ⁹

<table>
<thead>
<tr>
<th>Name of currency</th>
<th>Amounts payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local currency:</td>
<td></td>
</tr>
<tr>
<td>Foreign currency #1:</td>
<td></td>
</tr>
<tr>
<td>Foreign currency #2:</td>
<td></td>
</tr>
<tr>
<td>Foreign currency #3:</td>
<td></td>
</tr>
</tbody>
</table>

Origin of Materials and Plant
[list here]

Approximate Weightings for Price Adjustment Formulae
[See table immediately below.]

<table>
<thead>
<tr>
<th>Description of index</th>
<th>% range of weighting</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fixed</td>
<td>(*)</td>
</tr>
<tr>
<td>Labor</td>
<td>(<em>) to (</em>)</td>
</tr>
<tr>
<td>etc.</td>
<td>(<em>) to (</em>)</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
</tr>
</tbody>
</table>

a. As guidance to bidders and for the purpose of checking their submissions, the Employer has estimated and provided a range of acceptable weightings for related major construction inputs in accordance with the potential range of construction methodologies, based on estimated cost in a common currency.

Separate tables may be required if the various Sections of the Works (or of the Bill of Quantities) will have substantially different foreign and local currency requirements. The Employer should insert the names of each Section of the Works.
Weightings and Indices

In the tables immediately below, bidders shall (a) indicate the amounts of local currency payment, (b) show the proposed source and base values of indices for the different foreign currency elements of cost, (c) derive the proposed weightings for local and foreign currency payment as indicated below, and (d) list the exchange rates used in the currency conversion. If payment is to be made in more than one foreign currency, the bidder shall complete a similar table of source indices for each currency. In the case of contracts involving Initial Rehabilitation Works and Improvement Works, it may be necessary to specify several families of price adjustment formulae corresponding to the different works involved.

Table A. Local Currency

<table>
<thead>
<tr>
<th>Index code*</th>
<th>Index description*</th>
<th>Source of index*</th>
<th>Base value and date*</th>
<th>Bidder’s related currency amount</th>
<th>Bidder’s proposed weighting</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nonadjustable</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>A: _______*</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>B: ________</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>C: ________</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>D: ________</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>E: ________</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1.00</td>
</tr>
</tbody>
</table>

10 The Employer shall enter the amount of the fixed element A in the tables below, and the source of indexing of local currency elements of cost.
### Table B. Foreign Currency 1 (FC1). State type: __________________________

<table>
<thead>
<tr>
<th>Index code</th>
<th>Index description</th>
<th>Source of index</th>
<th>Base value and date</th>
<th>Bidder’s related source currency in type/amount</th>
<th>Equivalent in FC1</th>
<th>Bidder’s proposed weighting</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non adjustable</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>A: _____ *</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>B: _____</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>C: _____</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>D: _____</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>E: _____</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1.00</td>
</tr>
</tbody>
</table>

*If the bidder wishes to quote in more than one foreign currency (up to three), this table should be repeated for each foreign currency.*
Form of Bid Security (Bank Guarantee)\textsuperscript{11}

[Bank’s Name, and Address of Issuing Branch or Office]

Beneficiary: ____________________ [Name and Address of Employer]

Date: __________________

BID GUARANTEE No.: ________________

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

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

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

(a) has withdrawn its Bid during the period of bid validity specified by the Bidder in the Form of Bid; or

(b) does not accept the correction of its Bid price in accordance with the Instructions to Bidders (hereinafter “the ITB”) of the IFB; or

(c) having been notified of the acceptance of its Bid by the Employer during the period of bid validity, (i) fails or refuses to execute the contract, if required, or (ii) fails or refuses to furnish the performance security, in accordance with the ITB.

This guarantee will expire: (a) if the Bidder is the successful bidder, upon our receipt of copies of the contract signed by the Bidder and the performance security issued to you upon the instruction of the Bidder; or (b) if the Bidder is not the successful bidder, upon the earlier of (i) our receipt of a copy of your notification to the Bidder of the name of the successful bidder; or (ii) twenty-eight days after the expiration of the Bidder’s Bid.

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

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

\textsuperscript{11} The Bidder shall complete either this form of Bank Guarantee or may provide another security acceptable to the Employer.
[signature(s)]
Form of Bid Security (Bid Bond)

BOND NO. ______________________

BY THIS BOND [insert name of Bidder] as Principal (hereinafter called “the Principal”), and [insert name, legal title, and address of surety], authorized to transact business in [insert name of country of Employer], as Surety (hereinafter called “the Surety”), are held and firmly bound unto [insert name of Employer] as Obligee (hereinafter called “the Employer”) in the sum of [insert amount of Bond], for the payment of which sum, well and truly to be made, we, the said Principal and Surety, bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Principal has submitted a written Bid to the Employer dated the ___ day of ______, 20__, for the construction of [insert name of Contract] (hereinafter called the “Bid”).

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal:

(1) withdraws its Bid during the period of bid validity specified in the Form of Bid; or

(2) refuses to accept the correction of its Bid Price, pursuant to Sub-Clause 29.2 of the Instructions to Bidders; or

(3) having been notified of the acceptance of its Bid by the Employer during the period of Bid validity;

(a) fails or refuses to execute the Form of Agreement in accordance with the Instructions to Bidders, if required; or

(b) fails or refuses to furnish the Performance Security in accordance with the Instructions to Bidders;

then the Surety undertakes to immediately pay to the Employer up to the above amount upon receipt of the Employer’s first written demand, without the Employer having to substantiate its demand, provided that in its demand the Employer shall state that the demand arises from the occurrence of any of the above events, specifying which event(s) has occurred.

The Surety hereby agrees that its obligation will remain in full force and affect up to and including the date 28 days after the date of expiration of the Bid validity as stated in the Invitation to Bid or

---

12 The amount of the Bond shall be denominated in the currency of the Employer’s country or the equivalent amount in a freely convertible currency.
extended by the Employer at any time prior to this date, notice of which extension(s) to the Surety being hereby waived.

IN TESTIMONY WHEREOF, the Principal and the Surety have caused these presents to be executed in their respective names this ___ day of ____________ 20__.  

Principal: _______________________ Surety: ______________________________

_______________________________ ____________________________________
(Signature) (Signature)

_______________________________ ____________________________________
(Printed name and title) (Printed name and title)
SECTION VIII. BILL OF QUANTITIES FOR EMERGENCY WORKS

Notes for Preparing the Bill of Quantities

These Notes for Preparing a Bill of Quantities are intended only as information for the Employer or the person drafting the bidding documents. They should not be included in the final documents.

Objectives

The objectives of the Bill of Quantities for Emergency Works are:

(a) to provide an estimate on the quantities of Works to be performed to enable bids to be prepared efficiently and accurately; and
(b) when a contract has been entered into, to provide a Priced Bill of Quantities for use in the valuation of lump-sum price of each Emergency Works to be executed.

In order to attain these objectives, Works should be itemized in the Bill of Quantities in sufficient detail to distinguish between the different classes of Works, or between Works of the same nature carried out in different locations or in other circumstances which may give rise to different considerations of cost. Consistent with these requirements, the layout and content of the Bill of Quantities should be as simple and brief as possible.

Content

The Bill of Quantities should be divided generally into the following sections:

(a) Work Items (grouped into parts)
(b) Summary
**Work Items**

The items in the Bill of Quantities should be grouped into sections to distinguish between those parts of the Works that by nature, location, access, timing, or any other special characteristics may give rise to different methods of construction, phasing of the Works, or considerations of cost. General items common to all parts of the Works may be grouped as a separate section in the Bill of Quantities.

**Quantities**

Quantities are only indicated for purpose of bid evaluation, unless directed otherwise in the Instructions to Bidders and in the Contract, and real estimates will be made on a case by case situation depending on the estimated work needed to deal with the specific case. Quantities should be rounded up or down where appropriate, and spurious accuracy should be avoided.

**Units of Measurement**

The following units of measurement and abbreviations are recommended for use (unless other national units are mandatory in the country of the Employer).

<table>
<thead>
<tr>
<th>Unit</th>
<th>Abbreviation</th>
<th>Unit</th>
<th>Abbreviation</th>
</tr>
</thead>
<tbody>
<tr>
<td>cubic meter</td>
<td>m³ or cu m</td>
<td>millimeter</td>
<td>mm</td>
</tr>
<tr>
<td>hectare</td>
<td>ha</td>
<td>month</td>
<td>mon</td>
</tr>
<tr>
<td>hour</td>
<td>h</td>
<td>number</td>
<td>nr</td>
</tr>
<tr>
<td>kilogram</td>
<td>kg</td>
<td>square meter</td>
<td>m² or sq m</td>
</tr>
<tr>
<td>lump sum</td>
<td>sum</td>
<td>square millimeter</td>
<td>mm² or sq mm</td>
</tr>
<tr>
<td>meter</td>
<td>m</td>
<td>week</td>
<td>wk</td>
</tr>
<tr>
<td>metric ton</td>
<td>t</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(1,000 kg)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Summary**

The Summary should contain a tabulation of the separate parts of the Bill of Quantities carried forward where applicable.
These Notes for Preparing a Bill of Quantities are intended only as information for the Employer or the person drafting the bidding documents. They should not be included in the final documents.
Sample

Bill of Quantities

B. Work Items

1. The Bill of Quantities usually contains the following part Bills, which have been grouped according to the nature or timing of the work:

   Bill No. 1—General Items
   Bill No. 2—Earthworks
   Bill No. 3—Culverts and Bridges
   Bill No. 4—etc., as required
   and

   Summary Bill of Quantities

2. Bidders shall price the Bill of Quantities in local currency only and shall indicate in the Appendix to Bid the percentage expected for payment in foreign currency or currencies.13
## Sample

### Bill of Quantities

**Bill No. 1: General Items**

<table>
<thead>
<tr>
<th>Item no.</th>
<th>Description</th>
<th>Unit</th>
<th>Quantity</th>
<th>Rate</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>101</td>
<td>Insurance of the Works</td>
<td>sum</td>
<td>item</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>102</td>
<td>Insurance of Contractor’s Equipment</td>
<td>sum</td>
<td>item</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>103</td>
<td>Third-Party Insurance</td>
<td>sum</td>
<td>item</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>104</td>
<td>—etc.—</td>
<td>sum</td>
<td>item</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>105</td>
<td>Provide diversion road has been paid</td>
<td>sum</td>
<td>item</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>112</td>
<td>Provide for traffic control and maintenance of diversion road</td>
<td>sum</td>
<td>item</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>113</td>
<td>—etc.—</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>114</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>121</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>122</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>123</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>132</td>
<td>Provide for cleaning up the Site on completion</td>
<td>sum</td>
<td>item</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>133</td>
<td>—etc.—</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Total for Bill No. 1**

(carried forward to Summary, p.)
### Sample Bill of Quantities

#### Bill No. 2: Earthworks

<table>
<thead>
<tr>
<th>Item no.</th>
<th>Description</th>
<th>Unit</th>
<th>Quantity</th>
<th>Rate</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>201</td>
<td>Excavate topsoil to maximum depth 25 cm and stockpile for reuse, maximum haul distance 1 km</td>
<td>m³</td>
<td>3</td>
<td>95,000</td>
<td></td>
</tr>
<tr>
<td>202</td>
<td>Excavate topsoil to maximum depth 25–50 cm, and dispose</td>
<td>m³</td>
<td>3</td>
<td>15,000</td>
<td></td>
</tr>
<tr>
<td>203</td>
<td>— etc. —</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>206</td>
<td>Excavate fill material from cuttings or approved borrow pits, haul up to 1 km, deposit, shape, and compact to fill</td>
<td>m³</td>
<td>3</td>
<td>258,000</td>
<td></td>
</tr>
<tr>
<td>207</td>
<td>Excavate rock in cuttings and dispose, any depth</td>
<td>m³</td>
<td></td>
<td>25,000</td>
<td></td>
</tr>
<tr>
<td>208</td>
<td>— etc. —</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total for Bill No. 2 [carried forward to Summary, p. _____]
SECTION IX. BILL OF QUANTITIES FOR MAINTENANCE SERVICES

Notes for Preparing the Bill of Quantities

These Notes for Preparing a Bill of Quantities are intended only as information for the Employer or the person drafting the bidding documents. They should not be included in the final documents.

Objectives

The objectives of the Bill of Quantities for Maintenance Services are to provide a priced Bill of Quantities for use in the payment of Works and Services executed when a Contract has been entered into.

Consistent with these requirements, the layout and content of the Bill of Quantities should be as simple and brief as possible.

Maintenance Services will constitute the main activity under the contract, and since these services are remunerated through a monthly lump-sum amounts per km, the Bill of Quantities is very simple; the following sample (2 tables) is recommended:
Bill of Quantities and Unit Prices for Maintenance Services

[To be completed by the bidder]

<table>
<thead>
<tr>
<th>Price N°</th>
<th>Description of Service and Price</th>
<th>Unit Price</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>In Local Currency</td>
</tr>
<tr>
<td>1.</td>
<td><strong>Unit Price per kilometer and month</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>This price is the full remuneration to the Contractor to carry out the services and works required in order to maintain the service quality levels described in the Technical Specifications and elsewhere in the contract. It further includes the activities of the Contractor related to self-control, quality assurance and material testing.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The Unit Price per kilometer and month is:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Road section a: ..................</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Road section b: ..................</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Road section c: ..................</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Etc..................</td>
<td></td>
</tr>
<tr>
<td></td>
<td>[Note: There may either be one unit price for all roads or road sections included in the contract, or different prices for different roads.]</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## Bill of Quantities for Maintenance Services and their Prices

<table>
<thead>
<tr>
<th>Price N°</th>
<th>Road or road section</th>
<th>Unit</th>
<th>Quantity</th>
<th>Unit Price per kilometer and month</th>
<th>Total Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>MONTHLY LUMP-SUM PAYMENT</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2a</td>
<td>[Indicate Roads or Road Sections]</td>
<td>km</td>
<td>[Nb of km in each road or road section]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2b</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2c</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>…</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**SUB-TOTAL per month**

Multiply by number of month (duration of contract) [Nb of months]

**Total for contract period**
SECTION X. BILL OF QUANTITIES FOR INITIAL REHABILITATION WORKS AND FOR IMPROVEMENT WORKS

Notes for Preparing the Bill of Quantities

These Notes for Preparing a Bill of Quantities are intended only as information for the Employer or the person drafting the bidding documents. They should not be included in the final documents.

Initial Rehabilitation Works

The Initial Rehabilitation Works shall be priced as a lump-sum amount. The Bill of Quantities, therefore, will be completely filled in by the bidder who will indicate the estimates of each activity indicated in the BOQ he estimates needed and the unit prices correspondingly.

Objectives

The objectives of the Bill of Quantities for Initial Rehabilitation Works are

(a) to provide an estimate on the quantities of Works bidders propose to achieve the quality level defined in the Technical Specifications; and

(b) when a contract has been entered into, to provide a Priced Bill of Quantities for use in the valuation of work executed as part of the total lump-sum price for the Initial Rehabilitation Works to be executed.

In order to attain these objectives, Works should be itemized in the Bill of Quantities in sufficient detail to distinguish between the different classes of Works, or between Works of the same nature carried out in different locations or in other circumstances which may give rise to different considerations of cost. Consistent with these requirements, the layout and content of the Bill of Quantities should be as simple and brief as possible.
Content

The Bill of Quantities should be divided generally into the following sections:

(a) Work Items (grouped into parts);
(b) Summary.

Work Items

The items in the Bill of Quantities should be grouped into sections to distinguish between those parts of the Works that by nature, location, access, timing, or any other special characteristics may give rise to different methods of construction, phasing of the Works, or considerations of cost. General items common to all parts of the Works may be grouped as a separate section in the Bill of Quantities.

Quantities

Quantities are not indicated and will be indicated by the bidder as part of the composition of his lump-sum price. Quantities should be rounded up or down where appropriate, and spurious accuracy should be avoided.

The Bill of Quantity for Initial Rehabilitation Works will be a simple table describing specific work outputs and state the output (or product) unit price.

The Bidder should include in his Price all necessary expenses, for the services and works implementation, with no limitation of other expenses. In particular, the Bidder must include the following expenses:

- the mobilization of all the equipment, materials, personnel and tools
- the acquisition and all handling and transportation of materials (independently from its location), plus the handling and transportation of waste materials
- all quality control activities and related surveys and tests, including the provision of Contractual Obligations, see Section V – Specifications)
- all measures necessary to prevent or mitigate the environmental impacts of the works and services
- engineering final design and services
- all measures necessary to ensure adequate safety during execution of the works
- all land acquisition, right of exploration, certificates, plant or admittance permit that may be necessary for quarries, use of water or other resources that are beyond the right-of-way limits
- technical studies and environmental licenses required by the Employer
- removal of materials lost during transportation
- all bonuses, administrative or indirect expenses, taxes, fees and social duties

Sample

<table>
<thead>
<tr>
<th>Activity</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Price</th>
<th>Write in Full</th>
<th>Total Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Milling and Replacement</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Lane</td>
<td>60</td>
<td>Km</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Shoulder</td>
<td>60</td>
<td>Km</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Retrofiling</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Lane</td>
<td>50</td>
<td>Km</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Shoulder</td>
<td>50</td>
<td>Km</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Asphalt Slurry</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Lane</td>
<td>35</td>
<td>Km</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Shoulder</td>
<td>35</td>
<td>Km</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Etc</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total Price for Initial Rehabilitation Works
Improvement Works

The Improvement Works shall be priced as a list of output products. The Bill of Quantities, therefore, will list these products and an estimated amount to be delivered when (and if) required. The bidder indicates the unit prices each product indicated in the BOQ.

Objectives

The objectives of the Bill of Quantities for Initial Rehabilitation Works are:

(a) to provide an estimate on the quantities of products bidders may be asked to provide for implementing the improvements envisioned; and

(b) when a contract has been entered into, to provide a Priced Bill of Quantities for use in the valuation of work executed in accordance with the unit prices for each product executed.

In order to attain these objectives, products should be itemized in the Bill of Quantities in sufficient detail to distinguish between the different classes of products, or between products of the same nature carried out in different locations or in other circumstances which may give rise to different considerations of cost. Consistent with these requirements, the layout and content of the Bill of Quantities should be as simple and brief as possible.
## Sample

<table>
<thead>
<tr>
<th>Activity</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Price</th>
<th>Write in Full</th>
<th>Total Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Additional Lane between Km 50 and 80</td>
<td>30</td>
<td>Km</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Should paving between Km 50 and 80</td>
<td>30</td>
<td>Km</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Construction of Bus stops in 5 cities</td>
<td>5</td>
<td>Bus Stop type A</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total Price for Initial Rehabilitation Works
SECTION XI. FORM OF AGREEMENT, FORMS OF PERFORMANCE SECURITY AND BANK GUARANTEE FOR ADVANCE PAYMENT

Notes on Agreement, Performance and Advance Payment Securities

Samples of acceptable forms of Agreement, Performance and Advance Payment Securities are annexed. Bidders should not complete the Performance and Advance Payment Security forms at this time. Only the successful Bidder will be required to provide Performance and Advance Payment Securities in accordance with one of the forms or in a similar form acceptable to the Employer.

14 Employers should state in the Bidding and Contract Data the acceptability of one or more of the alternatives and should include in the bidding documents either Alternative Form 1 or 2 of Performance Bank Guarantee, and/or Alternative 3 of the Performance Bond, according to the Employer’s preference.
Notes on Standard Form of Agreement

The Agreement should incorporate any corrections or modifications to the Bid resulting from corrections of errors (Instructions to Bidders, Clause 29), price adjustment during the evaluation process (Instructions to Bidders Sub-Clause 14.3 or Clause 48 of the General Conditions of Contract), selection of an alternative offer (Instructions to Bidders Clause 18), or any other mutually-agreeable changes allowed for in the Conditions of Contract, such as changes in key personnel, subcontractors, scheduling, and the like.

This Agreement, made the [day] day of [month], [year] between [name and address of Employer] (hereinafter called “the Employer”) and [name and address of Contractor] (hereinafter called “the Contractor”) of the other part.

Whereas the Employer is desirous that the Contractor execute [name and identification number of Contract] (hereinafter called “the Works”) and the Employer has accepted the Bid by the Contractor for the execution and completion of such Works and Services and the remedying of any defects therein.

Now this Agreement witnessed as follows:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to, and they shall be deemed to form and be read and construed as part of this Agreement.

2. In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Employer to execute and complete the Services and Works and remedy any defects therein in conformity in all respects with the provisions of the Contract.

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

In Witness whereof the parties thereto have caused this Agreement to be executed the day and year first before written.

The Common Seal of was hereunto affixed in the presence of:

Signed, Sealed, and Delivered by the said in the presence of:

Binding Signature of Employer

Binding Signature of Contractor
Form of Performance Security (Alternative 1): Performance Bank Guarantee (Conditional)

This form of Performance Guarantee is conditional in that the required conditions of default are not met until an agreement has been reached on the amount of damages payable, or until an award has been made under the applicable settlement of disputes procedures.

This Agreement is made on the [day] day of [month], [year] between [name of Bank] of [address of Bank] (hereinafter called “the Guarantor”) of the one part and [name of Employer] of [address of Employer] (hereinafter called “the Employer”) of the other part.

Whereas

(1) This Agreement is supplemental to a contract (hereinafter called the Contract) made between [name of Contractor] of [address of Contractor] (hereinafter called the Contractor) of the one part and the Employer of the other part whereby the Contractor agreed and undertook to execute the Works of [name of Contract and brief description of the Works] for the sum of [amount in Contract currency] being the Contract Price; and

(2) The Guarantor has agreed to guarantee the due performance of the Contract in the manner hereinafter appearing.

Now therefore the Guarantor hereby agrees with the Employer that upon receipt of

(1) a written notice to the Guarantor from the Contractor, or
(2) a written notice to the Guarantor from the Adjudicator, or
(3) a binding arbitration or Court award confirming that the amount of the Guarantee is payable to the Employer,

The triggering of this form of Performance Guarantee is conditional upon the Contractor's “failing to execute the Contract or committing a breach of his obligations thereunder” and requires a statement by the Employer and/or the Project Manager to that effect, and an exercise of judgment by the Guarantor as to whether the required conditions of default have been fulfilled. Some forms of Guarantee contain further qualifying conditions, and are not triggered until an agreement has been reached on the amount of damages payable, or until an award has been made under the applicable settlement of disputes procedures. The construction industry favors this form of Guarantee over the Unconditional Guarantee whenever it is available. However, not all commercial banks (as Guarantors) are willing to issue Conditional Guarantees, and not all Employers are prepared to accept this form of Performance Security.
the Guarantor will indemnify and pay the Employer the sum of [amount of Guarantee] [amount in words],\(^{16}\) such sum being payable in the types and proportions of currencies in which the Contract Price is payable, provided that the Employer or his authorized representative has notified the Guarantor to that effect and has made a claim against the Guarantor not later than the date of issue of the Defects Liability Certificate.

The Guarantor shall not be discharged or released from his Guarantee by an arrangement between the Contractor and the Employer, with or without the consent of the Guarantor, or by any alteration in the obligations undertaken by the Contractor, or by any forbearance on the part of the Contractor, whether as to the payment, time, performance or otherwise, and any notice to the Guarantor of any such arrangement, alteration, or forbearance is hereby expressly waived.

Given under our hand on the date first mentioned above.

Signed by ____________________________________________________________
for and on behalf of the Guarantor in the presence of _______________________________

Signed by ____________________________________________________________
for and on behalf of the Employer in the presence of _______________________________

\(^{16}\) An amount is to be inserted by the Guarantor, representing the percentage of the Contract Price specified in the Contract, and denominated either in the currency(ies) of the Contract or in a freely convertible currency acceptable to the Employer.
Form of Performance Security (Alternative 2):
Performance Bank Guarantee

[Bank’s Name, and Address of Issuing Branch or Office]

Beneficiary: ___________________ [Name and Address of Employer]

Date: ______________________

PERFORMANCE GUARANTEE No.: ________________

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

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

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

This guarantee shall expire no later than twenty-eight days from the date of issuance of the Taking-Over Certificate, calculated based on a copy of such Certificate which shall be provided to us, or on the ___ day of ______, 2___, whichever occurs first. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

The Guarantor shall insert an amount representing the percentage of the Contract Price specified in the Contract and denominated either in the currency(ies) of the Contract or a freely convertible currency acceptable to the Employer.

Insert the date twenty-eight days after the expected completion date. The Employer should note that in the event of an extension of the time for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: “The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Employer’s written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.”
This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458, except that subparagraph (ii) of Sub-article 20(a) is hereby excluded.

____________________

[signature(s)]
Form of Performance Security (Alternative 3): Performance Bond

This form of Bond corresponds to the U.S. practice, and should not be interpreted in the context of a “Bond” as known in other countries. As with the Conditional Bank Guarantee, the wording of some bonds may be such that an award under legal proceedings is needed to trigger action by the Surety.

By this Bond, [name and address of Contractor] as Principal (hereinafter called “the Contractor”) and [name, legal title, and address of surety, bonding company, or insurance company] as Surety (hereinafter called “the Surety”), are held and firmly bound unto [name and address of Employer] as Obligee (hereinafter called “the Employer”) in the amount of [amount of Bond] [amount of Bond in words],\(^{19}\) for the payment of which sum well and truly to be made in the types and proportions of currencies in which the Contract Price is payable, the Contractor and the Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by this present documents.

Whereas the Contractor has entered into a Contract with the Employer dated\(^{20}\) the [day] day of [month], [year] for [name of Contract] in accordance with the documents, plans, specifications, and amendments thereto, which to the extent herein provided for, are by reference made part hereof and are hereinafter referred to as the Contract.

Now, therefore, the Condition of this Obligation is such that, if the Contractor shall promptly and faithfully perform the said Contract (including any amendments thereto), then this obligation shall be null and void; otherwise it shall remain in full force and effect. Whenever the Contractor shall be, and declared by the Employer to be, in default under the Contract, the Employer having performed the Employer’s obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

1. complete the Contract in accordance with its terms and conditions; or

2. obtain a Bid or bids from qualified bidders for submission to the Employer for completing the Contract in accordance with its terms and conditions, and upon determination by the Employer and the Surety of the lowest responsive Bidder, arrange for a Contract between such Bidder and Employer and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to

\(^{19}\) An amount is to be inserted by the Surety, representing the percentage of the Contract Price specified in the Contract Data, and denominated either in the currency(ies) of the Contract or in a freely convertible currency of type and amount acceptable to the Employer.

\(^{20}\) Date of Letter of Acceptance or Agreement.
pay the cost of completion less the balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term “Balance of the Contract Price,” as used in this paragraph, shall mean the total amount payable by the Employer to the Contractor under the Contract, less the amount properly paid by the Employer to the Contractor; or

(3) pay the Employer the amount required by the Employer to complete the Contract in accordance with its terms and conditions up to a total not exceeding the amount of this Bond.

The Surety shall not be liable for a greater sum than the specified penalty of this Bond.

Any suit under this Bond must be instituted before the expiration of one year from the date of issuance of the Certificate of Completion.

No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Employer named herein or the heirs, executors, administrators, successors, and assigns of the Employer.

In testimony whereof, the Contractor has hereunto set its hand and affixed its seal, and the Surety has caused these presents to be sealed with its corporate seal duly attested by the signature of its legal representative, this [day] day of [month], [year].

Signed by ____________________________________________
on behalf of [name of Contractor] in the capacity of ____________________________________________

In the presence of ____________________________________________

Date ________________________________

Signed by ____________________________________________
on behalf of [name of Contractor] in the capacity of ____________________________________________

In the presence of ____________________________________________

Date ________________________________
Annex B Form: Bank Guarantee for Advance Payment

________________________________ [Bank’s Name, and Address of Issuing Branch or Office]

Beneficiary: ___________________ [Name and Address of Employer]

Date: ________________

ADVANCE PAYMENT GUARANTEE No.: ___________________

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

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

At the request of the Contractor, we _______________ [name of Bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [amount in figures] (_____________) [amount in words]21 upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation under the Contract because the Contractor used the advance payment for purposes other than the costs of mobilization in respect of the Works.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Contractor on its account number _______________ at __________________ [name and address of Bank].

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Contractor as indicated in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that eighty (80) percent of the Contract Price has been certified for payment, or on the ___ day of _____, 2__, whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

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

22 Insert the expected expiration date of the Time for Completion. The Employer should note that in the event of an extension of the time for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: “The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Employer’s written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.”
This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

[signature(s)]
SECTION XII. DRAWINGS

Notes for Preparing the Drawings

These Notes for Preparing the Drawings are intended only as information for the Employer or the persons preparing the bidding documents. They should not be included in the final documents.

A simplified map showing the location of the Roads or road sections included in the contract in relation to the remaining road network, local geography, human settlements, ports, airports, and railroads, is helpful.

The construction drawings, if any, especially those for Rehabilitation and Improvement Works, even if not fully developed, must show sufficient details to enable bidders to understand the type and complexity of the work involved and to price the Bill of Quantities.

It is customary to bind the drawings in a separate volume, which is often larger than other volumes of the Contract documents. The size will be dictated by the scale of the drawings which must not be reduced to the extent that details are rendered illegible.
SECTION XIII. DISPUTES SETTLEMENT PROCEDURE

(VERSION 1)

Disputes Review Board’s Rules and Procedures

1. Except for providing the services required hereunder, the Board Members shall not give any advice to either party concerning conduct of the Works. The Board Members:

(a) shall have no financial interest in any party to the Contract, or a financial interest in the Contract, except for payment for services on the Board;

(b) shall have had no previous employment by, or financial ties to, any party to the Contract, except for fee-based consulting services on other projects, all of which must be disclosed in writing to both parties prior to appointment to the Board;

(c) shall have disclosed in writing to both parties prior to appointment to the Board any and all recent or close professional or personal relationships with any director, officer, or employee of any party to the Contract, and any and all prior involvement in the project to which the Contract relates;

(d) shall not, while a Board Member, be employed whether as a consultant or otherwise by either party to the Contract, except as a Board Member, without the prior consent of the parties and the other Board Members;

(e) shall not, while a Board Member, engage in discussion or make any agreement with any party to the Contract, regarding employment whether as a consultant or otherwise either after the Contract is completed or after service as a Board Member is completed;

(f) shall be and remain impartial and independent of the parties and shall disclose in writing to the Employer, the Contractor, and one another any fact or circumstance that might be such as to cause either the Employer or the Contractor to question the continued existence of the impartiality and independence required of Board Members; and

(g) shall be fluent in the language of the Contract.

2. Except for its participation in the Board’s activities as provided in the Contract and in this Agreement none of the Employer, the Contractor, shall solicit advice or consultation from the Board or the Board Members on matters dealing with the conduct of the Works.

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23 This Section XIII contains alternative Rules and Procedures and Declaration of Acceptance for the Disputes Review Board and Disputes Review Expert, respectively. The Employer shall select the version of the Rules and Procedures corresponding to the version of Clause 6 that was selected in the General Conditions of Contract (and delete the other version from the final bidding documents).
3. The Contractor shall
   (a) Furnish to each Board Member one copy of all documents that the Board may request including Contract documents, progress reports, variation orders, and other documents pertinent to the performance of the Contract.
   (b) In cooperation with the Employer, coordinate the Site visits of the Board, including conference facilities, and secretarial and copying services.

4. The Board shall begin its activities following the signing of a Board Member’s Declaration of Acceptance by all three Board Members, and it shall terminate these activities as set forth below:
   (a) The Board shall terminate its regular activities when either (i) the Defects Liability Period referred to in Sub-Clause 41.2 (or, if there are more than one, the Defects Liability Period expiring last) has expired, or (ii) the Employer has expelled the Contractor from the Site pursuant to Sub-Clause 59.1, and when, in either case, the Board has communicated to the parties its Recommendations on all disputes previously referred to it.
   (b) Once the Board has terminated its regular activities as provided by the previous paragraph, the Board shall remain available to process any dispute referred to it by either party. In case of such a referral, Board Members shall receive payments as provided in paragraphs 7 (a) (ii), (iii), and (iv).

5. Board Members shall not assign or subcontract any of their work under these Rules and Procedures. However, the Board may in its discretion decide to seek independent expert advice on a particular specialized issue to assist in reaching a Recommendation, and the cost of obtaining any such expert opinion(s) shall be shared equally by the Employer and the Contractor in accordance with the procedure specified in paragraph 7 (d) below.

6. The Board Members are independent contractors and not employees or agents of either the Employer or the Contractor.

7. Payments to the Board Members for their services shall be governed by the following provisions:
   (a) Each Board Member will receive payments as follows:
      (i) A retainer fee per calendar month equivalent to two times the daily fee established from time to time for arbitrators under the Administrative and Financial Regulations of the International Centre for Settlement of Investment Disputes (the ICSID Arbitrator’s Daily Fee), or such other retainer as the Employer and Contractor may agree in writing. This retainer shall be considered as payment in full for:
         (A) Being available, on seven days’ notice, for all hearings, Site visits, and other meetings of the Board.
         (B) Being conversant with all project developments and maintaining relevant files.
(C) All office and overhead expenses such as secretarial services, photocopying, and office supplies (but not including telephone calls, faxes, and telexes) incurred in connection with the duties as a Board Member.

(D) All services performed hereunder except those performed during the days referred to in paragraph (ii) below.

(ii) A daily fee equivalent to the ICSID Arbitrator’s Daily Fee, or such other daily fee as the Employer and Contractor may agree in writing. This daily fee shall only be payable in respect of the following days and shall be considered as payment in full for:

(A) Each day up to a maximum of two days of travel time in each direction for the journey between the Board Member’s home and the Site or other location of a Board meeting.

(B) Each day on Site or other locations of a Board meeting.

(iii) Expenses. In addition to the above, all reasonable and necessary travel expenses (including less than first-class air fare, subsistence, and other direct travel expenses) as well as the cost of telephone calls, faxes, and telexes incurred in connection with the duties as Board Member shall be reimbursed against invoices. Receipts for all expenses in excess of US$25.00 (US. Dollars Twenty Five) shall be provided.

(iv) Reimbursement of any taxes that may be levied in the country of the Site on payments made to the Board Member (other than a national or permanent resident of the country of the Site) pursuant to this paragraph 8.

(b) Escalation. The retainer and fees shall remain fixed for the period of each Board Member’s term.

(c) Payments to the Board Members shall be shared equally by the Employer and the Contractor. The Contractor shall pay Members’ invoices within 30 calendar days after receipt of such invoices and shall invoice the Employer (through the monthly statements to be submitted in accordance with Clause 49 of the General Conditions of Contract) for one-half of the amounts of such invoices. The Employer shall pay such Contractor’s invoices within the time period specified in the Construction Contract for other payments to the Contractor by the Employer.

(d) Failure of either the Employer or the Contractor to make payment in accordance with this Agreement shall constitute an event of default under the Contract, entitling the nondefaulting party to take the measures set forth in the Contract.

(e) Notwithstanding such event of default, and without waiver of rights therefrom, in the event that either the Employer or the Contractor fails to make payment in accordance with these Rules and Procedures, the other party may pay whatever amount may be required to finance the operation of the Board. The party making such payments, in addition to all other rights arising from such default, shall be entitled to reimbursement.
of all sums paid in excess of one-half of the amount required to maintain operation of the Board, plus all costs of obtaining such sums.

8. Board Site Visits

(a) The Board shall visit the Site and meet with representatives of the Employer and the Contractor at regular intervals, at times of critical construction events, at the written request of either party, and in any case not less than two times in any period of 12 months. The timing of Site visits shall be as agreed among the Employer, the Contractor, and the Board, but failing agreement shall be fixed by the Board.

(b) Site visits shall include an informal discussion of the status of the Works and Services, an inspection of the Works and Services, and the review of any Requests for Recommendation made in accordance with paragraph 10 below. Site visits shall be attended by personnel from the Employer and the Contractor.

(c) At the conclusion of each Site visit, the Board shall prepare a report covering its activities during the visit and shall send copies to the parties.

9. Procedure for Dispute Referral to the Board:

(a) 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 stating that it is given pursuant to Clause 6 and stating clearly and in detail the basis of the dispute.

(b) The party receiving the Notice of Dispute will consider it and respond in writing within 14 days after receipt.

(c) This response shall be final and conclusive on the subject, unless a written appeal to the response is filed with the responding party within 7 days after receiving the response. Both parties are encouraged to pursue the matter further to attempt to amicably settle the dispute.

(d) When it appears that the dispute cannot be resolved without the assistance of the Board, or if the party receiving the Notice of Dispute fails to provide a written response within 14 days after receipt of such Notice, either party may refer the dispute to the Board by written Request for Recommendation to the Board. The Request shall be addressed to the Chairman of the Board, with copies to the other Board Members, the other party and it shall state that it is made pursuant to Clause 6.

(e) The Request for Recommendation shall state clearly and in full detail the specific issues of the dispute to be considered by the Board.

(f) When a dispute is referred to the Board, and the Board is satisfied that the dispute requires the Board’s assistance, the Board shall decide when to conduct a hearing on the dispute. The Board may request that written documentation and arguments from both parties be submitted to each Board Member before the hearing begins. The parties shall submit insofar as possible agreed statements of the relevant facts.
(g) During the hearing, the Contractor and the Employer shall each have ample opportunity to be heard and to offer evidence. The Board’s Recommendations for resolution of the dispute will be given in writing to the Employer and the Contractor as soon as possible, and in any event not more than 56 days after receipt by the Chairman of the Board of the written Request for Recommendation.

10. Conduct of Hearings

(a) Normally hearings will be conducted at the Site, but any location that would be more convenient and still provide all required facilities and access to necessary documentation may be utilized by the Board. Private sessions of the Board may be held at any cost-effective location convenient to the Board.

(b) The Employer and the Contractor shall be given the opportunity to have representatives at all hearings.

(c) During the hearings, no Board Member shall express any opinion concerning the merit of the respective arguments of the parties.

(d) After the hearings are concluded, the Board shall meet privately to formulate its Recommendations. All Board deliberation shall be conducted in private, with all Members’ individual views kept strictly confidential. The Board’s Recommendations, together with an explanation of its reasoning, shall be submitted in writing to both parties. The Recommendations shall be based on the pertinent Contract provisions, applicable laws and regulations, and the facts and circumstances involved in the dispute.

(e) The Board shall make every effort to reach a unanimous Recommendation. If this proves impossible, the majority shall decide, and the dissenting Member may prepare a written minority report for submission to both parties.

11. In all procedural matters, including the furnishing of written documents and arguments relating to disputes, Site visits, and conduct of hearings, the Board shall have full and final authority. If a unanimous decision on any such matter proves impossible, the majority shall decide.

12. After having been selected and, where necessary, approved, each Board Member shall sign two copies of the following declaration and make one copy available each to the Employer and to the Contractor:
BOARD MEMBER’S DECLARATION OF ACCEPTANCE

WHEREAS

(a) a Performance-Based Management and Maintenance of Roads Contract (the Contract) for the [name of project] project has been signed on [fill in date] between [name of Employer] (the Employer) and [name of Contractor] (the Contractor);

(b) Clause 6 of the General Conditions of Contract provides for the establishment and operation of a Disputes Review Board (the Board);

(c) the undersigned has been selected (and where required, approved) to serve as a Board Member on said Board;

NOW THEREFORE, the undersigned Board Member hereby declares as follows:

1. I accept the selection as a Board Member and agree to serve on the Board and to be bound by the provisions of Clause 6 of the General Conditions of Contract and the Disputes Review Board’s Rules and Procedures attached to the Conditions of Contract.

2. With respect to paragraph 1 of said Disputes Review Board’s Rules and Procedures, I declare

(a) that I have no financial interest of the kind referred to in subparagraph (a);

(b) that I have had no previous employment nor financial ties of the kind referred to in subparagraph (b); and

(c) that I have made to both parties any disclosures that may be required by sub-paragraphs (b) and (c).

BOARD MEMBER

__________________________________________

__________________________________________ [print name of Board Member]

Date: ________________________________
(VERSION 2)

Rules and Procedures for the Functions of the Disputes Review Expert (DRE)

1. Except for providing the services required hereunder, the DRE shall not give any advice to either party concerning conduct of the Works. The DRE:

   (a) shall have no financial interest in any party to the Contract, or a financial interest in the Contract, except for payment for his services;

   (b) shall have had no previous employment by, or financial ties to, any party to the Contract, except for fee-based consulting services on other projects, all of which must be disclosed in writing to both parties prior to selection as DRE;

   (c) shall have disclosed in writing to both parties prior to selection as DRE any and all recent or close professional or personal relationships with any director, officer, or employee of any party to the Contract and any and all prior involvement in the project to which the Contract relates;

   (d) shall not, while serving as DRE, be employed whether as a consultant or otherwise by either party to the Contract, except as a DRE, without the prior consent of the parties;

   (e) shall not, while serving as DRE, engage in discussion or make any agreement with any party to the Contract, regarding employment whether as a consultant or otherwise either after the Contract is completed or after service as DRE is completed;

   (f) shall be and remain impartial and independent of the parties and shall disclose in writing to the Employer, the Contractor, any fact or circumstance that might be such as to cause either the Employer or the Contractor to question the continued existence of the impartiality and independence required of a DRE; and

   (g) shall be fluent in the language of the Contract.

2. Except for its participation in DRE’s activities as provided in the Contract and in this Agreement, none of the Employer and of the Contractor, shall solicit advice or consultation from the DRE on matters dealing with the conduct of the Works.

3. The Contractor shall:

   (a) Furnish to the DRE a copy of all documents that he may request including Contract documents, progress reports, variation orders, and other documents pertinent to the performance of the Contract.
(b) In cooperation with the Employer, coordinate the Site visits of the DRE, including conference facilities, and secretarial and copying services.

4. The DRE shall begin his activities following the signing of a DRE’s Declaration of Acceptance, and he shall terminate these activities as set forth below:

(a) The DRE shall terminate his regular activities when either (i) the Defects Liability Period referred to in Sub-Clause 41.2 (or, if there are more than one, the Defects Liability Period expiring last) has expired, or (ii) the Employer has expelled the Contractor from the Site pursuant to Sub-Clause 59.1, and when, in either case, the DRE has communicated to the parties his Recommendations on all disputes previously referred to him.

(b) Once the DRE has terminated his regular activities as provided by the previous paragraph, the DRE shall remain available to process any dispute referred to him by either party. In case of such a referral, the DRE shall receive payments as provided in paragraphs 7 (a) (ii), (iii), and (iv).

5. The DRE shall not assign or subcontract any of his work under these Rules and Procedures. However, the DRE may in his/her discretion decide to seek independent expert advice on a particular specialized issue to assist in reaching a Recommendation, and the cost of obtaining any such expert opinion(s) shall be shared equally by the Employer and the Contractor in accordance with the procedure specified in paragraph 7 (d) below.

6. The DRE is an independent contractor and not an employee or agent of either the Employer or the Contractor.

7. Payments to the DRE for his services shall be governed by the following provisions:

(a) The DRE will receive payments as follows:

(i) A retainer fee per calendar month equivalent to three times the daily fee established from time to time for arbitrators under the Administrative and Financial Regulations of the International Centre for Settlement of Investment Disputes (the ICSID Arbitrator’s Daily Fee), or such other retainer as the Employer and Contractor may agree in writing. This retainer shall be considered as payment in full for:

(A) Being available, on seven days’ notice, for Site visits requested by either party.

(B) Being conversant with all project developments and maintaining relevant files.

(C) All office and overhead expenses such as secretarial services, photocopying, and office supplies (but not including telephone calls, faxes, and telexes) incurred in connection with the duties as a DRE.

(D) All services performed hereunder except those performed during the days referred to in paragraph (ii) below.
(ii) A daily fee equivalent to the ICSID Arbitrator’s Daily Fee, or such other daily fee as the Employer and Contractor may agree in writing. This daily fee shall only be payable in respect of the following days and shall be considered as payment in full for:

(A) Each day up to a maximum of two days of travel time in each direction for the journey between the DRE’s home and the Site.

(B) Each day on Site.

(iii) Expenses. In addition to the above, all reasonable and necessary travel expenses (including less than first-class air fare, subsistence, and other direct travel expenses) as well as the cost of telephone calls, faxes, and telexes incurred in connection with the duties as DRE shall be reimbursed against invoices. Receipts for all expenses in excess of US$25.00 (U.S. Dollars Twenty Five) shall be provided.

(iv) Reimbursement of any taxes that may be levied in the country of the Site on payments made to the DRE (other than a national or permanent resident of the country of the Site) pursuant to this paragraph 8.

(b) Escalation. The retainer and fees shall remain fixed for the period of the DRE’s term.

(c) Payments to the DRE shall be shared equally by the Employer and the Contractor. The Contractor shall pay the DRE’s invoices within 30 calendar days after receipt of such invoices and shall invoice the Employer (through the monthly statements to be submitted in accordance with Clause 49 of the General Conditions of Contract) for one-half of the amounts of such invoices. The Employer shall pay such Contractor’s invoices within the time period specified in the Construction Contract for other payments to the Contractor by the Employer.

(d) Failure of either the Employer or the Contractor to make payment in accordance with this Agreement shall constitute an event of default under the Contract, entitling the nondefaulting party to take the measures set forth in the Contract.

(e) Notwithstanding such event of default, and without waiver of rights therefrom, in the event that either the Employer or the Contractor fails to make payment in accordance with these Rules and Procedures, the other party may pay whatever amount may be required to finance the activities of the DRE. The party making such payments, in addition to all other rights arising from such default, shall be entitled to reimbursement of all sums paid in excess of one-half of the amount required to finance the activities of the DRE, plus all costs of obtaining such sums.

8. DRE Site Visits

(a) The DRE shall visit the Site and meet with representatives of the Employer and the Contractor at regular intervals, at times of critical construction events, at the written request of either party, and in any case not less than two times in any period of 12
months. The timing of Site visits shall be as agreed among the Employer, the Contractor, and the DRE, but failing agreement shall be fixed by the DRE.

(b) Site visits shall include an informal discussion of the status of the Works and Services, an inspection of the Works and Services, and the review of any Requests for Recommendation made in accordance with paragraph 10 below. Site visits shall be attended by personnel from the Employer and the Contractor.

(c) At the conclusion of each Site visit, the DRE shall prepare a report covering his activities during the visit and shall send copies to the parties.

9. Procedure for Dispute Referral to the DRE

(a) 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 stating that it is given pursuant to Clause 6 and stating clearly and in detail the basis of the dispute.

(b) The party receiving the Notice of Dispute will consider it and respond in writing within 14 days after receipt.

(c) This response shall be final and conclusive on the subject, unless a written appeal to the response is filed with the responding party within seven days after receiving the response. Both parties are encouraged to pursue the matter further to attempt to amicably settle the dispute.

(d) When it appears that the dispute cannot be resolved without the assistance of the DRE, or if the party receiving the Notice of Dispute fails to provide a written response within 14 days after receipt of such Notice, either party may refer the dispute to the DRE by written Request for Recommendation to the DRE. The Request shall be addressed to the DRE, with copies to the other party and it shall state that it is made pursuant to Clause 6.

(e) The Request for Recommendation shall state clearly and in full detail the specific issues of the dispute to be considered by the DRE.

(f) When a dispute is referred to the DRE, and the DRE is satisfied that the dispute requires his assistance, the DRE shall decide when to conduct a hearing on the dispute. The DRE may request that written documentation and arguments from both parties be submitted to him before the hearing begins. The parties shall submit insofar as possible agreed statements of the relevant facts.

(g) During the hearing, the Contractor and the Employer shall each have ample opportunity to be heard and to offer evidence. The DRE’s Recommendations for resolution of the dispute will be given in writing to the Employer and the Contractor as soon as possible, and in any event not more than 56 days after receipt by the DRE of the written Request for Recommendation.

10. Conduct of Hearings
Section XIII. Dispute Settlement Procedure

(a) Normally hearings will be conducted at the Site, but any location that would be more convenient and still provide all required facilities and access to necessary documentation may be utilized by the DRE.

(b) The Employer and the Contractor shall be given the opportunity to have representatives at all hearings.

(c) During the hearings, the DRE shall not express any opinion concerning the merit of the respective arguments of the parties.

(d) After the hearings are concluded, the DRE shall formulate his Recommendations and shall submit them in writing, together with an explanation of his reasoning, to both parties. The Recommendations shall be based on the pertinent Contract provisions, applicable laws and regulations, and the facts and circumstances involved in the dispute.

11. In all procedural matters, including the furnishing of written documents and arguments relating to disputes, Site visits, and conduct of hearings, the DRE shall have full and final authority.

12. After having been selected, the DRE shall sign two copies of the following declaration and make one copy available each to the Employer and to the Contractor:
DISPUTES REVIEW EXPERT’S DECLARATION OF ACCEPTANCE

WHEREAS

(a) a Performance-Based Management and Maintenance of Roads Contract (the Contract) for the [name of Project] project has been signed on [fill in date] between [name of Employer] (the Employer) and [name of Contractor] (the Contractor);

(b) Clause 6 of the General Conditions of Contract provides for the selection of a Disputes Review Expert (DRE);

(c) the undersigned has been selected to serve as the DRE;

NOW THEREFORE, the undersigned DRE hereby declares as follows:

1. I accept the selection as a DRE and agree to serve in this capacity and to be bound by the provisions of Clause 6 of the General Conditions of Contract and the Disputes Review Expert’s Rules and Procedures attached to the Conditions of Contract.

2. With respect to paragraph 1 of said Disputes Review Expert’s Rules and Procedures, I declare

   (a) that I have no financial interest of the kind referred to in subparagraph (a);

   (b) that I have had no previous employment nor financial ties of the kind referred to in subparagraph (b); and

   (c) that I have made to both parties any disclosures that may be required by sub-paragraphs (b) and (c).

DISPUTES REVIEW EXPERT

__________________________________________________________________________

__________________________________________________________________________ [print name of DRE]

Date: ___________________________________________________________________
SECTION XIV. POSTQUALIFICATION

Notes on the Form of Invitation for Bids

The bidding documents have been prepared assuming that prequalification has taken place. Exceptionally, with previous Bank approval, postqualification might be appropriate, and, in such a case, the following Section XIV provides the necessary changes to the documents.

If bids are invited openly from contractors without using a prequalification procedure, the Invitation for Bids should be issued directly to the public (see *IBRD Guidelines for Procurement*, paras. 2.7 and 2.8) as

(a) a General Procurement notice (for procurement by ICB) in UN Development Business;

(b) an advertisement in at least one newspaper of general circulation in the Employer’s country and in the official gazette, if any;

(c) an advertisement in *Development Business* and/or well-known technical magazines for large or important contracts; and

(d) a letter addressed to contractors who, following the publication of the General Procurement Notice, have expressed interest in bidding for the Works.

Its purpose is to supply information to enable potential bidders to decide on their participation. Apart from the essential items listed in the standard documents, the Invitation for Bids should also indicate any important bid evaluation criteria (for example, the application of a margin of preference in bid evaluation).

The Specific Invitation for Bids (see sample) should be incorporated in the bidding documents and should be consistent with the information contained in the Bidding Data.
SPECIFIC PROCUREMENT NOTICE
SAMPLE FORMAT FOR INVITATION FOR BIDS

[NAME OF COUNTRY]

[NAME OF PROJECT]

[BRIEF DESCRIPTION OF GOODS/WORKS]

Loan/Credit No.

Contract/Bid No.

This invitation for bids follows the general procurement notice for this project that appeared in Development Business No. [insert number] of [insert date].

The [insert name of Borrower] has received/has applied for/intends to apply for a [loan/credit] from the [International Bank for Reconstruction and Development (IBRD)/International Development Association (IDA)] toward the cost of the [insert name of Project], and it intends to apply part of the proceeds of this [loan/credit] to payments under the contract for [insert name/no. of Contract]. The [insert name of implementing agency] now invites sealed bids from eligible bidders for [insert description of goods or works to be procured]. The delivery/construction period is [insert number of days/months/years or dates].

Bidding will be conducted through the international competitive bidding procedures specified in the World Bank’s Guidelines: Procurement under IBRD Loans and IDA Credits, January 1995 (revised

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25 [Insert the following if applicable]. This Contract will be jointly financed by [insert name of cofinancing agency]. Bidding will be governed by the World Bank’s eligibility rules and procedures.

26 A brief description of the type(s) of goods or Works should be provided, including quantities, location of Project, and other information necessary to enable potential bidders to decide whether or not to respond to the invitation. Bidding documents may require bidders to have specific experience or capabilities; such restrictions should also be included in this paragraph.

27 Insert this sentence if applicable.
Section XIV. Postqualification

January and August 1996 and September 1997), and is open to all bidders from eligible source countries as defined in the guidelines.

Interested eligible bidders may obtain further information from and inspect the bidding documents at the [insert name of agency] at the address below [state address at end of document] from [insert office hours]. A complete set of bidding documents in [insert name of language] may be purchased by interested bidders on the submission of a written application to the address below and upon payment of a nonrefundable fee of [insert amount in local currency] or in [insert amount in specified convertible currency]. The method of payment will be [insert method of payment]. The document will be sent by [insert delivery procedure].

Bids must be delivered to the address below by [insert time and date]. All bids must be accompanied by a bid security of [insert amount in local currency or minimum percentage of bid price] or an equivalent amount in a freely convertible currency. Late bids will be rejected. Bids will be opened in the presence of bidders’ representatives who choose to attend at the address below at [insert time and date].

[Insert name of office]

[Insert name of officer]

[Insert postal address and/or street address]

Tel: [Indicate country and city code]

Fax: [Indicate country and city code]

E-mail:

Statement of Qualification

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28 Occasionally, contracts may be financed out of special funds that would further restrict eligibility to a particular group of member countries. When this is the case, it should be mentioned in this paragraph. Also indicate any margin of preference that may be granted as specified in the loan or credit agreement and set forth in the bidding documents.

29 For example, 0900 to 1200 hours.

30 The fee, to defray printing and mailing/shipping costs, should be nominal.

31 For example, cashier’s check, direct deposit to specified account number, etc.

32 The delivery procedure is usually airmail for overseas delivery and surface mail or courier for local delivery. If urgency or security dictates, courier services may be required for overseas delivery.

33 The amount of bid security should be stated as a fixed amount or as a minimum percentage of the Bid Price. Alternatively, if a bid security is not required (often the case in supply contracts), the paragraph should so state.

34 The office for bid opening may not necessarily be the same as that for inspection or issuance of documents or for bid submission. If they differ, each address must appear at the end of the notice and be numbered; as, for example, (1), (2), (3). The text in the paragraph would then refer to address (1), (2), etc. Only one office and its address may be specified for submission, and it should be near the place where bids will be opened.
In the event of postqualification being required, bidders should complete all the forms and tables of and provide all the information required by the Standard Prequalification Document: Procurement of Works, September 1999, (revised March 2000). The Employer must, in that case, provide the qualification criteria as indicated therein. Such approach requires modifications to Clauses 3 and 5 of the Instructions to Bidders and Bidding Data and prior approval by the Bank. This information will not be incorporated in the Contract.

**Qualification of the Bidder**

Modification to Section IIA, Instructions to Bidders

To be used where prequalification has not taken place

Sub-Clause 3.1 (c)  
Eligible Bidders  
Delete.

Sub-Clauses 5.1 to 5.4  
Delete and substitute the following:

Sub-Clause 5.1  
Qualification of the Bidder  
To be qualified for award of the Contract, bidders shall provide evidence satisfactory to the Employer of their capability and adequacy of resources to carry out the Contract effectively. Bids shall include the following documentation and information on the relevant Information Forms (IF) attached:

(a) copies of original documents defining the constitution or legal status, place of registration and principal place of business; written power of attorney of the signatory of the Bid to commit the bidder;

(b) total annual turnover in the civil works construction business expressed as total of payment certificates for work performed in each of the last five years;

(c) performance as prime contractor, management contractor, or proportionately as member of a joint venture or subcontractor, on works of a similar nature and complexity over the last five years, and details of other work in hand and contractual commitments;

(d) major items of Contractor’s Equipment proposed for carrying out the Contract;

(e) the qualifications and experience of key personnel proposed for administration and execution of the Contract, both on and off site;

(f) any proposals for subcontracting elements of the Works such that the
total of subcontracting is more than 20 percent of the Bid Price;

(g) detail proposals for subcontracting any highly specialized elements of the Works to named specialist subcontractors;

(h) reports on the financial standing of the bidder including profit and loss statements, balance sheets and auditor’s reports for the past five years, and an estimated financial projection for the next two years;

(i) evidence of access to lines of credit and availability of other financial resources;

(j) authority to seek references from the bidder’s bankers;

(k) information regarding any litigation or arbitration resulting from contracts executed by the bidder in the last five years or currently under execution. The information shall include the names of the parties concerned, the disputed amount, cause of litigation, and matter in dispute; and

(l) proposal of work methods and program, in sufficient detail to demonstrate the adequacy of the bidder’s proposals to meet the technical specifications and the completion time referred to in Sub-Clause 1.2 above.

Sub-Clause 5.2

Bids submitted by a joint venture of two or more firms as partners shall comply with the following requirements:

(a) the Bid shall include all the information listed in Sub-Claus 5.1 (a) to (e) and (h) to (k) above for each joint venture partner and 5.1 (f), (g), and (l) for the joint venture;

(b) the Bid, and in case of a successful Bid, the Form of Agreement, shall be signed so as to be legally binding on all partners;

(c) one of the partners shall be nominated as being in charge, and this authorization shall be evidenced by submitting a power of attorney signed by legally authorized signatories of all the partners;

(d) the partner in charge shall be authorized to incur liabilities and receive instructions for and on behalf of any and all partners of the joint venture, and the entire execution of the Contract, including payment, shall be done exclusively with the partner in charge;
(f) a copy of the Joint Venture Agreement entered into by all partners shall be submitted with the bid. Alternatively, a Letter of Intent to execute a Joint Venture Agreement in the event of a successful bid shall be signed by all partners and submitted with the bid, together with a copy of the proposed Agreement.

Sub-Clause 5.3

For the purposes of this particular Contract, bidders shall meet the following minimum qualifying criteria.\(^\text{35}\)

(a) annual turnover in construction work, during the last five years, of \([\text{insert figure in international trading currency}]\)\(^2\) equivalent;

(b) successful experience as prime contractor, management contractor, partner in a joint venture, or subcontractor, in the execution of at least one project of a nature and complexity comparable to the Works within the last five years; this experience should include \([\text{insert requirements}]\);\(^3\)

(c) proposals for timely acquisition (own, lease, hire, etc.) of the following essential Contractor’s Equipment: \([\text{list equipment}]\)

(d) a project manager with 10 years’ experience in works of a comparable nature and complexity, including not less than five years as manager;\(^4\)

(e) liquid assets and/or evidence of access to or availability of credit facilities of no less than \([\text{insert figure in international trading currency}]\) equivalent.\(^5\)

Sub-Clause 5.4

The figures for each of the partners of a joint venture shall be added together to determine the bidder’s compliance with the minimum qualifying criteria set out in Sub-Clause 5.3 above.

Sub-Clause 5.5

Domestic bidders and joint ventures of domestic bidders applying for eligibility for a 7\(\frac{1}{2}\) percent margin of preference in bid evaluation shall supply all information required to satisfy the criteria for eligibility as

\(^{35}\) Delete from or add to the list as appropriate.

\(^{36}\) Usually not less than 2.0 times the estimated annual payments under the Contract.

\(^{37}\) Indicate an annual production rate for the key construction activity (or activities) in this project, e.g., “One million m\(^3\) of rock placed in rockfill dams in one year.” The annual rate shown should be a percentage (say 80 percent) of the expected peak rate of construction for the key activity (or activities) in the Works.

\(^{38}\) Add requirements for other key personnel as necessary.

\(^{39}\) Usually the equivalent of the estimated cash flow over a number of months at the average (straight line distribution) construction rate, accessible or available after taking into account the financial requirements of existing commitments. Assuming payment by monthly interim certificates, the number of months is determined from the start of a work month as the total time needed by the Employer to pay an invoice, allowing time to prepare the invoice, for the Engineer’s time to certify it, and a one-month contingency. The total period should not exceed six months.
described in Clause 32 of these Instructions to Bidders.\footnote{Delete Sub-Clause 5.5 where not applicable (see Clause 32).}

**Sub-Clause 5.6**

The qualifications, capacity, and resources of proposed subcontractors will not be taken into account in assessing those of individual or joint venture bidders, unless they are named specialist subcontractors and the scope of their specialized participation in the Works is clearly defined in the bid.

**Bidding Data (Section III)**

Delete section 5.1 “Prequalification information to be updated.”
SECTION XV. ELIGIBILITY

Public Information Center

Eligibility for the Provision of Goods, Works, and Services in Bank-Financed Procurement

As of June 2003

For the information of borrowers and bidders, and with reference to paragraph 1.6, footnote 9, of the Guidelines: Procurement under IBRD Loans and IDA Credits, dated January 1995 (revised January and August 1996, September 1997, and January 1999), set forth below is a list of countries from which bidders, goods, and services are not eligible to participate in procurement financed by the Bank or IDA.

- Andorra
- Cuba
- Democratic People’s Republic of Korea (North Korea)
- Liechtenstein
- Monaco
- Nauru
- San Marino
- Tuvalu

In addition, bidders, goods, and services from other countries or territories may be declared ineligible by a provision in bidding documents if the borrower’s country has excluded them by a law, official regulation, or act of compliance meeting the requirements of paragraph 1.8 (a) of the Guidelines: Procurement under IBRD Loans and IDA Credits.

The Loan Agreement also prohibits a withdrawal from the Loan for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the Bank, is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations. At the present time, this prohibition applies to:

- No countries under sanctions as of May 2003

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42 Any questions regarding this list should be addressed to the Director, Procurement Policy and Services Group, Operational Core Services Network.