



INVITATION TO TENDER

Tender No.: *BVIPA/2026-05*

CONSTRUCTION OF GENERAL CARGO WAREHOUSE AT PORT PURCELL, TORTOLA, BRITISH VIRGIN ISLANDS

MAY 2026

**BRITISH VIRGIN ISLANDS PORT AUTHORITY
PORT PURCELL, TORTOLA
BRITISH VIRGIN ISLANDS**

INVITATION TO TENDER

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1. INSTRUCTIONS TO TENDERERS (ITT)

1.1. Description of Works

- 1.1.1. The British Virgin Islands Ports Authority (hereinafter referred to as the “Employer”) invites tenders for the erection of the General Cargo Warehouse at Port Purcell, Tortola inclusive of demolition, excavation and site clearance, construction of footings, columns and slab, and erection of the steel frame structure as described in the Drawings, Specifications and Bill of Quantities (hereinafter referred to the “Works”).

Scope of Works

The proposed works comprise of providing all plant, labour, equipment and materials and performing all operations in connection with the following:

1. Erection of perimeter fencing to secure works
2. Demolition and removal of existing slab and foundations
3. Construction of foundations, walls, columns, slab and ramps
4. Backfilling and compaction
5. Erection of client supplied steel frame structure
6. Traffic management and control
7. Facilitating work for all utilities and drainage as necessary

at Port Purcell, Tortola, British Virgin Islands in accordance with the drawings and specifications.

- 1.1.2. Funding for these works will be through the Employer.

- 1.1.3. The Employer’s appointed representative shall be referred to as the "Project Manager". The term "Agent" within all documents shall cover consultants working under the authority of the Project Manager. The term "Tenderer" shall refer to the prospective contractor.

1.2. Eligibility and Qualification Requirements

- 1.2.1. **Unless the Tender Data Sheet (TDS) specifies otherwise**, this invitation to tender is open to any Contractor, locally and domiciled in the Virgin Islands.
- 1.2.2. Tenders submitted by joint venture or more than one firm, as partners shall comply with the following requirements:

- 1.2.3. The tender, (and later in case of a successful tender the Form of Agreement), shall be signed so as to be legally binding on all partners;
- 1.2.4. One of the partners shall be nominated as being in charge; and submitting a power of attorney signed by legally authorized signatories of all the partners shall evidence this authorization;
- 1.2.5. All partners of joint venture shall be liable jointly and severally for the execution of the Contract, and a relevant statement to this effect shall be included in the Form of Tender and the Form of Agreement (in case of a successful Tender); and
- 1.2.6. A copy of the agreement entered into by the joint venture partners shall be submitted with the Tender.
- 1.2.7. **Tenderers may submit only one tender for this Invitation to Tender.** Submission by a Tenderer of more than one tender will result in the disqualification of the tenders.
- 1.2.8. The Tenderer shall submit with his tender all necessary evidence to establish that both he and any named sub-contractor meet the qualifying criteria.

1.3. Cost of Tendering

- 1.3.1. The Tenderer shall bear all costs associated with the preparation and submission of his tender. The Employer will not accept responsibility or liability for these costs whatsoever, regardless of the outcome of the tendering process.

1.4. Site Visit/Pre-Tender Meeting

- 1.4.1. The Tenderer is advised to visit and examine the Site of Works and its surroundings and obtain for himself on his own responsibility all information that may be necessary for preparing the tender and entering into a Contract. The costs of visiting the Site shall be at the Tenderer's own expense.
- 1.4.2. The Tenderer and any of his personnel or agents will be granted permission by the Employer to enter unto the premises and lands for the purpose of such inspection, but only upon the express conditions that the Tenderer, his personnel or agents, will release and indemnify the Employer and his

personnel and agents from and against all liability in respect thereof and will be responsible for personal injury (whether fatal or otherwise), loss of or damage to property and any other loss, damage, costs and expenses however caused, which, but for the exercise of such permission would not have arisen.

- 1.4.3. The Tenderer and any of his personnel or agents are invited to a virtual pre-tender meeting at the date and time included in the TDS. Tenderers will be provided with credentials including the access code and password prior to the meeting.
- 1.4.4. The purpose of the pre-tender meeting will be to clarify issues or concerns and to answer questions on any matter that may be raised at that stage.

1.5. Content of Tender Documents

The documents issued for the purpose of this Invitation to Tender are detailed below, together with any Addenda thereto issued in accordance with Clause 1.8:

- i. Invitation to Tender
- ii. Instructions to Tenderers
- iii. Form of Tender, Appendix –A, Schedules
- iv. Form of Performance Security
- v. Tender Data Sheet (TDS)
- vi. Certification of Visit to Site
- vii. Form of Agreement
- viii. General Conditions of Contract
- ix. Particular Conditions
- x. Bill of Quantities
- xi. Drawings and Specifications

- 1.5.1. The Tenderer shall carefully examine all documents. Failure to comply with the requirements of tender submission will be at the Tenderer's own risk.
- 1.5.2. Tenders which are not substantially responsive to the requirements of the tender documents and/or who which fail to meet the technical requirements will be rejected.

1.6. Clarification of Tender Documents

- 1.6.1. Tenderers requiring clarification of the tender documents may notify the Employer in writing (including electronic mail) at the address indicated in the TDS no later than the time stated in the TDS.
- 1.6.2. The Employer will respond in writing (including electronic mail) to any request for clarification, which he receives earlier than the time provided in the TDS.
- 1.6.3. Written copies of the response, including a description of the inquiry but without identifying its source, will be sent to all Tenderers.

1.7. Language of Tender

- 1.7.1. The tender language is English. If permitted in the TDS, supporting documents and printed literature furnished by the Tenderer may be in another language provided they are accompanied by an appropriate translation of pertinent passages into English. In case of conflict between the original document and English translation, the English translation shall prevail.

1.8. Amendment of Tender Documents

- 1.8.1. At any time prior to the deadline for submission of tenders, the Employer may, for any reason, whether at his own initiative or in response to a request for clarification by a prospective Tenderer, modify the tender documents by the issue of an Addendum.
- 1.8.2. Any Addendum will be sent in writing (including electronic mail) to all prospective Tenderers and will be binding upon them. Prospective Tenderers shall promptly acknowledge receipt thereof to the Employer.

- 1.8.3. In order to afford Tenderers reasonable time in which to take any Addendum into account in preparing their tenders, the Employer may at his discretion, extend the deadline for the submission of tenders.

1.9. Alterations to Tender Documents

- 1.9.1. Tenderers may not alter any of the documents. Any modification, which a Tenderer may think is necessary, should be detailed and forwarded to the Employer no later than the time stated in the TDS prior to the deadline for the submission of tenders. The Employer is not obligated to accept a request for modification of the tender documents.

1.10. Documents Comprising the Tender

- 1.10.1. Tenders shall be submitted in strict compliance with all the requirements as set out in this Invitation to Tender.

- 1.10.2. The Tender to be prepared by the Tenderer shall comprise the following:

1. A completed Form of Tender in accordance with **Section 7**. This form must be completed without alteration to its wording or format, and no substitutes shall be accepted except for the one provided;
2. Priced Bill of Quantities in accordance with **Section 9**;
3. A list of projects undertaken by the Tenderer within the past ten (10) years that demonstrate the Tenderer's experience in delivering similar projects in the form included in **Section 10**;
4. A list of Current Contract Commitments/Work in Progress form included in **Section 11**;
5. An Organizational Chart showing management structure including contact details of the key members of the organization that are to be involved with this tender, including the proposed project manager and contractor's representative (on site).
6. A detailed Work Programme and Method Statement showing the order in which the various sections of works are to be executed, the rates of progress.

7. Tenderers will be required to provide proof that the company or individual is in good standing with respect to taxes, duties, social security and national health insurance contributions, company registration, or payments due to the Government of the Virgin Islands. Certificates of Good Standing must be obtained from the Director of Social Security Board and National Health Insurance, and the Commissioner of Inland Revenue;
8. Tenderers registered as companies in the British Virgin Islands are required to submit a Certificate of Good Standing and a Certificate of Incorporation from the Commercial Registry;
9. Tenderers operating in the British Virgin Islands are required to submit a Trade License (valid for 2026) specific for the type of work detailed in the tender document (If Partnership or Sole Proprietorship).
10. Companies not registered or operating in the British Virgin Islands are required to provide a valid business license or equivalency as proof of authorization to operate a business in the area of the required expertise in its jurisdiction of operation.
11. Any other materials required to be completed and submitted in accordance with the Instructions to Tenderers embodied in these Tender Documents. The Forms, and Bill of Quantities provided in these Tender Document shall be used without exception.

1.11. Tender Prices

- 1.11.1. The Tenderer shall submit prices in accordance with the instructions in **Section 9**.
- 1.11.2. The Tenderer accepts that any and all omissions or errors in his pricing are his responsibility.
- 1.11.3. The Tenderer accepts full responsibility for the accuracy of all prices provided in his tender and agrees that these prices include full provision for any increase in his costs for whatsoever reason over the period of time from his submission of tender to completion of the project and settlement of the final account.

- 1.11.4. The Tenderer's prices shall take account of all provisions for the performance of his work, including but not necessarily limited to all costs fees and currency exchange rates, etc.

1.12. Currencies of Tender and Payment

- 1.12.1. The Tender Price and any subsequent payments shall be entirely in US Dollars.

1.13. Tender Validity Period

- 1.13.1. Tenders shall remain valid and open for acceptance for the period stated in the TDS after the date of tender opening prescribed in Clause 1.18.
- 1.13.2. In exceptional circumstances, prior to expiry of the tender validity period, an extension may be requested to the tender validity period. The request and response thereto shall be by writing (including electronic mail).

1.14. Tender Security

- 1.14.1. If required in the TDS, the Tenderer shall provide a Tender Security for the sum not less than the amount stated in the TDS in the form as attached to this Invitation to Tender.
- 1.14.2. The Tender Security shall be provided in the form of a bank guarantee, banker's draft, certified cheque, or a bond provided by an Insurance agency. The guarantee shall be independent, payable on first demand and valid for a period of not less than 60 days beyond the tender validity period.
- 1.14.3. **Any tender not accompanied by a Tender Security shall be deemed to be invalid and will be rejected by the Employer.**
- 1.14.4. The Tender Securities of Tenderers who have not been selected will be released not later than 60 days after the expiration of tender validity period.
- 1.14.5. The Tender Securities of the successful Tenderers shall be discharged when the Tenderer has signed the Contract.
- 1.14.6. The Tender Security may be called without notice if the Tenderer withdraws his tender during the tender validity period. In the case of a

successful Tenderer, the Tender Security may be called without notice if he fails to sign the Contract.

1.15. Variant Solutions

- 1.15.1. Tenderers shall submit offers which comply fully with the requirements of the Tender Document.
- 1.15.2. If permitted in the TDS, tenderers wishing to offer unsolicited technical alternatives to the requirements of the Tender Document must first price the basic technical requirements of the tender documents and shall further provide all information necessary for a complete evaluation of the alternative by the Employer, including design calculations, technical specifications, breakdown of prices, proposed construction methodology and other relevant details. Only the technical alternatives, if any, of the lowest evaluated Tender on the basic technical requirements shall be considered by the Employer.

1.16. Format and Signing of Tenders

- 1.16.1. The Tenderer shall prepare **one (1) original and three (3) copies plus one (1) flash drive** of the documents comprising the Tender, as described in Clause 1.10 of these Instructions to Tenderers and place these documents in envelopes clearly marked "ORIGINAL" and "COPY" as appropriate. In the event of any discrepancy between them, the original shall prevail.
- 1.16.2. The original and copies of the Tender shall be typed or written in indelible ink and shall be signed by a person/persons authorized to bind the Tender to the Contract. If required, proof of authorization shall be furnished in the form of a written Power of Attorney, which shall accompany the Tender.
- 1.16.3. The completed Tender shall be without alterations or interlineations or erasures, except those to accord with instructions from the Employer, or as necessary to correct errors made by the Tenderer, in which case such corrections shall be initialed by the person or persons signing the Tender.
- 1.16.4. One Tender may be submitted by each Tenderer except in the case of variant solutions pursuant to Sub-Clause 1.15.

1.17. Sealing and Marking of Tenders

1.17.1. The Tenderer should submit **one (1) original and three (3) copies plus one (1) flash drive** of the Tender. The original should be placed in a sealed envelope and marked **“Original”** and the copies placed in another sealed envelope and marked **“Copy”**. Both envelopes should be placed in an outer envelope and marked **“Construction of General Cargo Warehouse at Port Purcell”**

1.17.2. The inner and outer envelopes shall:

1. Be addressed to:

Acting Managing Director
BVI Ports Authority
Administration Building
Port Purcell, Tortola
VG1110 British Virgin Islands

2. Bear the following identification:

- **“Tender for Construction of General Cargo Warehouse at Port Purcell, Tortola, British Virgin Islands”.**
- The words **“DO NOT OPEN BEFORE 10:00 am on Friday, 3rd July 2026”.**

The inner envelopes only shall indicate the names and address of the Tenderer to enable the Tender to be returned unopened in case it is declared late or otherwise unacceptable.

1.17.3. If the outer envelope is not sealed and marked as instructed above, the Employer will assume no responsibility for misplacement or premature opening of the Tender, which if opened prematurely for this cause may be rejected by the Employer and returned to the Tenderer.

1.18. Submission of Tenders

1.18.1. Tenders must be received by the Employer at the address specified in Clause 1.17.2 no later than the date and time provided in the TDS.

- 1.18.2. When submitting a Tender, the Tenderer may request that a Certificate of Submittal be signed by a representative of the Procurement Unit.
- 1.18.3. The Employer may, at his discretion, extend the deadline for submission of tenders by issuing an amendment in accordance with Clause 1.8, in which case all rights and obligations of the Employer and the Tenderer previously subject to the original deadline shall thereafter be subject to the new deadline as extended.

1.19. Late Tenders

- 1.19.1. Late Tenders are not permitted. Any tender received by the Employer after the deadline for Submission of Tender in accordance with Clause 1.18 shall be deemed never to have been received and will be returned unopened to the Tenderer.

1.20. Modification and Withdrawal of Tenders

- 1.20.1. A Tenderer may modify or withdraw his tender after Tender Submission, provided that the modification notice or withdrawal is received in writing by the Employer prior to the prescribed deadline for Submission of Tenders.
- 1.20.2. The Tenderer's modification or notice of withdrawal shall be prepared, sealed, marked and delivered in accordance with the provisions of Clause 1.17 for the submission of tenders, with the inner envelopes marked "MODIFICATION" or "WITHDRAWAL" as appropriate.
- 1.20.3. No tender may be modified subsequent to the deadline for submission of tenders.

1.21. Tender Opening

- 1.21.1. The Employer will open the Tenders, including submissions made pursuant to Clause 1.20, in the presence of any of the Tenderer's representatives who choose to attend, at the date and time included in the TDS. Tenderers are invited to witness this process via a virtual platform and will be provided with credentials including the access code and password prior to the opening.
- 1.21.2. Tenders for which an acceptable notice of withdrawal has been submitted pursuant to Clause 1.20 shall not be opened. The Employer will examine

Tenders to determine whether they are complete, whether the documents have been properly signed, and whether the Tenders are generally in order.

- 1.21.3. At the Tender opening, the Employer will announce the Tenderer's names, the Tender prices, and written notifications of tender modifications and withdrawals, if any.
- 1.21.4. The Employer shall prepare for his own records minutes of the Tender opening, including the information disclosed to those present in accordance with Sub-Clause 1.21.3.

1.22. Process to be Confidential

- 1.22.1. After the public opening of tenders, information relating to the examination, clarification, evaluation and comparison of tenders and recommendations concerning the award of contract, shall not be disclosed to Tenderers, or other persons not officially concerned with such process until the award of the Contract to the successful Tenderer has been announced.
- 1.22.2. Any effort by a Tenderer to influence the Employer in the process of examination, clarification, evaluation and comparison of tenders, and in decisions concerning the award of contract, may result in rejection of the Tenderer's Tender.

1.23. Clarification of Tenders

- 1.23.1. To assist in the examination, evaluation and comparison of Tenders the Employer may ask Tenderers individually for clarification of their tenders, including breakdowns of unit rates.
- 1.23.2. The request for clarification and the response shall be in writing (including electronic mail).
- 1.23.3. No change in price or substance of the tender shall be sought, offered or permitted except as required to confirm the correction of arithmetic errors discovered by the Employer during the evaluation of the Tender in accordance with Clause 1.25.

1.24. Determination of Responsiveness

- 1.24.1. Prior to the detailed evaluation of tenders, the Employer will determine whether each tender is substantially responsive to the requirements of the tender documents.
- 1.24.2. For the purpose of this Clause, a substantially responsive Tender is one which conforms to all the terms, conditions and specifications of the Tender Documents without material deviation or reservation. A material deviation or reservation is one which affects in any substantial way, the scope, quality or performance of the Works, or which limits in any substantial way, the Employer's rights or the Tenderer's obligations under the Contract, the rectification of which would affect unfairly the competitive position of other Tenderers presenting substantially responsive tenders.
- 1.24.3. If a Tender is not substantially responsive to the requirements of the Tender Documents, it will be rejected by the Employer. It may not subsequently be made responsive by the Tenderer correcting or withdrawing the non-conforming deviation or reservation.

1.25. Correction of Errors

- 1.25.1. Tenders determined to be substantially responsive will be checked by the Employer for arithmetic errors in computation and summation. The Employer will correct errors as follows:
 1. Where there is a discrepancy between amounts in figures and in words, the amount in words will govern; and,
 2. Where there is a discrepancy between the unit rate and the total amount derived from the multiplication of the unit rate and the quantity, the unit rate 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 event the total amount as quoted will govern and the unit rate will be corrected.
- 1.25.2. The amount stated in the Form of Tender will be adjusted by the Employer in accordance with the above procedure for correction of errors and, with the concurrence of the Tenderer, shall be considered as binding upon the Tenderer. If the Tenderer does not accept the corrected amount of Tender, his Tender will be rejected.

1.26. Evaluation and Comparison of Tenders

- 1.26.1. The Employer will evaluate and compare only tenders considered to be substantially responsive to the requirements of the Tender Documents, in accordance with Clause 1.24.
- 1.26.2. In evaluating tenders, the Employer will determine for each tender the Evaluated Tender Price by adjusting the Tender Price as follows:
 1. Making any corrections or errors pursuant to Clause 1.25.
 2. Including Day Work priced competitively.
 3. Making an appropriate adjustment for any other acceptable quantifiable variations, deviations or alternative offers not reflected in the Tender Price or in the above-mentioned adjustments.
 - The Employer reserves the right to accept or reject any variation, deviation or alternative offer. Variations, deviations, alternative offers and factors which are in excess of the requirements of the Tender Documents or otherwise result in the accrual of unsolicited benefits to the Employer shall not be taken into account in tender evaluation.
 - If the Tender of the successful Tenderer is seriously unbalanced in relation to the Employer's estimate of the real cost of work to be performed under the Contract, the Employer may require that the amount of the Performance Guarantee (see Clause 1.30) set forth in this Contract be increased at the expense of the successful Tenderer, to a level sufficient to protect the Employer against financial loss in the event of subsequent default of the successful Tenderer under the Contract.

1.27. Award Criteria

- 1.27.1. Subject to Clause 1.28 and Clause 1.29, the Employer will award the Contract to the Tenderer whose Tender has been determined to be substantially responsive to the Tender Documents, and who has offered the most advantageous tender pursuant to Clause 1.28, provided further that the Tenderer has, in the opinion of the evaluating committee, clearly

demonstrated the capability and resources to carry out the Contract effectively.

1.27.2. The tenderers are to achieve a minimum score of 70 points to be considered for award of contract. The Tenderer with the lowest priced bid in consideration of the independent estimate after achieving the minimum score will be invited to negotiate a contract. During the contract negotiations the Employer reserves the right to conduct a value engineering exercise to alter, amend, modify, or withdraw proposals regarding the scope of works.

1.28. Evaluation Criteria

1.28.1. The competitive tendering process, which is supervised by the Central Tenders Board in the Ministry of Finance, will be utilized to ensure that the procurement process is transparent and that tenders are evaluated fairly to ascertain the lowest evaluated tender that is most technically and economically sound.

1.28.2. The Tenderers’ response to the Employer’s requirements will be evaluated under the following criteria with relative weights:

Table Tender evaluation criteria and relative weights

Evaluation Criteria	Maximum Score (100 points)
<p>Qualifications</p> <ul style="list-style-type: none"> • Identify a Construction Project Manager and Surveyor with academic qualifications and 5 to 10 years experience in construction works. Provision of a clearly defined organizational chart outlining all roles and interactions. (15 – 25 pts) • Identify a Construction Manager with 5 to 10 years experience in construction works but no academic qualifications Organizational Chart is provided but roles are not clearly defined. (9 – 14 pts) • Identify Construction Project Manager with less than 5 years experience but no academic qualifications. Organizational chart is generic and not relevant (1 – 8 pts) 	25

<p>Work Programme</p> <ul style="list-style-type: none"> • Provide a work programme that pertains to this particular project that outlines with clarity all the tasks and summary stages of the 	20
<p>project; demonstrates clearly how the project will be executed (11 – 20 pts)</p> <ul style="list-style-type: none"> • Work programme is sufficient, but provides general summaries of tasks (6 – 10 pts) • Work programme is very limited and generic (1 – 5 pts) 	
<p>Method Statement</p> <ul style="list-style-type: none"> • Clearly demonstrates a full understanding of the processes and methods of how the project will be implemented; identifies risks and mitigating measures, operational strategies; defines clear strategies for undertaking all stages of the project (25 – 35 pts) • Provides a substantially logical and relevant methodology covering all major elements, but does not clearly address potential issues and incorporate health and safety standards. Method statements are generally generic and does not incorporate the nuances of the project and work programme (16 – 24 pts) • Provides a methodology that covers some of the major elements, but is generally generic in nature and does not address the major components of the project (10 – 15 pts) • Provides a methodology that is lacking in detail and generic (1 – 9 pts) 	35
<p>Company Experience/Staff</p> <ul style="list-style-type: none"> • Completed at least 3 similar assignments within the last 10 years (15 – 20 pts) • Completed at least 2 assignments similar to certain aspects of this assignment within the last 10 years (10 - 14 pts) • Completed general construction and road works within the last 10 years (1 - 9 pts) 	20

1.29. Employer's Right to Accept or Reject Any or All Tenders

1.29.1. Notwithstanding Clause 1.27, the Employer reserves the right to accept or reject any or all tenders without giving any reason for such rejection, and has the right to reject any non-complying tender that fails to meet any requirement, term or condition set forth in the Tender Documents, as well

as relevant laws, rules, and regulations.

1.29.2. Any one of the following circumstances, which are not exhaustive, may result in the rejection of the affected tender, or disqualification of concerned Tenderers, and/or other administrative sanction whenever appropriate:

1. False or misleading statements or evidence of fraud;
2. Failure to furnish signatures or seals when required;
3. Failure to furnish a completed and signed Form of Tender;
4. Tenders without adequate Tender Securities;
5. Collusion among Tenderers for the purpose of fixing Tender Prices or negating competition;
6. Giving or offering of any illegal compensation to officers, employees and or, agents of BVI Government connected with the project;
7. Failure to furnish any information required to be included in the Tender; and
8. A Tenderer having an unfair competitive advantage or a conflict of interest to the requirements of the Tender or the works to be performed under a contract resulting from this Tender.

1.29.3. The Employer does not bind itself to accept the lowest or any tenders and is not obliged to give any reasons for its selection.

1.30. Notification of Award

1.30.1. Prior to the expiration of the period of tender validity and contract award, the Purchaser shall send the Notification of Intention to Award (“NOITA”) to the successful Tenderer and all unsuccessful Tenderers, pursuant to section 51 (2) of the Act and Section 37 of the Regulations. The NOITA shall include a statement that the Purchaser shall issue a formal Notification of Award and draft Contract after expiration of the period for filing a challenge and the resolution of any challenges that are submitted. Delivery of the NOITA shall not constitute the formation of a contract between the Purchaser and the successful Tenderer and no legal or equitable rights will be created through the delivery of the NOITA.

- 1.30.2. After such notification, a Tenderer may request a debrief seeking explanations for the grounds on which its Tender was not selected.
- 1.30.3. Whether or not a Tenderer requested a debrief, a Tenderer reserves the right to challenge the results of a procurement only according to the rules and provisions established in Section 27(1) of the Act and 28(1) of the Regulations.
- 1.30.4. In the absence of a challenge or appeal by an unsuccessful Tenderer in accordance with the Act, the Procuring Entity may award the contract(s) to the successful Tenderer(s).

1.31. Signing of Agreement

- 1.31.1 At the same time the Employer notifies the successful Tenderer that his Tender has been accepted, the Employer will send to the Tenderer the Form of Agreement provided in the Tender Document, incorporating all agreements between the parties.
- 1.31.2 Within 15 days of receipt of the Form of Agreement, the successful Tenderer shall sign the form and return it to the Employer.

1.32. Performance Security

- 1.32.1. If required in the TDS, within 15 days of the signing of the contract, the successful Tenderer shall furnish to the Employer a performance security in the form of a Bank Guarantee or Performance Bond in the amount stated in the TDS.
- 1.32.2. The Bank Guarantee shall be in the Form provided herein, and shall be issued by either a bank in the Virgin Islands or a foreign bank through a correspondent bank located in the Virgin Islands; or with the agreement of the Employer directly by a foreign bank acceptable to Employer. The Performance Bond by an insurance company, or surety acceptable to the Employer.

End of Section

PROPOSAL AND EVALUATION

2. Submission Requirements

2.1.1. The tender must include responses to the questions detailed in Clauses 2.2. The information provided will be used to evaluate the tender. All questions and RFI's should be fully answered or addressed, and specific details should be provided where requested. The completed tender questionnaire in conjunction with other requested information will provide the basis of tender analysis and award. On award of contract, the answers to these questions will form part of the contract and any changes must be agreed with the Employer.

2.2. Delivery

2.2.1. The following information concerning the delivery or the services is intended to provide confidence in the Tenderer's organization, experience, and general ability to deliver the services required under this assignment:

2.2.1.1. Contact details of the Construction Project Manager of the organization that will be involved with this tender.

2.2.1.2. Provide qualifications for the Construction Project Manager that will be directly assigned to this project. The Construction Project Manager will be responsible for overseeing the entire works and should be suitably qualified in terms of academic qualifications and experience.

2.2.1.3. Provide qualifications for the Surveyor that will be directly assigned to this project. The Surveyor will be responsible for setting out works and establishing points and elevations in accordance with the drawings and should be suitably qualified in terms of academic qualifications and experience.

2.2.1.4. A list of company experience within the last ten (10) years that is relevant to the requirements of this assignment, including, but not limited to methodology, scale, and location. Specific experience undertaken to certain aspects of the work will be considered if complete similar experience is not identified.

2.2.1.5. A detailed work programme showing the order in which the various sections of works are to be executed, the rates of progress and the

estimated periods of time for their execution and completion. A bar chart shall be submitted with these details.

2.3. Technical Proposal

2.3.1. Tenderers are required to provide in their technical proposal the following minimum components:

2.3.1.1. Method statement of all demolition and excavation works to include for the following:

1. Demolition, removal and disposal of the existing pavement, footings and surplus material
2. Setting out and site safety
3. Concrete works to footings, walls, columns, ramps and slab
4. Erection of steel frame structure
5. Utilities and drainage structures

2.3.1.2. Method statement for the following:

1. Traffic management factoring in port operations
2. Provision for dust abatement
3. Site security, site safety and staging of materials
4. General work methodology
5. Demobilization and clean-up
6. Handover

2.4. Financial Proposal

2.4.1. The Tenderer shall submit with his tender, a financial proposal, which includes the proposed price for executing the services in accordance with the Bill of Quantities.

2.4.2. Tenderers, at their discretion may provide a cash-flow document of the proposed construction works to aid in the evaluation process.

2.4.3. All prices included on the financial proposal shall be in United States dollars.

2.4.4. The tenderer is reminded that prices should include for shipment and transportation costs as required.

2.4.5. Tenderers are encouraged to visit the site to ascertain the accuracy of the design requirements.

2.5. Reporting System

- 2.5.1. The contractor will report directly to the Permanent Secretary, Ministry of Communications and Works.
- 2.5.2. The Chief of Infrastructural Development will be the Project Manager. The Permanent Secretary is the Accounting Officer to whom the Project Manager will report to with respect to approvals and sign off of documents.
- 2.5.3. English shall be the language used for all written and verbal communication as it relates to this assignment (also referred to herein as services, works, or the Project).

2.6. Scheduling of Services

- 2.6.1. Completion Date: The Project is to be completed in accordance with the timelines as given in the tender and submitted by the Contractor in his Proposal, and updated subsequent to the contract signing as agreed to by the Parties in writing.

2.7. Employer Inputs

- 2.7.1. The Employer agrees to provide the following information/access to the contractor:
 - 2.7.1.1. Drawings and specifications of the walls and road as developed by Public Works Department.
 - 2.7.1.2. Access to the construction site.

2.8. Variation and Change Management

- 2.8.1. It is possible that some aspects of the way the work is performed or the nature of the service may vary during the course of the contract. Prior to any change being implemented, an impact assessment will be conducted by both parties to assess whether the change will impact on other aspects of the work. Changes will be negotiated and confirmed in writing by the Employer prior to implementation.

3. Communication

- 3.1.1. Prior to award of the contract, all communication with the Employer should be through the Executive Assistant, BVI Ports Authority, at the following contact details:

Executive Assistant
British Virgin Islands Ports Authority
Port Purcell, Tortola
VG1110, British Virgin Islands

Tel: (284) 494 3495 or 443 1480
Email: cswheatley@bviports.org

- 3.1.2. After award of the contract, all communications with the Employer will generally be with the Acting Managing Director at the following contact details:

Acting Managing Director
British Virgin Islands Ports Authority
Port Purcell, Tortola
VG1110, British Virgin Islands

Tel: (284) 494 3435 or 442 5600
Dfahie@bviports.org

- 3.1.3. Regular contact between the Contractor and the Ag. Managing Director or designated officer by telephone, or email is encouraged to address any issues that may arise.

4. Contractor's Roles and Responsibilities

- 4.1.1. The Contractor shall be responsible for executing the works as prescribed in the contract.
- 4.1.2. The Contractor shall be represented by a single-named Project Manager who will be responsible for liaising with the Permanent Secretary.
- 4.1.3. The Contractor shall be required to maintain correct versions of all documentation issued under this contract and to make his staff aware of any changes.

5. Payment, Rebates and Invoices

5.1.1. This Section describes the basis on which the Employer will make payments to the Contractor and the Contractor will make payments or rebates to the Employer, after the contract is issued.

5.2. Payments for Contractor's Services

5.2.1. Following acceptance of a deliverable and on receipt of a valid original invoice, the Employer will pay to the Contractor the Contract Price according to the agreed Priced Bill of Quantities.

5.2.1.1. Late delivery – In the event of late delivery beyond the agreed contract completion date, the Employer may apply damages at a rate of US\$500 for each day after the expiration of the agreed completion date.

5.2.1.2. Other charges – In the event that the Contractor is required to use other reasonable and unforeseeable services in order to complete the contract, the charges will be agreed upon by both Contractor and Employer; provided that the Contractor shall not perform these additional services without the prior written consent of the Employer.

5.3. Submission of Invoices for additional services

5.3.1. Correct invoices for additional services supplied by the Employer will be submitted to the Contractor, monthly in arrears for such services having been performed.

5.4. Submission of Invoices

5.4.1. Correct invoices corresponding to each completed service should be addressed to:

Acting Managing Director
British Virgin Islands Ports Authority
Port Purcell, Tortola
VG1110, British Virgin Islands

5.5. Netting

- 5.5.1. All Contractor invoices will be submitted net of charges invoiced by the Employer. In the event that any work is rejected by the Employer or its Agent for reasons of poor quality, the Employer at its sole discretion will deduct all expenses associated with re-testing from any amounts to be paid to the contractor.

5.6. Payment process

- 5.6.1. The Employer will pay against original invoices (fax or other copies are not acceptable) once the Permanent Secretary or her designate has verified that the work meets the required quality standards

End of Section

6. TENDER DATA SHEET (TDS)

ITT 1.1	The Employer is: British Virgin Islands Ports Authority
ITT 1.2	<i>Not applicable</i>
ITT 1.4	The date and time for pre-tender meeting Friday, 5th June, 2026 at 10:00 A.M. local time.
ITT 1.6	<p>The address is:</p> <p>Facilities Manager BVI Ports Authority Port Purcell, Tortola VG1110 British Virgin Islands</p> <p>Email: cgeorge@bviports.org Telephone: (284) 852 2500</p> <p>The time for receiving clarification of tender documents is no later than 14 days before the deadline for submission of tenders.</p>
ITT 1.7	The language of the tender is English <u>only</u> . Another language is <u>not</u> permitted.
ITT 1.9	The time for requests for modification of tender documents is no later than 14 days before the deadline for submission of tenders.
ITT 1.13	The Tender Validity Period shall be 120 days.
ITT 1.14	A Tender Security is <u>not required</u> .
ITT 1.15	Variant or alternative solutions are <u>not permitted</u> .
ITT 1.18	The date and time for submission of tenders are <u>no later than Friday, 3rd July, 2026 at 10:00 AM local time.</u>
ITT 1.21	The date and time for opening of tenders are <u>Friday, 3rd July, 2026 at 10:00 AM local time.</u>
ITT 1.31	A performance security of 10% of the Contract Price is required.

7. FORM OF TENDER

To: Acting Managing Director
BVI Ports Authority
Port Purcell, Tortola
British Virgin Islands

TENDER

Construction of the General Cargo Warehouse at Port Purcell, British Virgin Islands

Dear Chairman:

1. We have examined and taken into account the documents provided in this Invitation to Tender, including its attachments, drawings and specifications, General Conditions of Contract, particular Conditions of Contract, clarifications to the documents, and addenda pursuant to this invitation.

We offer to execute and complete the works and remedy any defects therein in conformity with this Tender inclusive of all the above listed documents for the sum of (US\$) (sum in words and figures)

payable by the British Virgin Islands Ports Authority.

2. We agree that the proper law of the Contract shall be the Laws of the Virgin Islands.
3. We agree that these tender documents and the terms and conditions of contract shall comprise the sole binding documentation applicable to this tender or to the contract.
4. We agree that all information supplied by the Employer to the Tenderer will be treated in confidence and not disclosed to third parties except insofar as this is

necessary to obtain sureties or quotations for the purpose of submitting the tender. All information supplied by the Tenderer to the Employer will similarly be treated in confidence, except those references may be sought from banks, existing or past clients, or other referees submitted by the Tenderer.

5. We have provided with our tender the priced Bills of Quantities, which were used for calculating the Tender Sum. These Bills shall form part of our Tender and we agree that in the event of a contract being awarded the rates in the said Bills shall be used for the measurement and valuation of any alteration in, addition to or omission from the Works as described in the Specification and/or Drawings.

We accept full responsibility for the accuracy of all prices provided in this tender and agree that these prices include full provision for any increases in the costs for whatsoever reason over the period of time from submission of tender to completion of the project and settlement of the final account.

6. We accept that any and all omissions or errors in pricing are our responsibility and agree that should any errors in arithmetic be discovered in the Bills of Quantities submitted by us during consideration of this offer, these errors will be corrected by giving us an opportunity of either confirming our offer or amending it to correct such errors.
7. We have included in our tender for taxes, fees and all charges applicable to materials, appliances, labour and all things subject to and upon which taxes or other charges may be levied (where required by the draft contract form included in the tender documents), and have made allowance for currency exchange rates.
8. If this tender is accepted and subject to and in accordance with paragraphs 2, 3, 4, 5, 6, and 7 above and the terms and conditions contained or referred to in the documents listed in paragraph 1, we undertake to commence the works as soon as is reasonably practicable after the commencement date and complete the works within a period of _____ months, from commencement on site.
9. We further agree that acceptance of this tender by the Government of the Virgin Islands does not constitute an offer, an invitation to offer, nor a legally binding contract agreement between the Government of the Virgin Islands, myself, my company, or any other entity associated with this tender submission.

Signed
Name in
Block Capitals.....

In the capacity of

Duly authorized to sign tenders for and on behalf of

Name

Address
.....

Telephone No

Email Address:

Date

8. CERTIFICATE OF VISIT TO SITE

1. This is to certify that I, _____ (Name of Tenderer or his Representative) of the Company

visited the Site on _____ 2026 in connection with the tender for:

Construction of the General Cargo Warehouse at Port Purcell, Tortola, British Virgin Islands.

2. Having previously studied the Tender Documents, I have carefully examined the Site.
3. I have made myself familiar with all the local conditions influencing the works and the cost thereof.
4. I further certify that I understand fully the works to be done as specified and to be executed under the Contract.
5. Signature of Tenderer or his Representative:

Date: _____

Signature: _____

Name: _____

Position: _____

End of Section

9. BILL OF QUANTITIES

9.1. Preambles and General Rules

- 9.1.1. The Bill of Quantities shall be read in conjunction with the Instructions to Bidders, General Conditions of Contract, Conditions of Particular Application, Technical Specifications and Drawings. The whole of the works is to be executed in accordance with their true intent and to the entire satisfaction of the Engineer.
- 9.1.2. The quantities set out against the items in the Bill of Quantities are an estimate of the quantity of each kind of work to be carried out under the Contract and are given for the convenience of forming a common basis for Bids. There is no guarantee to the Contractor that he will be required to carry out the quantity of work indicated under any particular item in the Bill of Quantities or that the quantities will not differ in magnitude from those stated in the Bills. The basis of payment will be the actual quantities of work ordered and carried out, as measured by the Contractor and verified by the Engineer and valued at the rates and prices bid in the priced Bill of Quantities, where applicable, and otherwise at such rates and prices as the Engineer may fix within the terms of the Contract.
- 9.1.3. Except where specifically and expressly otherwise stated in the Technical Specifications or in the BOQ, the Permanent Works only shall be measured. The works shall be measured net to the dimensions shown on the Drawings or ordered in writing by the Engineer, except where otherwise specifically described or prescribed in the Contract. No allowance shall be made for bulking, shrinkage or waste.
- 9.1.4. Rates and prices shall be entered against each item in the Bill of Quantities. All rates and prices shall be in United State Dollars (USD) and stated to two places of decimals. The rates and prices inserted in the Bill of Quantities are to be the full inclusive values of the works described in the items, and shall include:
- all costs and expenses required on and for the construction of the Works
 - costs of temporary works and installations which may be necessary
 - costs of all general risks, liabilities and obligations set out or implied in the documents on which the tender is based
 - taxes, duties and other charges for which the Contractor is liable

- 9.1.5. The whole cost of complying with the provisions of the Contract shall be included in the Items provided in the priced Bills of Quantities, and where no items are provided the cost shall be deemed to be distributed among the rates and prices entered for the related items of work.
- 9.1.6. Each provisional Sum shall only be used, in whole or in part, in accordance with the Engineering's instructions and the Contract Price shall be adjusted accordingly. The total sum paid to the Contractor shall include only such amounts, for the work, supplies or services to which the Provisional Sum relates, as the Engineer shall have instructed. The Contractor shall, when required by the Engineer, produce quotations, invoices, vouchers and accounts or receipts in substantiation.
- 9.1.7. The method of measurement of completed work for payment shall be in accordance with the Civil Engineering Standard Method of Measurement, Edition 3 (CESMM3).
- 9.1.8. Errors will be corrected by the Employer for any arithmetic errors in computation or summation as follows:
- a. where there is a discrepancy between 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 total amount derived from the multiplication of the unit price and 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 price, in which event the total amount as quoted will govern and the unit rate will be corrected.
- 9.1.9. In adjusting extras or variations on the Contract, the work shall be measured on the same basis as that for which the quantity estimates have been prepared and all works not specifically mentioned in the BOQ will be taken as included in the prices of various Items.
- 9.1.10. Where reference is made in these Bills of Quantities to a manufacturer's specific product it shall be taken as indicating the standard required. In all cases, reference should be made to the specification section noted in the description for alternative approved manufacturer's products.

9.1.11. Where reference is made in item descriptions or in Specifications to propriety products, the rates shall be deemed to allow for complying with all manufacturer's recommendations and instructions, unless otherwise stated.

End of Section

10. STATEMENT OF EXPERIENCE ON SIMILAR PROJECTS

Provide an account of past projects that demonstrates experience in the works required under this tender.

Item No.	Client Name, Address, Representative and Phone No.	Description of Works	Location	Value (US\$)	Start/ End dates	Notable Successes

11. CURRENT CONTRACT COMMITMENTS/ WORK IN PROGRESS

Please note that the below form “Current Contract Commitments/Works in Progress must be completed and return with your bid package. This form must be fully completed for any private or government contract. If tenderer do not have any contract, it must be stated on the form. The form must not be returned incomplete.

Tenderers and each partner to a *JVCA* should provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

Name of contract	Employer contact information (address, telephone, email)	Value of current outstanding work (US\$)	Estimated start date	Estimated completion date

12. DRAWINGS AND SPECIFICATIONS

13. FORM OF AGREEMENT

THIS AGREEMENT is made this day of the day of....., 2026 between the **Mr. Dean Fahie, Acting Managing Director** acting for and behalf of the British Virgin Islands Ports Authority, (hereinafter called” the Employer”), of the One Part and of a company incorporated under the Laws of the Virgin Islands whose registered office is situated at (Hereinafter called “the Contractor”) of the other part.

Whereas:

1. The Employer is desirous that the Contractor executes the works for the **Construction of the General Cargo Warehouse Port Purcell, British Virgin Islands** (hereinafter called “the Works”) and the Employer has accepted the Contractor’s Tender for the execution and completion of the Works and the remedying of any defects therein in the sum of (US\$.....) being a sum based upon prices inserted by the Contractor in the Bill of Quantities (hereinafter called “the Contract Price”).
2. The Employer is satisfied that the Contractor has the qualifications, experience and resources available to deliver the works within the required timeframe.
3. The Employer has accepted the Proposal submitted by the Contractor to execute and complete the works and remedy any defects therein.

Now this Agreement witnessed as follows:

1. The Employer hereby engages the Contractor and the Contractor hereby accepts the engagement to execute and complete the **Works** in accordance with approved specifications, design drawings and all other conditions and clauses of this Agreement.

2. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz:
 - (1) The Letter of Acceptance
 - (2) Form of Tender
 - (3) Priced Bill of Quantities
 - (4) General Conditions of Contract
 - (5) Particular Conditions of Contract
 - (6) Drawings and Specifications
 - (7) Method Statements
 - (8) Implementation Schedule

3. In consideration of the payments to be made by the Employer to the Contractor as herein described the Contractor covenants with the Employer to complete the Works in accordance with this Agreement.

4. In consideration of the execution and completion of the Works the Employer hereby consents to pay the Contractor the sum of (US\$ _____) in accordance with the terms stipulated in this Agreement.

5. This Agreement sets out the entire contract between the Employer and the Contractor and it supersedes any previous Agreement written or unwritten between the Employer and the Contractor.

- 6. Nothing in this Agreement shall relieve the Contractor from complying with the Laws of the Virgin Islands.
- 7. The parties hereto warrant and covenant that they have the requisite authority and power to enter this agreement for the purpose of creating a legally binding and enforceable contract between the parties

In Witness whereof the parties hereto have caused this Agreement to be executed the day and year first before written in accordance with their respective laws.

Signed by **Mr. Dean Fahie**, Acting
 Managing Director for and on behalf of
 the British Virgin Islands Ports Authority
 in the presence of

.....
 Dean Fahie

.....
 Witness

Signed by for and on
 behalf of in the
 presence of

.....

.....
 Witness

NOTARY CERTIFICATION

I HEREBY CERTIFY that the above named the **Mr. Dean Fahie**, appeared before me on the day of, 2026 and being known/identified to me acknowledged the above signature to be his and that he had freely and voluntarily executed this instrument for and on behalf of the **British Virgin Islands Ports Authority** and understood its contents.

.....
Notary Public

I HEREBY CERTIFY that the above named appeared before me on the day of, 2026 and being known/identified to me acknowledged the above signature to be his and that he had freely and voluntarily executed this instrument for and on behalf of and understood its contents.

.....
Notary Public

10. GENERAL CONDITIONS OF CONTRACT

These General Conditions of Contract (GCC), read in conjunction with the Particular Conditions of Contract (PCC) and other documents listed therein, should be a complete document expressing fairly the rights and obligations of both parties.

1. Definitions

1.1 The following terminology is defined as follows:

- (a) The **Accepted Contract Amount** means the amount accepted in the Letter of Acceptance for the execution and completion of the Works and the remedying of any defects.
- (b) The **Activity Schedule** is a schedule of the activities comprising the construction, installation, testing, and commissioning of the Works in a lump sum contract. It includes a lump sum price for each activity, which is used for valuations and for assessing the effects of Variations and Compensation Events.
- (c) The **Adjudicator** is the person appointed jointly by the *Employer* and the Contractor to resolve disputes in the first instance, as provided for in GCC 23.
- (d) **Bill of Quantities** means the priced and completed Bill of Quantities forming part of the Bid.
- (e) **Compensation Events** are those defined in GCC Clause 41 hereunder.
- (f) The **Completion Date** is the date of completion of the Works as certified by the Project Manager, in accordance with GCC Sub-Clause 52.1.
- (g) The **Contract** is the Contract between the *Employer* and the Contractor to execute, complete, and maintain the Works. It consists of the documents listed in GCC Sub-Clause 2.3 below.
- (h) The **Contractor** is the party whose Bid to carry out the Works has been accepted by the *Employer*.

- (i) The **Contractor's Bid** is the completed bidding document submitted by the Contractor to the *Employer*.
- (j) The **Contract Price** is the Accepted Contract Amount stated in the Letter of Acceptance and thereafter as adjusted in accordance with the Contract.
- (k) **Days** are calendar days; months are calendar months.
- (l) **Dayworks** are varied work inputs subject to payment on a time basis for the Contractor's employees and Equipment, in addition to payments for associated Materials and Plant.
- (m) A **Defect** is any part of the Works not completed in accordance with the Contract.
- (n) The **Defects Liability Certificate** is the certificate issued by the Project Manager upon correction of defects by the Contractor.
- (o) The **Defects Liability Period** is the period **named in the PCC** pursuant to Sub-Clause 33.1 and calculated from the Completion Date.
- (p) Drawings means the drawings of the Works, as included in the Contract, and any additional and modified drawings issued by (or on behalf of) the *Employer* in accordance with the Contract, include calculations and other information provided or approved by the Project Manager for the execution of the Contract.
- (q) The *Employer* is the party who employs the Contractor to carry out the Works, **as specified in the PCC**.
- (r) **Equipment** is the Contractor's machinery and vehicles brought temporarily to the Site to construct the Works.
- (s) **"In writing"** or **"written"** means hand-written, type-written, printed or electronically made, and resulting in a permanent record;
- (t) The **Initial Contract Price** is the Contract Price listed in the *Employer's* Letter of Acceptance.

- (u) The **Intended Completion Date** is the date on which it is intended that the Contractor shall complete the Works. The Intended Completion Date is **specified in the PCC**. The Intended Completion Date may be revised only by the Project Manager by issuing an extension of time or an acceleration order.
- (v) **Materials** are all supplies, including consumables, used by the Contractor for incorporation in the Works.
- (w) **Plant** is any integral part of the Works that shall have a mechanical, electrical, chemical, or biological function.
- (x) The **Project Manager** is the person **named in the PCC** (or any other competent person appointed by the *Employer* and notified to the Contractor, to act in replacement of the Project Manager) who is responsible for supervising the execution of the Works and administering the Contract.
- (y) **PCC** means Particular Conditions of Contract
- (z) The **Site** is the area **defined as such in the PCC**.
- (aa) **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.
- (bb) **Specification** means the Specification of the Works included in the Contract and any modification or addition made or approved by the Project Manager.
- (cc) The **Start Date** is **given in the PCC**. It is the latest date when the Contractor shall commence execution of the Works. It does not necessarily coincide with any of the Site Possession Dates.
- (dd) A **Subcontractor** is a person or corporate body who has a Contract with the Contractor to carry out a part of the work in the Contract, which includes work on the Site.
- (ee) **Temporary Works** are works designed, constructed, installed, and removed by the Contractor that are needed for construction or installation of the Works.

(ff) A **Variation** is an instruction given by the Project Manager which varies the Works.

(gg) The **Works** are what the Contract requires the Contractor to construct, install, and turn over to the *Employer*, as **defined in the PCC**.

2. Interpretation

2.1 In interpreting these GCC, words indicating one gender include all genders. Words indicating the singular also include the plural and words indicating the plural also include the singular. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Project Manager shall provide instructions clarifying queries about these GCC.

2.2 If sectional completion is **specified in the PCC**, references in the GCC to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).

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

(a) Agreement

(b) Letter of Acceptance,

(c) Form of Tender

(d) Particular Conditions of Contract

(e) General Conditions of Contract

(f) Specifications

(g) Drawings

(h) Bill of Quantities,¹ and

(i) any other document **listed in the PCC** as forming part of the Contract.

¹

In lump sum contracts, delete "Bill of Quantities" and replace with "Activity Schedule."

3. **Language and Law** 3.1 The language of the Contract and the law governing the Contract are **stated in the PCC**.
4. **Project Manager's Decisions** 4.1 Except where otherwise specifically stated, the Project Manager shall decide contractual matters between the *Employer* and the Contractor in the role representing the *Employer*.
5. **Delegation** 5.1 Otherwise specified in the PCC, the Project Manager may delegate any of his duties and responsibilities to other people, except to the Adjudicator, after notifying the Contractor, and may revoke any delegation after notifying the Contractor.
6. **Communications** 6.1 Communications between parties that are referred to in the Conditions shall be effective only when in writing. A notice shall be effective only when it is delivered.
7. **Subcontracting** 7.1 The Contractor may subcontract with the approval of the Project Manager, but may not assign the Contract without the approval of the *Employer* in writing. Subcontracting shall not alter the Contractor's obligations.
8. **Other Contractors** 8.1 The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the *Employer* between the dates given in the Schedule of Other Contractors, as **referred to in the PCC**. The Contractor shall also provide facilities and services for them as described in the Schedule. The *Employer* may modify the Schedule of Other Contractors, and shall notify the Contractor of any such modification.

9. Personnel and Equipment

9.1 The Contractor shall employ the key personnel and use the equipment identified in its Bid, to carry out the Works or other personnel and equipment approved by the Project Manager. The Project Manager shall approve any proposed replacement of key personnel and equipment only if their relevant qualifications or characteristics are substantially equal to or better than those proposed in the Bid.

9.2 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.

10. Employer's and Contractor's Risks

10.1 The *Employer* carries the risks which this Contract states are *Employer's* risks, and the Contractor carries the risks which this Contract states are Contractor's risks.

11. Employer's Risks

11.1 From the Start Date until the Defects Liability Certificate has been issued, the following are *Employer's* risks:

(a) The risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to

(i) use or occupation of the Site by the Works or for the purpose of the Works, which is the unavoidable result of the Works or

(ii) negligence, breach of statutory duty, or interference with any legal right by the *Employer* or by any person employed by or contracted to him except the Contractor.

(b) The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the *Employer* or in the *Employer's* design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.

11.2 From the Completion Date until the Defects Liability Certificate has been issued, the risk of loss of or damage to the

Works, Plant, and Materials is an *Employer's* risk except loss or damage due to

- (a) a Defect which existed on the Completion Date,
- (b) an event occurring before the Completion Date, which was not itself an *Employer's* risk, or
- (c) the activities of the Contractor on the Site after the Completion Date.

12. Contractor's Risks

12.1 From the Starting Date until the Defects Liability Certificate has been issued, the risks of personal injury, death, and loss of or damage to property (including, without limitation, the Works, Plant, Materials, and Equipment) which are not *Employer's* risks are Contractor's risks.

13. Insurance

13.1 The Contractor shall provide, in the joint names of the *Employer* and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles **stated in the PCC** for the following events which are due to the Contractor's risks:

- (a) loss of or damage to the Works, Plant, and Materials;
- (b) loss of or damage to Equipment;
- (c) loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract; and
- (d) personal injury or death.

13.2 Policies and certificates for insurance shall be delivered by the Contractor to the Project Manager for the Project Manager's approval before the Start Date. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.

13.3 If the Contractor does not provide any of the policies and certificates required, the *Employer* may effect the insurance which the Contractor should have provided and recover the premiums the *Employer* has paid from payments otherwise due

to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.

13.4 Alterations to the terms of an insurance shall not be made without the approval of the Project Manager.

13.5 Both parties shall comply with any conditions of the insurance policies.

14. Site Data

14.1 The Contractor shall be deemed to have examined any Site Data **referred to in the PCC**, supplemented by any information available to the Contractor.

15. Contractor to Construct the Works

15.1 The Contractor shall construct and install the Works in accordance with the Specifications and Drawings.

16. The Works to Be Completed by the Intended Completion Date

16.1 The Contractor may commence execution of the Works on the Start Date and shall carry out the Works in accordance with the Program submitted by the Contractor, as updated with the approval of the Project Manager, and complete them by the Intended Completion Date.

17. Approval by the Project Manager

17.1 The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Project Manager, for his approval.

17.2 The Contractor shall be responsible for design of Temporary Works.

17.3 The Project Manager's approval shall not alter the Contractor's responsibility for design of the Temporary Works.

17.4 The Contractor shall obtain approval of third parties to the design of the Temporary Works, where required.

17.5 All Drawings prepared by the Contractor for the execution of the temporary or permanent Works, are subject to prior approval by the Project Manager before this use.

18. Safety

18.1 The Contractor shall be responsible for the safety of all activities on the Site.

- 19. Discoveries** 19.1 Anything of historical or other interest or of significant value unexpectedly discovered on the Site shall be the property of the *Employer*. The Contractor shall notify the Project Manager of such discoveries and carry out the Project Manager's instructions for dealing with them.
- 20. Possession of the Site** 20.1 The *Employer* shall give possession of all parts of the Site to the Contractor. If possession of a part is not given by the date **stated in the PCC**, the *Employer* shall be deemed to have delayed the start of the relevant activities, and this shall be a Compensation Event.
- 21. Access to the Site** 21.1 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.
- 22. Instructions, Inspections and Audits** 22.1 The Contractor shall carry out all instructions of the Project Manager which comply with the applicable laws where the Site is located.
- 22.2 The Contractor shall permit the *Employer* to inspect the Contractor's accounts, records and other documents relating to the submission of bids and contract performance and to have them audited by auditors appointed by the *Employer*. The Contractor shall maintain all documents and records related to the Contract for a period of *three (3)* years after completion of the Works. The Contractor shall provide any documents necessary for the investigation of allegations of fraud, *collusion*, *coercion*, or corruption and require its employees or agents with knowledge of the Contract to respond to questions from the *Employer*.
- 23. Appointment of the Adjudicator** 23.1 The Adjudicator shall be appointed jointly by the *Employer* and the Contractor, at the time of the *Employer's* issuance of the Letter of Acceptance. If, in the Letter of Acceptance, the *Employer* does not agree on the appointment of the Adjudicator, the *Employer* will request the Appointing Authority **designated in the PCC**, to appoint the Adjudicator within 14 days of receipt of such request.
- 23.2 Should the Adjudicator resign or die, or should the *Employer* and the Contractor agree that the Adjudicator is not

functioning in accordance with the provisions of the Contract, a new Adjudicator shall be jointly appointed by the *Employer* and the Contractor. In case of disagreement between the *Employer* and the Contractor, within 30 days, the Adjudicator shall be designated by the Appointing Authority **designated in the PCC** at the request of either party, within 14 days of receipt of such request.

24. Procedure for Disputes

24.1 If the Contractor believes that a decision taken by the Project Manager was either outside the authority given to the Project Manager by the Contract or that the decision was wrongly taken, the decision shall be referred to the Adjudicator within 14 days of the notification of the Project Manager's decision.

24.2 The Adjudicator shall give a decision in writing within 28 days of receipt of a notification of a dispute.

24.3 The Adjudicator shall be paid by the hour at the **rate specified in the PCC**, together with reimbursable expenses of the types **specified in the PCC**, and the cost shall be divided equally between the *Employer* and the Contractor, whatever decision is reached by the Adjudicator. Either party may refer a decision of the Adjudicator to an Arbitrator within 28 days of the Adjudicator's written decision. If neither party refers the dispute to arbitration within the above 28 days, the Adjudicator's decision shall be final and binding.

24.1 The arbitration shall be conducted in accordance with the arbitration procedures published by the institution named and in the place specified **in the PCC**.

B. Time Control

25. Program

25.1 Within the time **stated in the PCC**, after the date of the Letter of Acceptance, the Contractor shall submit to the Project Manager for approval a Program showing the general methods, arrangements, order, and timing for all the activities in the Works. In the case of a lump sum contract, the activities in the Program shall be consistent with those in the Activity Schedule.

25.2 An update of the Program shall be a program showing the actual progress achieved on each activity and the effect of the progress

achieved on the timing of the remaining work, including any changes to the sequence of the activities.

25.3 The Contractor shall submit to the Project Manager for approval an updated Program at intervals no longer than the period **stated in the PCC**. If the Contractor does not submit an updated Program within this period, the Project Manager may withhold the amount **stated in the PCC** from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Program has been submitted. In the case of a lump sum contract, the Contractor shall provide an updated Activity Schedule within 14 days of being instructed to by the Project Manager.

25.4 The Project Manager's approval of the Program shall not alter the Contractor's obligations. The Contractor may revise the Program and submit it to the Project Manager again at any time. A revised Program shall show the effect of Variations and Compensation Events.

**26. Extension of
the Intended
Completion
Date**

26.1 The Project Manager shall extend the Intended Completion Date if a Compensation Event occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Intended Completion Date without the Contractor taking steps to accelerate the remaining work, which would cause the Contractor to incur additional cost.

26.2 The Project Manager shall decide whether and by how much to extend the Intended Completion Date within 21 days of the Contractor asking the Project Manager for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Intended Completion Date.

27. Acceleration

27.1 When the *Employer* wants the Contractor to finish before the Intended Completion Date, the Project Manager shall obtain priced proposals for achieving the necessary acceleration from the Contractor. If the *Employer* accepts these proposals, the Intended Completion Date shall be adjusted accordingly and confirmed by both the *Employer* and the Contractor.

27.2 If the Contractor's priced proposals for an acceleration are accepted by the *Employer*, they are incorporated in the Contract Price and treated as a Variation.

28. Delays Ordered by the Project Manager

28.1 The Project Manager may instruct the Contractor to delay the start or progress of any activity within the Works.

29. Management Meetings

29.1 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 in accordance with the early warning procedure.

29.2 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 at the management meeting or after the management meeting and stated in writing to all who attended the meeting.

30. Early Warning

30.1 The Contractor shall warn the Project Manager at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work, increase the Contract Price, or delay the execution of the Works. The Project Manager may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate shall be provided by the Contractor as soon as reasonably possible.

30.2 The Contractor shall cooperate with the Project Manager in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instruction of the Project Manager.

C. Quality Control

31. Identifying Defects

31.1 The Project Manager shall check the Contractor's work and notify the Contractor of any Defects that are found. Such

checking shall not affect the Contractor's responsibilities. The Project Manager may instruct the Contractor to search for a Defect and to uncover and test any work that the Project Manager considers may have a Defect.

32. Tests

32.1 If the Project Manager instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect, the test shall be a Compensation Event.

33. Correction of Defects

33.1 The Project Manager shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion, and is **defined in the PCC**. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.

33.2 Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Project Manager's notice.

34. Uncorrected Defects

34.1 If the Contractor has not corrected a Defect within the time specified in the Project Manager's notice, the Project Manager shall assess the cost of having the Defect corrected, and the Contractor shall pay this amount.

D. Cost Control

35. Contract Price

35.1 In the case of an admeasurement contract, the Bill of Quantities shall contain priced items for the Works to be performed by the Contractor. The Bill of Quantities is used to calculate the Contract Price. The Contractor will be paid for the quantity of the work accomplished at the rate in the Bill of Quantities for each item.

35.2 In the case of a lump sum contract, the Activity Schedule shall contain the priced activities for the Works to be performed by the Contractor. The Activity Schedule is used to monitor and control the performance of activities on which basis the Contractor will be paid. *If payment for Materials on Site shall be made separately, the Contractor shall show delivery of Materials to the Site separately on the Activity Schedule.*

36. Changes in the Contract Price

36.1 In the case of an admeasurement contract:

- (a) If the final quantity of the work done differs from the quantity in the Bill of Quantities for the particular item by more than 25 percent, provided the change exceeds 1 percent of the Initial Contract Price, the Project Manager shall adjust the rate to allow for the change.
- (b) The Project Manager shall not adjust rates from changes in quantities if thereby the Initial Contract Price is exceeded by more than 10 percent, except with the prior approval of the *Employer*.
- (c) If requested by the Project Manager, the Contractor shall provide the Project Manager with a detailed cost breakdown of any rate in the Bill of Quantities.

36.2 In the case of a lump sum contract, the Activity Schedule shall be amended by the Contractor to accommodate changes of Program or method of working made at the Contractor's own discretion. Prices in the Activity Schedule shall not be altered when the Contractor makes such changes to the Activity Schedule.

37. Variations

37.1 All Variations shall be included in updated Programmes, and, in the case of a lump sum contract, also in the Activity Schedule, produced by the Contractor.

37.2 The Contractor shall provide the Project Manager with a quotation for carrying out the Variation when requested to do so by the Project Manager. The Project Manager shall assess the quotation, which shall be given within seven (7) days of the request or within any longer period stated by the Project Manager and before the Variation is ordered.

37.3 If the Contractor's quotation is unreasonable, the Project Manager may order the Variation and make a change to the Contract Price, which shall be based on the Project Manager's own forecast of the effects of the Variation on the Contractor's costs.

37.4 If the Project Manager decides that the urgency of varying the work would prevent a quotation being given and considered

without delaying the work, no quotation shall be given and the Variation shall be treated as a Compensation Event.

37.5 The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning.

37.6 In the case of an admeasurement contract, if the work in the Variation corresponds to an item description in the Bill of Quantities and if, in the opinion of the Project Manager, the quantity of work above the limit stated in Sub-Clause 38.1 or the timing of its execution do not cause the cost per unit of quantity to change, the rate in the Bill of Quantities shall be used to calculate the value of the Variation. If the cost per unit of quantity changes, or if the nature or timing of the work in the Variation does not correspond with items in the Bill of Quantities, the quotation by the Contractor shall be in the form of new rates for the relevant items of work.

**38. Cash Flow
Forecasts**

38.1 When the Program, or, in the case of a lump sum contract, the Activity Schedule, is updated, the Contractor shall provide the Project Manager with an updated cash flow forecast. The cash flow forecast shall include different currencies, as defined in the Contract, converted as necessary using the Contract exchange rates.

**39. Payment
Certificates**

39.1 The Contractor shall submit to the Project Manager statements of the estimated value of the work executed less the cumulative amount certified previously, in intervals of no less than 14 days.

39.2 The Project Manager shall check the Contractor's statement and certify the amount to be paid to the Contractor.

39.3 The value of work executed shall be determined by the Project Manager.

39.4 The value of work executed shall comprise:

- (a) In the case of an admeasurement contract, the value of the quantities of work in the Bill of Quantities that have been completed; or

(b) In the case of a lump sum contract, the value of work executed shall comprise the value of completed activities in the Activity Schedule.

39.5 The value of work executed shall include the valuation of Variations and Compensation Events.

39.6 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.

40. Payments

40.1 Payments shall be adjusted for deductions for advance payments and retention. The *Employer* shall pay the Contractor the amounts certified by the Project Manager within 28 days of the date of each certificate. If the *Employer* makes a late payment, the Contractor may be entitled to 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 **rate stated in the PCC.**

40.2 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.

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

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

41. Compensation Events

41.1 The following shall be Compensation Events:

(a) The *Employer* does not give access to a part of the Site by the Site Possession Date pursuant to GCC Sub-Clause 20.1.

- (b) The *Employer* modifies the Schedule of Other Contractors in a way that affects the work of the Contractor under the Contract.
- (c) The Project Manager orders a delay or does not issue Drawings, Specifications, or instructions required for execution of the Works on time.
- (d) The Project Manager instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects.
- (e) The Project Manager unreasonably does not approve a subcontract to be let.
- (f) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Letter of Acceptance from the information issued to bidders (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site.
- (g) The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the *Employer*, or additional work required for safety or other reasons.
- (h) Other contractors, public authorities, utilities, or the *Employer* does not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor.
- (i) The effects on the Contractor of any of the *Employer's* Risks.
- (j) The Project Manager unreasonably delays issuing a Certificate of Completion.

41.2 If a Compensation Event would cause additional cost or would prevent the work being completed before the Intended Completion Date, the Contract Price shall be increased and/or the Intended Completion Date shall be extended. The Project Manager shall decide whether and by how much the Contract

Price shall be increased and whether and by how much the Intended Completion Date shall be extended.

41.3 As soon as information demonstrating the effect of each Compensation Event upon the Contractor's forecast cost has been provided by the Contractor, it shall be assessed by the Project Manager, and the Contract Price shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable, the Project Manager shall adjust the Contract Price based on the Project Manager's own forecast. The Project Manager shall assume that the Contractor shall react competently and promptly to the event.

41.4 The Contractor shall not be entitled to compensation to the extent that the *Employer's* interests are adversely affected by the Contractor's not having given early warning or not having cooperated with the Project Manager.

42. Tax

42.1 The Project Manager shall adjust the Contract Price if taxes, duties, and other levies are changed between the date 28 days before the submission of bids for the Contract and the date of the last Completion certificate. The adjustment shall be the change in the amount of tax payable by the Contractor, provided such changes are not already reflected in the Contract Price or are a result of GCC Clause 44.

43. Currencies

43.1 Where payments are made in currencies other than the currency of the *Employer's* country **specified in the PCC**, the exchange rates used for calculating the amounts to be paid shall be the exchange rates stated in the Contractor's Bid.

**44. Price
Adjustment**

44.1 Prices shall be adjusted for fluctuations in the cost of inputs only if **provided for in the PCC**. If so provided, the amounts certified in each payment certificate, before 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:

$$P_c = A_c + B_c \text{ Imc/Ioc}$$

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 coefficients² **specified in the PCC**, representing the nonadjustable and adjustable portions, respectively, of the Contract Price payable in that specific currency “c;” and

Imc is the index prevailing at the end of the month being invoiced and Ioc is the index prevailing 28 days before Bid opening for inputs payable; both in the specific currency “c.”

44.2 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.

45. Retention

45.1 The *Employer* shall retain from each payment due to the Contractor the proportion **stated in the PCC** until Completion of the whole of the Works.

45.2 Upon the issue of a Certificate of Completion of the Works by the Project Manager, in accordance with GCC 51.1, half the total amount retained shall be repaid to the Contractor and half when the Defects Liability Period has passed and the Project Manager has certified that all Defects notified by the Project Manager to the Contractor before the end of this period have been corrected.

46. Liquidated Damages

46.1 The Contractor shall pay liquidated damages to the *Employer* at the rate per day **stated in the PCC** for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount **defined in the PCC**. The *Employer* may deduct liquidated damages from payments due to the Contractor.

² The sum of the two coefficients A_c and B_c should be 1 (one) in the formula for each currency. Normally, both coefficients shall be the same in the formulae for all currencies, since coefficient A, 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 are added to the Contract Price. [To be transferred to the User Guide]

Payment of liquidated damages shall not affect the Contractor's liabilities.

46.2 If the Intended Completion Date is extended after liquidated damages have been paid, the Project Manager shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate. The Contractor shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rates specified in GCC Sub-Clause 40.1.

47. Bonus

47.1 The Contractor shall be paid a Bonus calculated at the rate per calendar day **stated in the PCC** for each day (less any days for which the Contractor is paid for acceleration) that the Completion is earlier than the Intended Completion Date. The Project Manager shall certify that the Works are complete, although they may not be due to be complete.

**48. Advance
Payment**

48.1 The *Employer* shall make advance payment to the Contractor of the amounts **stated in the PCC** by the date **stated in the PCC**.

48.2 The Contractor is to use the advance payment only to pay for Equipment, Plant, Materials, and mobilization expenses required specifically for 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.

48.3 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 on a payment basis. No account shall be taken of the advance payment or its repayment in assessing valuations of work done, Variations, price adjustments, Compensation Events, Bonuses, or Liquidated Damages.

49. Securities

49.1 The Performance Security shall be provided to the *Employer* no later than the date specified in the Letter of Acceptance and shall be issued in an amount **specified in the PCC**, by a bank, insurance company, or surety acceptable to the *Employer*, and denominated in the types and proportions of the currencies in which the Contract Price is payable. The Performance Security shall be valid until a date 28 days from the date of issue of the

Certificate of Completion in the case of a Bank Guarantee, and until one year from the date of issue of the Completion Certificate in the case of a Performance Bond.

- 50. Dayworks**
- 50.1 If applicable, the Dayworks rates in the Contractor's Bid shall be used only when the Project Manager has given written instructions in advance for additional work to be paid for in that way.
- 50.2 All work to be paid for as Dayworks shall be recorded by the Contractor on forms approved by the Project Manager. Each completed form shall be verified and signed by the Project Manager within two days of the work being done.
- 50.3 The Contractor shall be paid for Dayworks subject to obtaining signed Dayworks forms.
- 51. Cost of Repairs**
- 51.1 Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Correction periods shall be remedied by the Contractor at the Contractor's cost if the loss or damage arises from the Contractor's acts or omissions.

E. Finishing the Contract

- 52. Completion**
- 52.1 The Contractor shall request the Project Manager to issue a Certificate of Completion of the Works, and the Project Manager shall do so upon deciding that the whole of the Works is completed.
- 53. Taking Over**
- 53.1 The *Employer* shall take over the Site and the Works within seven (7) days of the Project Manager's issuing a certificate of Completion.
- 54. Final Account**
- 54.1 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 56 days of receiving the Contractor's account if it is correct and complete. If it is not, the Project Manager shall issue within 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 Project Manager shall decide on the amount payable to the Contractor and issue a payment certificate.

55. Operating and Maintenance Manuals

55.1 If “as built” Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates **stated in the PCC**.

55.2 If the Contractor does not supply the Drawings and/or manuals by the dates **stated in the PCC** pursuant to GCC Sub-Clause 55.1, or they do not receive the Project Manager’s approval, the Project Manager shall withhold the amount **stated in the PCC** from payments due to the Contractor.

56. Termination

56.1 The *Employer* or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.

56.2 Fundamental breaches of Contract shall include, but shall not be limited to, the following:

- (a) the Contractor stops work for 28 days when no stoppage of work is shown on the current Program and the stoppage has not been authorized by the Project Manager;
- (b) the Project Manager instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within 28 days;
- (c) the *Employer* or the Contractor is made bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
- (d) a payment certified by the Project Manager is not paid by the *Employer* to the Contractor within 84 days of the date of the Project Manager’s certificate;
- (e) the Project Manager gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Project Manager;
- (f) the Contractor does not maintain a Security, which is required;

- (g) the Contractor has delayed the completion of the Works by the number of days for which the maximum amount of liquidated damages can be paid, as **defined in the PCC**; or
- (h) if the Contractor, in the judgment of the *Employer*, has engaged in corrupt or fraudulent practices in competing for or in executing the Contract, pursuant to GCC Clause 57.1.

56.3 When either party to the Contract gives notice of a breach of Contract to the Project Manager for a cause other than those listed under GCC Sub-Clause 56.2 above, the Project Manager shall decide whether the breach is fundamental or not.

56.4 Notwithstanding the above, the *Employer* may terminate the Contract for convenience.

56.5 If the Contract is terminated, the Contractor shall stop work immediately, make the Site safe and secure, and leave the Site as soon as reasonably possible.

57. Fraud and Corruption

57.1 The *Employer* requires that Contractors, Subcontractors, manufacturers, and Consultants under Government-financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuit of this policy, the *Employer*:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the procurement process or in contract execution;
 - (ii) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract;
 - (iii) “collusive practice” means a scheme or arrangement between two or more bidders, with or without the

knowledge of the Recipient, designed to establish bid prices at artificial, non-competitive levels; and

- (iv) “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the procurement process or affect the execution of a contract;
- (b) will disqualify any Tenderer from a procurement process if it determines at any time that Tenderer is engaged in corrupt, fraudulent, collusive or coercive practices during the procurement;
- (c) will terminate a contract if it determines at any time that the Contractor is engaged in corrupt, fraudulent, collusive or coercive practices during the execution of that contract; and
- (d) will sanction a firm or individual, including declaring them ineligible, either indefinitely or for a stated period of time, to participate in a procurement process or be awarded a Government-financed contract if it at any time determines that they have, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing a Government-financed contract.

58. Payment upon Termination

58.1 If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Project Manager shall issue a certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as **indicated in the PCC**. Additional Liquidated Damages shall not apply. If the total amount due to the *Employer* exceeds any payment due to the Contractor, the difference shall be a debt payable to the *Employer*.

58.2 If the Contract is terminated for the *Employer's* convenience or because of a fundamental breach of Contract by the *Employer*, the Project Manager shall issue a certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Contractor's personnel employed

solely on the Works, and the Contractor's costs of protecting and securing the Works, and less advance payments received up to the date of the certificate.

59. Property

59.1 All Materials on the Site, Plant, Equipment, Temporary Works, and Works shall be deemed to be the property of the *Employer* if the Contract is terminated because of the Contractor's default.

60. Release from Performance

60.1 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.

11. PARTICULAR CONDITIONS OF CONTRACT

Except where otherwise indicated, all PCC should be filled in by the Employer prior to issuance of the Bidding Documents. Schedules and reports to be provided by the Employer should be annexed.

A. General	
GCC 1.1 (o)	The Defects Liability Period is 180 days calculated from the Completion Date.
GCC 1.1 (q)	The <i>Employer</i> is the British Virgin Islands Ports Authority .
GCC 1.1 (u)	The Intended Completion Date for the whole of the Works shall be _____ days after the Start Date, excluding defects liability period.
GCC 1.1 (x)	The Project Manager is the designate of the Acting Managing Director
GCC 1.1 (z)	The Site is located at Port Purcell, Tortola, BVI
GCC 1.1 (cc)	The Start Date shall be seven (7) days after Contract signing
GCC 1.1 (ii)	The Works consist of furnishing all plant, labor, equipment and materials and performing all operations in connection with the construction and Repairs to Road Rehabilitation at MacNamara, Tortola, British Virgin Islands in accordance with the aforementioned drawings and specifications.
GCC 2.2	Sectional Completions are: <i>Not Applicable</i>
GCC 2.3(i)	The following documents also form part of the Contract: <ul style="list-style-type: none"> • Method Statements • Schedule or Work Programme
GCC 3.1	The language of the contract is <i>English</i> . The law that applies to the Contract is the Laws of the Virgin Islands.
GCC 4.1	The <i>Employer</i> shall decide on contractual matters.
GCC 5.1	The Project manager <i>may</i> delegate any of his duties and responsibilities.

GCC 13.1	<p>The minimum insurance amounts and deductibles shall be:</p> <p>(a) for loss or damage to the Works, Plant and Materials 100% of the value of the works</p> <p>(b) For loss or damage to Equipment: Full replacement cost, deductible 2.5%.</p> <p>(c) for loss or damage to property (except the Works, Plant, Materials, and Equipment) in connection with Contract US\$200,000</p> <p>(d) for personal injury or death:</p> <p>(i) of the Contractor's employees: US\$1,000,000</p> <p>(ii) of other people: US\$1,000,000</p>
GCC 14.1	Not applicable
GCC 20.1	The Site Possession Date(s) shall be: 7 days after the Contract Signing Date.
GCC 23.1 & GCC 23.2	Appointing Authority for the Adjudicator: Mutual agreement of the parties. In the event that the parties cannot so agree within a period of ten (10) days, the Mediator shall be appointed by the President of the BVI Bar Association.
GCC 24.3	<p>Hourly rate and types of reimbursable expenses to be paid to the Adjudicator:</p> <p>US250.00 per hour and reimbursable rate</p>
GCC 24.4	<p>Institution whose arbitration procedures shall be used:</p> <p>If any dispute or difference concerning this Agreement shall arise between the parties such dispute or difference shall be and is hereby referred to mediation within five (5) business days of such dispute arising. The mediator shall be appointed by the mutual agreement of the parties. In the event that the parties cannot so agree within a period of ten (10) days, the Mediator shall be appointed by the President of the BVI Bar Association. In the event that any dispute is not resolved by mediation, then such dispute shall be referred to arbitration in accordance with the provisions of the Arbitration Act, 2013 of the Laws of the Virgin Islands. Such arbitration to be conducted in accordance with the Rules of the BVI International Arbitration Centre in Road Town, Tortola.</p>

B. Time Control

GCC 25.1	The Contractor shall submit for approval a Program for the Works within 7 days from the date of the Letter of Acceptance.
GCC 25.3	The period between Program updates is 30 days . The amount to be withheld for late submission of an updated Program is \$2,000.00.

C. Quality Control

GCC 33.1	The Defects Liability Period is: 180 days .
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D. Cost Control

GCC 40.1	Interest is calculated at 0.1% per day .
GCC 43.1	The currency of the <i>Employer's</i> country is: United States Dollars .
GCC 44.1	The Contract is not subject to price adjustment in accordance with GCC Clause 44.
GCC 45.1	The proportion of payments retained is 5% .
GCC 46.1	The liquidated damages for the whole of the Works are 0.05% of the final Contract Price per day . The maximum amount of liquidated damages for the whole of the Works is 5% of the final Contract Price .
GCC 47.1	The Bonus for the whole of the Works is 0% of final Contract Price per day .
GCC 48.1	10% of the Contract Price and shall be paid to the Contractor no later than thirty (30) days from signing of the Contract .

GCC 49.1	<p>The Performance Security amount is:</p> <p>(a) Bank Guarantee: 10% of the Contract Price.</p> <p>(b) Performance Bond: 10% of the Contract Price.</p>
E. Finishing the Contract	
GCC 55.1	<p>The date by which operating and maintenance manuals are required is 7 days after receipt of the Certificate of Completion.</p> <p>“As built” drawings are not required.</p>
GCC 55.2	<p>The amount to be withheld for failing to produce operating and maintenance manuals by the date required in GCC 58.1 is US\$2,000.00.</p>
GCC 56.2 (g)	<p>The maximum number of days is: thirty (30) days</p>
GCC 58.1	<p>The percentage to apply to the value of the work not completed, representing the <i>Employer’s</i> additional cost for completing the Works, is 20%.</p>

12. PERFORMANCE SECURITY (BANK GUARANTEE) FORM

WHEREAS, _____(Insert name of “Contractor”) (hereinafter called “the Contractor”) has undertaken in pursuance of _____ (hereinafter called “the Contract”), dated _____ to execute the construction of _____ AND WHEREAS it has been stipulated by you in the said Contract that the Contractor shall furnish you with a bank guarantee from a recognized bank for the sum specified therein as security for compliance with the Contractor’s performance obligations in accordance with the Contractor;

AND WHEREAS we have agreed to give the Contractor a guarantee.

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the Contractor, up to a total of US\$_____ (amount in numbers) in equivalent of (_____) (amount in words) and we undertake to pay you, upon the first written demand declaring the Contractor to be in default under the Contract and without cavil or argument, any sum or sums within the limits of _____ (amount of guarantee in numbers) as foresaid, without your needing to prove or to show grounds or reasons for your demand of the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the Contractor before presenting us with the demand.

This guarantee is valid until 28 days after the expiry date of the Defects Notification Period for the works under this Contract.

DATE: _____ SIGNATURE OF THE BANK _____

WITNESS: _____ SEAL _____