Section 8 - Special Conditions of Contract

The following Special Conditions of Contract (SCC) shall supplement the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC. The clause number of the SCC is the corresponding clause number of the GCC.

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| Definitions | |
|  | The Employer is: Ministry of Climate Change, Environment and Energy The Project Manager is: *[will be decided at award of contract]* The Bank is: Asian Development Bank  Country of Origin: as per Contract Document (d) to the Contract Agreement |
| InterpretationIncoterms Incoterms 2010 Law and Language | |
|  | The Contract shall be interpreted in accordance with the laws of: Republic of Maldives |
|  | The ruling language is: English |
|  | The language for communications is: English |
| Scope of Facilities | |
|  | 7.3 The Contractor agrees to supply spare parts for a period of years: Not Applicable. The recommended spare parts list to be provided in Price Schedule No 6 is for information purposes only. The price of recommended spare parts quoted in this Schedule shall not be added to Bid Price and not considered for evaluation. |
| Time for Commencement and Completion | |
|  | The Contractor shall commence work on the Facilities within **fourteen (14) days** from the Effective Date for determining Time for Completion as specified in the Contract Agreement. |
|  | The Time for Completion of the whole of the Facilities shall be **360 days** from the Effective Date as described in the Contract Agreement. |
| Contractor’s responsibilities  * 1. Protection of the Environment   The Contractor shall comply with all applicable national, provincial and local environmental laws and regulations. The Contractor shall (a) comply with the measure relevant to the contractor set forth in the Initial Environment Examination (IEE), and the Environmental Management Plan (EMP), and any corrective or preventive actions set forth in the Safeguards Monitoring Report; and (b) make available a budget for all such environmental measures and (c) submit quarterly reports on the carrying out of such measures to the Employer. Contract Price | |
|  | The Contract Price shall be fixed for the duration of the Contract Agreement. |
| Securities | |
|  | 13.3.1 The amount of performance security, as a percentage of the Contract Price for the Facility or for the part of the Facility for which a separate Time for Completion is provided, shall be: ten (10) % of the contract amount. |
|  | 13.3.2 The performance security shall be in the form of the bank guarantee as per form included in Section 9 (Contract Forms). In case the institution issuing the security is located outside the Republic of Maldives, it should have a correspondent financing institution located in the Republic of Maldives to make it enforceable. |
|  | 13.3.3 The performance security shall not be reduced on the date of the Operational Acceptance. |
| Taxes and duties 14.1.1 GST is applicable in the Maldives for local purchases. WORK PROGRAM 18.3 Progress Report  (c) Monitoring of the obligations in sub-clauses 22.2.1, 22.2.3, 22.2.7 (d), 22.2.15 and 22.2.16. procurement 21.1 The contractor shall adequately record the condition of roads, agriculture land, and other infrastructure, prior to the start of transporting materials, goods and equipment, and construction. Installation22.1.1 (a) The contractor shall comply with (i) the measures and requirements set forth in the resettlement plan to the extent it concerns impacts on affected people during construction; and (ii) any corrective or preventive actions set out in safeguards monitoring reports that the Employer will prepare from time to time to monitor implementation of the resettlement plan. The contractor shall allocate a budget for compliance with these measures, requirements and actions. | |
|  | Labour22.2.3 (d) The contractor shall not make employment decisions based upon personal characteristics unrelated to job requirements. The Contractor shall base the employment relationship upon equal opportunity and fair treatment, and shall not discriminate with respect to aspects of the employment relationship, including recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment or retirement, and discipline. The Contractors shall comply with applicable labour health, and safety laws and regulations of the Employer and, in particular, (a) not employ child labour for construction and maintenance activities; and (b) provide appropriate facilities (latrines, etc.) for workers at construction sites. The Contractor shall not differentiate wages between men and women for work of equal value.22.2.5 Working Hours (a) Normal working hours are: Saturday to Thursday, 8:00-16:00h 22.2.7 Health and Safety (d) The Contractor shall throughout the contract (including the Defect Liability Period):  (i) conduct Information, Education and Consultation Communication (IEC) campaigns, at least every other month, addressed to all the Site staff and labour (including all the Contractor's employees, all Sub-Contractors and Employer’s and Project Manager’s employees, and all truck drivers and crew making deliveries to Site for construction activities) and to the immediate local communities, concerning the risks, dangers and impact, and appropriate avoidance behavior with respect to of Sexually Transmitted Diseases (STD)—or Sexually Transmitted Infections (STI) in general and HIV/AIDS in particular;  (ii) provide male or female condoms for all Site staff and labour as appropriate; and  (iii) provide for STI and HIV/AIDS screening, diagnosis, counselling and referral to a dedicated national STI and HIV/AIDS program, (unless otherwise agreed) of all Site staff and labour.  The Contractor shall include in the program to be submitted for the execution of the Facilities under Subclause 18.2 an alleviation program for Site staff and labor and their families in respect of Sexually Transmitted Infections (STI) and Sexually Transmitted Diseases (STD) including HIV/AIDS. The STI, STD and HIV/AIDS alleviation program shall indicate when, how and at what cost the Contractor plans to satisfy the requirements of this Subclause and the related specification. For each component, the program shall detail the resources to be provided or utilized and any related sub-contracting proposed. The program shall also include provision of a detailed cost estimate with supporting documentation. Payment to the Contractor for the preparation and implementation this program shall not exceed the amount dedicated for this purpose. 22.2.8 Funeral Arrangements Funeral arrangements: as per Section 7 – General Conditions of Contract, clause 22.2.8 |
| Completion of the facilities 24.9 Upon the completion of construction, the Contractor shall fully reinstate pathways, other local infrastructure, and agriculture land to at least their pre-project condition as recorded by the Contractor in consonance with its obligations in Clause 21.1 Commissioning and Operational Acceptance | |
|  | 25.2.2 The Guarantee Test of the Facilities shall be successfully completed for each island within one (1) month from the date of Completion. |
| Completion Time Guarantee | |
|  | Applicable rate for liquidated damages: 0.5% of the total contract price (including variations, if there’s any) per week Maximum deduction for liquidated damages: 10% of the total contract price (including variations, if there’s any) |
|  | No bonus will be given for earlier Completion of the Facilities or part thereof. |
| Defect Liability | |
|  | The critical components covered under the extended defect liability are all parts of the Facilities and the period shall be 730 days from the date of Completion of the Facilities or any part thereof. |
| Limitation of Liability | |
|  | (b) The multiplier of the Contract Price is: 1.1 |
| Unforeseen conditions 35.3 In addition to notice of any unforeseeable physical conditions, the Contractor shall provide the Project Manager with a written notice of any unanticipated environmental or resettlement risks or impacts that arise during construction, implementation or operation of the plant or permanent works, which were not considered in the initial environmental examination, the environmental management plan or the resettlement plan. Disputes and Arbitration | |
|  | The Dispute Board shall be appointed within twenty-eight (28) days after the Effective Date. The Dispute Board shall be one sole member.  List of potential Dispute Board members is: none. |
|  | Appointment (if not agreed) to be made by: Ministry of Finance |
|  | Rules of procedure for arbitration proceedings: (a) Contracts with foreign contractors:  International arbitration shall be conducted in accordance with the rules of the International Chamber of Commerce.  Arbitration shall be administered by the International Chamber of Commerce.  The place of arbitration shall be the place of the institution administering the arbitration.  (b) Contracts with contractors being nationals of the Employer’s country: in accordance with the rules of the International Chamber of Commerce. |
| Eligibility | |
|  | The Contractor shall have the nationality of an eligible country. The Contractor shall be deemed to have the nationality of a country if the Contractor is a citizen or is constituted, or incorporated, and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors or suppliers for any part of the Contract including related services.The materials, equipment and services to be supplied under the Contract shall have their origin in eligible source countries and all expenditures under the Contract will be limited to such materials, equipment, and services. At the Employer’s request, the Contractor may be required to provide evidence of the origin of materials, equipment and services.For purposes of SCC 46.2, “origin” means the place where the materials and equipment are mined, grown, produced or manufactured, and from which the services are provided. Materials and equipment are produced when, through manufacturing, processing, or substantial or major assembling of components, a commercially recognized product results that differs substantially in its basic characteristics or in purpose or utility from its components. |