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Project Procurement and Financial Management (PPFM)

LETTER OF INVITATION



Operations Complex

SELECTION OF INDIVIDUAL CONSULTANT

## LETTER OF INVITATION

SELECTION OF INDIVIDUAL CONSULTANT

[*Insert: No….* ]

[*Insert: Financing Reference No*]

*[Insert: Location and Date*]

Dear Mr./Ms.,

**Subject:** Request for Application from individual consultants

[*Insert: Name of Beneficiary*] (hereinafter called “Beneficiary”) has *[received or applied for]* a financing from the Islamic Development Bank "the IsDB"] to in the form of a [*insert: type of Shari’ah financing instrument(s)*] toward the cost of the [*insert: name of the project* or designation of *assignment*] and intends to use part of the funds of this financing to make the payments authorized under the Contracts for which this Letter of Invitation issued.

1. The *[insert: Name of the Executing Agency*] now requests information on the qualification of the experts selected on the shortlist for the provision of the following consultancy services: [*insert title of assignment*]. Detailed information about the Services is provided in the Terms of Reference annexed to this Letter of Invitation.
2. The Letter of Invitation has been addressed to the experts on the shortlist, whose names appear below:

3. The probable duration of the assignment will be *[insert the duration of the assignment*].

4. The Terms of Reference (TOR) indicating the scope of the task to be performed as well as the services required of the selected consultants are attached to the Letter of Invitation. You are requested to comment on the TOR of the proposed task, to present your practical experience and your updated Curriculum Vitae.

5.Applications to be submitted by the selected individual consultants will be evaluated against the following criteria:

1. General qualification of the individual consultant: 30 points
2. Adequation of the consultant's expertise and experience for the assignment: 50 points
3. Experience in the region and sector:15 points
4. Language: 5 points

6. Only applications from consultants who have obtained a minimum of (at least 70 points) will be considered to accomplish this task. All consultants will be ranked and the first on the list might be selected for this task.

7. Please acknowledge receipt of the Letter of Invitation within…. days

8. If you are unable to respond, please inform us as soon as possible, by fax or email.

9. Pending your reply, I thank you in advance for having considered the Letter of Invitation.

Please accept, Madam/Sir, the expression of my distinguished consideration.

[*To be inserted: Signature, Name and title of the Client's representative*]

*Mailing address:*

*Tel:*

*Fax*

*E-mail:*

*Address:*

**SECTION I**

**TERMS OF REFERENCE**

**SECTION II**

**DRAFT CONTRACT (Lump-Sum and Time-Based)**

**SAMPLE CONTRACT FOR CONSULTING SERVICES**

**Individual Consultant**

**Contract**

Lump-Sum



**SAMPLE CONTRACT FOR CONSULTING SERVICES**

**SMALL ASSIGNMENTS**

**LUMP-SUM PAYMENTS**

**CONTRACT No. *[insert]***

THIS CONTRACT (“Contract”) is entered into this *[insert starting date of assignment]*, by and between [*insert Client’s name]* (“the Client”) having its principal place of business at *[insert Client’s address]*, and *[insert Consultant’s name]* (“the Consultant”) having its principal office located at *[insert Consultant’s address[[1]](#footnote-2)].*

WHEREAS, the Client wishes to have the Consultant perform the services hereinafter referred to, and

WHEREAS, the Consultant is willing to perform these services,

NOW THEREFORE THE PARTIES hereby agree as follows:

|  |  |
| --- | --- |
| **1. Services** | (i) The Consultant shall perform the services specified in Annex A, “Terms of Reference and Scope of Services,” which is made an integral part of this Contract (“the Services”).  (ii) The Consultant shall provide the personnel listed in Annex B, “Consultant’s Personnel,” to perform the Services.  (iii) The Consultant shall submit to the Client the reports in the form and within the time periods specified in Annex C, “Consultant’s Reporting Obligations.” |
| **2. Term** | The Consultant shall perform the Services during the period commencing *[insert starting date]* and continuing through *[insert completion date]*, or any other period as may be subsequently agreed by the parties in writing. |
| **3. Payment** | A. Ceiling  For Services rendered pursuant to Annex A, the Client shall pay the Consultant an amount not to exceed *[insert amount]*. This amount has been established based on the understanding that it includes all of the Consultant's costs and profits as well as any tax obligation that may be imposed on the Consultant.  B. Schedule of Payments  The schedule of payments is specified below[[2]](#footnote-3):  *[insert detailed list of payments specifying amount of each installment, deliverable/output for which the installment is paid and currency]*  C. Payment Conditions  Payment shall be made in *[specify currency]*, no later than 30 days following submission by the Consultant of invoices in duplicate to the Coordinator designated in paragraph 4.  Payments shall be made to Consultant’s bank account *[insert banking details. If payment by bank wire is not possible, prior Bank approval to apply cash payments option shall be obtained]* |
| **4. Project Administration** | A. Coordinator.  The Client designates Mr./Ms. *[insert name and job title]* as Client's Coordinator; the Coordinator will be responsible for the coordination of activities under this Contract, for acceptance and approval of the reports and of other deliverables by the Client and for receiving and approving invoices for the payment.  B. Reports.  The reports listed in Annex C, “Consultant's Reporting Obligations,” shall be submitted in the course of the assignment, and will constitute the basis for the payments to be made under paragraph 3. |
| **5. Performance Standards**  **6. Inspections and Auditing** | The Consultant undertakes to perform the Services with the highest standards of professional and ethical competence and integrity. The Consultant shall promptly replace any employees assigned under this Contract that the Client considers unsatisfactory.  The Consultant shall permit, and shall cause its Sub-Consultants to permit, the Bank and/or persons or auditors appointed by the Bank to inspect and/or audit its accounts and records and other documents relating to the submission of the Proposal to provide the Services and performance of the Contract. Any failure to comply with this obligation may constitute a prohibited practice subject to contract termination and/or the imposition of sanctions by the Bank (including without limitation s determination of ineligibility) in accordance with prevailing Bank’s sanctions procedures. |
| **7. Confidentiality** | The Consultants shall not, during the term of this Contract and within two years after its expiration, disclose any proprietary or confidential information relating to the Services, this Contract or the Client's business or operations without the prior written consent of the Client. |
| **8. Ownership of Material** | Any studies reports or other material, graphic, software or otherwise, prepared by the Consultant for the Client under the Contract shall belong to and remain the property of the Client. The Consultant may retain a copy of such documents and software[[3]](#footnote-4). |
| **9. Consultant Not to be Engaged in Certain Activities** | The Consultant agrees that, during the term of this Contract and after its termination, the Consultants and any entity affiliated with the Consultant, shall be disqualified from providing goods, works or services (other than consulting services that would not give rise to a conflict of interest) resulting from or closely related to the Consulting Services for the preparation or implementation of the Project |
| **10. Insurance** | The Consultant will be responsible for taking out any appropriate insurance coverage. |
| **11. Assignment** | The Consultant shall not assign this Contract or sub-contract any portion of it without the Client's prior written consent. |
| **12. Law Governing Contract and Language** | The Contract shall be governed by the laws of *[insert government]*, and the language of the Contract shall be[[4]](#footnote-5) *[insert language]* |
| **13. Dispute Resolution[[5]](#footnote-6)** | Any dispute arising out of the Contract, which cannot be amicably settled between the parties, shall be referred to adjudication/arbitration in accordance with the laws of the Client's country. |
| **14. Termination** | The Client may terminate this Contract with at least ten (10) working days prior written notice to the Consultant after the occurrence of any of the events specified in paragraphs (a) through (d) of this Clause:  (a) If the Consultant does not remedy a failure in the performance of its obligations under the Contract within seven (7) working days after being notified, or within any further period as the Client may have subsequently approved in writing;  (b) If the Consultant becomes insolvent or bankrupt;  (c) If the Consultant, in the judgment of the Client or the Bank, has engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices (as defined in the prevailing Bank’s sanctions procedures) in competing for or in performing the Contract.  (d) If the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract. |

FOR THE CLIENT FOR THE CONSULTANT

Signed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**List of Annexes**

Annex A: Terms of Reference and Scope of Services

Annex B: Consultant’s Personnel and corresponding unit rates

Annex C: Consultant’s Reporting Obligations

# Annex D: IsDB’s Policy – Corrupt and Fraudulent Practices

# Annex D: IsDB’s Policy – Corrupt and Fraudulent Practices

[“*Notes to the Client”: the text in this Attachment 1 shall not be modified*]

Guidelines for Procurement of Consultant Services under Islamic Development Project Financing, September 2018

**Fraud and Corruption:**

1.38 It is IsDB policy to require that Beneficiaries as well as Consultant Firms and Individual Consultants, and their agents (whether declared or not), sub-contractors, sub-consultants, service providers or Suppliers, and any personnel thereof, to observe the highest standard of ethics during the selection and execution of IsDB financed contracts[[6]](#footnote-7). In pursuance of this policy, the requirements of *IsDB Group Anti-Corruption Guidelines on Preventing and Combating Fraud and Corruption in IsDB Group-Financed Projects and Cross Debarment Agreement* shall be observed at all times. IsDB:

1. Defines, for the purposes of this provision, the terms set forth below as follows:
2. “corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
3. “fraudulent practice” is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
4. “collusive practices” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
5. “coercive practices” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party; and
6. “obstructive practice” is deliberately destroying, falsifying, altering, or concealing of evidence material to an investigation or making false statements to investigators in order to materially impede an IsDB investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or acts intended to materially impede the exercise of IsDB inspection and audit rights provided for under Paragraph 1.38(e) below.
7. Will reject a Proposal for award if it determines that the Consultant recommended for award, or any of its personnel, or its agents, or its sub-Consultants, sub-contractors, service providers, Suppliers and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
8. Will declare misprocurement and cancel the portion of the Project Financing allocated to a contract if it determines at any time that representatives of the Beneficiary or of a recipient of any part of the proceeds of IsDB Project Financing were engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the selection process or the implementation of the contract in question, without the Beneficiary having taken timely and appropriate action, satisfactory to IsDB, to address such practices when they occur, including by failing to inform IsDB in a timely manner at the time they knew of the practices;
9. Will sanction a Firm or an individual, at any time, in accordance with prevailing IsDB sanctions procedures[[7]](#footnote-8), including by publicly declaring such Firm or individual ineligible, either indefinitely or for a stated period of time:
10. to be awarded a IsDB financed contract; and
11. to be a nominated sub-contractor, Consultant, sub-Consultant, Supplier, or service provider of an otherwise eligible Firm being awarded a IsDB-financed contract; and
12. Will require that a clause be included in the RFP and in contracts financed by IsDB requiring Consultants, and their agents, personnel, sub-consultants, sub-contractors, service providers, or Suppliers, to permit IsDB to inspect all accounts, records, and other documents relating to the submission of Proposals and contract performance, and to have them audited by auditors appointed by IsDB.

**CONTRACT TEMPLATE FOR CONSULTANT’S SERVICES**

**CONTRACT N°**

**Contract for Individual Consultant’s Services**

**Time-Based**

**between**

*[Name of Client]*

**and**

***Name of the Individual Consultant***

***Dated :***



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**THIS CONTRACT OF CONSULTANT SERVICES** (hereinafter called the « Contract ») is made :

**between** *[name of the executing Agency]*, [geographical *adress, P.O box, City, Country, phone number,*], acting for and on behalf of *[name of the beneficiary]*, (hereinafter called the « *Project* »).

**On the one hand**

**And, [*name of the consultant]****,* (hereinafter called the « Consultant »),residing at [Geographical and postal address, city, country, telephone, fax], residing at [Geographical and postal address, city, country, telephone, fax],

On the other hand

**WHEREAS the Project has identified the need for the Consultant's services as described or implied in this Contract, on the terms and conditions set forth below;**

**CONSEQUENTLY,** now therefore the parties hereto hereby agree as follows

# ARTICLE I

# SCOPE OF THE ASSIGNEMENT

* 1. The services to be performed by the Consultant under this Contract (hereinafter referred to as the "Services") are defined in the terms of reference (hereinafter referred to as the "Terms of Reference") set forth in Annex I, which forms an integral part of this Contract.
  2. Notwithstanding Article XV below, the Project reserves the right to amend the Terms of Reference, provided, however, that such amendment shall not have the effect of changing the nature or purpose of the Services. If a substantial change in the scope of the Services results, the Contract Amount (as defined in Article VIII, paragraph 8.1) may be adjusted and/or the period of this Contract revised by the Client.

# ARTICLE II

# COMENCEMENT OF SERVICES AND COMPLIANCE WITH DEADLINES

The Consultant shall commence performance of the Services from [insert date] for a period of [insert duration in words and figures], in accordance with the program and within the time frame set forth in the Terms of Reference or indicated in writing to the Consultant by the Project.

# ARTICLE III

**LIABILITY OF THE CONSULTANT**

* 1. The Consultant shall perform the Services with care, diligence and efficiency, in accordance with generally accepted professional practice and quality of service in its industry and in performing the Services, Consultant shall accept, carry out and comply with such instructions and directions as the Client may issue from time to time.
  2. The Consultant shall report regularly to the Client and seek its instructions and advice on all matters relating to this Contract and the performance of the Services.
  3. The Consultant shall perform the Services to the satisfaction of the Client and in accordance with the Terms of Reference. The Consultant shall also submit to the Client satisfactory and complete reports in accordance with the Terms of Reference.
  4. During the performance of this Contract, the Consultant shall devote all of his working time to the service of the Project, to the performance of the Services; he shall in no case, without the written consent of the Client, directly or indirectly perform any other work or professional activities other than the performance of his duties and responsibilities under this Contract.
  5. The Consultant shall keep accurate and detailed records and accounts of the expenses incurred by it in connection with this Contract in such form and detail as may be acceptable to the Project, for payment by the Project under this Contract.
  6. The Consultant shall obtain any visas and/or residence permits that may be required for the performance of the Services and the fulfillment of its obligations under this Contract. The Client shall assist the Consultant, if necessary and to the extent possible, in obtaining such visas and/or residence permits .
  7. The Consultant shall be fully responsible for the consequences of any error or omission on its part or for any damage caused by its negligence in the performance of the Services or its other obligations under this Contract.
  8. Unless otherwise agreed to in writing by the Client during the term of this Contract, the Consultant and any entity in which the Consultant has a professional interest or involvement shall not provide any goods or services related to or arising from the Services.

# ARTICLE IV

**STATEMENT AND GUARANTEE**

* 1. The Consultant represents and warrants that he/she has the requisite experience, qualifications, and capabilities to perform the above Services and to carry out the duties and responsibilities prescribed by this Contract, and that all statements made with respect to experience, qualifications, and capabilities are true.
  2. The Consultant undertakes, during the term of this Contract, to comply with, and to take all reasonable steps to comply with, the laws and regulations in force in any place where all or part of the Services are to be performed.
  3. The Consultant declares and warrants to the Project: (i) that the execution of this contract, the performance of the transactions as contemplated in this contract and the performance of its obligations under this contract do not violate or conflict with, or will not result in the violation of a of the provisions, or will not give a third party the right to terminate any contract, whether it be an agreement, a license, a franchise, or an undertaking to which he/she is a party and which would be essential to the execution of its obligations under this contract, (ii) that it possesses and will maintain all authorisations, licences, permits and good title to all intellectual property rights or other rights necessary for the performance of its obligations under this contract. This paragraph shall continue to apply after the termination of this Contract.

# ARTICLE V

# INSURANCES

The Consultant shall be personally responsible for the cost of any insurance and medical examination or treatment required for the duration of the Services.

*Add one of the following two clauses: [In addition, the Consultant shall, during the term of this Contract, be insured at his own expense against the risks of accident and death which may arise in the course of the performance of the Contract] or [Notwithstanding the foregoing, during the term of this Contract, the Consultant shall be insured at the expense of the Project against the risks of accident and death which may arise in the course of the performance of the Contract, in accordance with the terms and conditions of the insurance policy taken out by the Project].*

# ARTICLE VI

[ARTICLE VI : RELATIONSHIP BETWEEN PARTIES - COMPenSATION5](#_Toc142915213)

# *[OF THE Executing Agency]*

* 1. Nothing in this Contract shall be construed as establishing or creating any relationship between the Client on the one hand and the Consultant on the other hand, other than that of an independent contractor. Accordingly, the Consultant agrees that the Client shall not be liable in contract or tort for any act, omission, error, or negligence on its part.
  2. The Consultant shall indemnify the Client in full against all actions, judgments, damages, losses and expenses (including reasonable attorney's fees), relating to or arising out of any claims, including those of third parties, occasioned by or resulting from any act, omission, error or negligence on his/her part. The Consultant shall reimburse the Project for all costs incurred by him/her in investigating or defending against such claims or losses. The Consultant shall also indemnify the Client in full against any claims by third parties for infringement of industrial property or intellectual property rights in connection with the performance of the Services.
  3. The provisions of this Article shall continue to apply after the completion of this Contract.

# ARTICLE VII

**CONSULTANT’S INABILITY**

If, at any time and for any reason, the Client considers that the Consultant is unable to perform or complete the Services in a manner deemed satisfactory, it may either terminate this Contract, grant additional time for the performance of the Services, or suspend the performance of the Services.

# ARTICLE VIII

# CEILING OF THE CONTRAT – REMUNERATION

* 1. Le The Project shall pay to the Consultant, as remuneration for the satisfactory performance of the Services, the sums specified in Section 1 of Annex II to this Contract (hereinafter referred to as the "Contract Sum"), which forms an integral part of this Contract.
  2. The Contract Sum shall be paid in accordance with the provisions of Section 2 of said Appendix II.

# ARTICLE IX

**COPYRIGHT, CONFIDENTIALTY AND PROPRIATARY RIGHTS**

9.1 The Consultant shall not at any time, without the written authorization of the Client, disclose to any person or entity any Confidential Information made available to him/her for the purpose of performing the Services or discovered by him/her in the course of performing the Services or make any public statement relating to this Contract. All Confidential Information shall be treated as such by the Consultant and shall remain the property of the Client. Nor shall the Consultant use or make copies of such Confidential Information for any purpose other than this Contract. For the purposes of this Contract, "Confidential Information" means all documents, statistics, reports, data and other information, whether in written, oral or other tangible form, transmitted, made available to the Consultant or created, compiled or prepared by the Consultant, under, in connection with or pursuant to this Contract.

9.2 The Consultant shall ensure that the Confidential Information is protected in such a way as to preserve its confidentiality and to prevent misappropriation and access by unauthorized persons. He/She shall ensure that the Confidential Information is not used in an unauthorized manner.

9.3 The Consultant's obligations under paragraph 9.1 of this Agreement shall not be deemed to have been breached provided that the Confidential Information has become public knowledge other than as a result of a breach of paragraph 9.1.

9.4 The Consultant shall not, without the prior written consent of the Client, publish, contribute to, or authorize the publication of, any findings or recommendations, or any part thereof, made in the course of or as a result of the performance of the Services, and the existence of this Contract.

9.5 All ownership and intellectual and industrial property rights in documents, statistics, reports, data and other information transmitted, made available to, or created, compiled or prepared by the Consultant during the performance of the Services shall belong to the Project. Such documents, statistics, reports, data and other information shall, upon completion of the Services or termination of this Contract, be immediately returned to the Project. Such working papers shall be satisfactorily sorted and indexed before being returned to the Project.

9.6 The provisions of this clause shall continue to apply after the completion of this Contract.

# ARTICLE X

# TRANSFER AND SUB-CONTRACTING

The Consultant shall not assign, transfer or dispose of all or any of his/her rights or obligations under this Contract, except with the prior written consent of the Client.

10.2 The Consultant shall not, under any circumstances, sub-contract or otherwise transfer responsibility for the performance of the Services, in whole or in part, to any other person or entity, unless he/she obtains the prior written consent of the Client.

# ARTICLE XI

# FORCE MAJEURE

* 1. As defined in this Conract, "Force Majeure" includes any event which (a) delays or prevents, in whole or in part, the performance by a party of its obligations under this Agreement, (b) is unforeseeable and unavoidable, (c) is insurmountable or beyond the reasonable control of that party, and (d) is not due to that party's fault or negligence.
  2. The party affected by the Force Majeure shall immediately notify the other party in writing of the nature and likely duration of the Force Majeure and its effect on the performance of its obligations under this Contract.
  3. For the duration of the Force Majeure, the obligations of the affected party shall be suspended in accordance with or to the extent necessitated by the Force Majeure.
  4. If the event giving rise to the Force Majeure delays the performance of all or part of its obligations under this Contract for more than [insert number of days in words and (in figures)] days, either party shall have the right to give written notice to the other party of termination of this Contract.

# ARTICLE XII

# CORRUPT AND FRAUDULENT PRACTICES

* 1. The Consultant declares that no employee of the Project involved in the award of this Contract has received or will receive, directly or indirectly from him/her, any benefit or advantage resulting from the award of this Contract and its execution.
  2. If it is established that the Consultant has at any time engaged in corrupt or fraudulent practices in connection with this Contract, the Client may, after receiving a no-objection notice from the Bank, at its discretion, resort to either or both of the following actions: (i) cancel or terminate this Contract, as the case may be, without being required to pay the Contract Amount or any part thereof, (ii) declare the Consultant ineligible, either indefinitely or for a specified period of time, to enter into other contracts relating to contracts financed by the Client, and (iii) institute proceedings against the Consultant. Under this Contract, "bribery" means offering, giving, receiving or soliciting anything of value to influence the action of an official in the procurement and execution of the Contract, and "corrupt practices" means misrepresentation to influence the procurement or execution of the Contract or collusion among bidders, either before or after submission of bids.

# ARTICLE XIII

# TERMINATION

* 1. The Client may terminate this Contract at any time without notice in the event of misconduct by the Consultant. Misconduct" for the purposes of this section shall mean any unlawful, tortious or improper conduct which in the opinion of the Client causes serious damage to its reputation.
  2. The Client may, subject to giving at least [insert number of calendar days in words and figures] days' notice to the Consultant, terminate this Contract if, in its opinion, the Consultant has failed to properly perform the Services or comply with any of its obligations under the Contract.
  3. The Client may, in its sole discretion, terminate this Contract for convenience or to protect its interests, provided that it shall give at least [insert number of calendar days in words and (in figures)] days' notice of such termination.
  4. The Consultant may terminate this Contract if, within a period of forty-five (45) days after the date set for payment of an amount that is not disputed by the Client, the Client has failed to make payment without good reason.
  5. The Client and the Consultant may terminate this Contract by mutual agreement.
  6. If this Contract is terminated pursuant to the provisions of this Article XIII or Articles VII or XI, the Client shall pay, in accordance with the payment provisions of this Contract, only for Services actually performed and reasonable expenses incurred prior to the effective date of termination.

# ARTICLE XIV

# DISPUTE RESOLUTION

* 1. Any dispute or difference arising out of or in connection with this Agreement or any breach thereof shall be settled by direct negotiation. The party claiming the existence of a dispute or difference shall, as soon as it becomes aware of the existence of such dispute or difference, notify the other party in writing (such writing being hereinafter referred to as the "Notice of Conciliation") specifying the nature of the dispute or difference, and shall also provide such other information as the other party may reasonably require.
  2. If the dispute is not resolved within forty-five (45) days of receipt of the Notice of Conciliation, the parties may require that the dispute or difference be settled by arbitration in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL) in force at the date hereof..
  3. The Arbitral Tribunal shall consist of a sole arbitrator chosen by mutual agreement of the parties or, if the parties fail to reach agreement within sixty (60) days of the notification of the Notice of Conciliation, [state the arbitration centre in the project country or any other arbitration centre agreed upon by the parties] shall be the appointing authority.
  4. The seat of the arbitration shall be [state the city of the agreed seat of arbitration].
  5. The language of the arbitration shall be English.
  6. The parties undertake to execute the arbitration award and to consider it as the final and definitive settlement of their dispute.
  7. Nothing contained in this Article shall be deemed or shall constitute a waiver or modification of the privileges, immunities and exemptions granted to the Project under the Loan Agreement [or Grant Protocol] between the Government and the Islamic Development Bank, international conventions and other applicable texts.
  8. The provisions of this Article shall continue to apply after the termination of this Contract.

# 

# ARTICLE XV

# MODIFICATION - AMENDMENT

Subject to paragraph 1.2 of Article I above no changes, modifications or amendments shall be made to this contract unless mutually agreed in writing by both parties.

# ARTICLE XVI

# ENFORCEMENT - EXPIRATION OF THE CONTRAT

* 1. This contract shall come into force on its Effective Date, which shall be the date of the last of the signatures of the parties.
  2. Unless terminated in accordance with the provisions of Articles VII, XI, XII or XIII above or otherwise indicated by the Client in writing, this Contract shall terminate on the earlier of the date of (the date envisaged for completion of the performance of the Services as set out in the Terms of Reference plus 60 calendar days), or the date of discharge of all obligations arising out of or under this Contract except for those which have been expressly stated to avoid termination of this Contract.

# ARTICLE XVII

# NOTIFICATIONS

* 1. Any notification or request required or permitted in connection with the Client t shall be addressed to the [insert the Position of the Responsible Officer and the name of the Client Executing Agency] or to the representative he/she shall appoint for this purpose.
  2. Any notice or request shall be deemed to have been duly given or received when delivered by hand or by registered letter with acknowledgement of receipt or by facsimile to the party for whom it is intended or to the address indicated below or to such other address as the parties shall have communicated to each other in writing:

**FOR THE PROJECT**

### *Name of the Execution Agency*

### Postal Adress : Geographical *Adress of the de Executing Agency*

### *Postal Adress Execution Agency*

*City – Country*

A l’attention de : *Title/Position*

*Phone number :*

*Fax nimber :*

*Email adress :*

**For the Consultant**

Postal Adress  : *Name of the Consultant*

*Geographical adress*

*Postal Adresse*

*Phone number :*

*Fax number :*

*Email adress :*

# ARTICLE XVIII

# LAW GOVERNING CONTRACT

This Contract shall be governed by and construed in all respects in accordance with the laws of ...... [state applicable law of the country].

# ARTICLE XIX

# UNENFORCEABILITY PROVISION

The invalidity, unenforceability or illegality of any provision of this Contract (or part of any provision) shall not in any way affect the validity, enforceability or legality of the remaining provisions.

# ARTICLE XX

# ORIGINALS

This contract may be signed in several copies, each of which shall constitute an original of this contract. However, all originals shall constitute one and the same contract.

IN WITNESS WHEREOF, the parties to this Contract have signed on their respective behalf, on the dates mentioned below.

**FOR [*EXECUTING AGENCY]***

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

***NAME TITLE/POSITION OF AUTHORIZED REPRENSENTATIVE T OF THE CLIENT* Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**FOR THE CONSULTANT**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

***NAME OF THE CONSULTANT***

**Date*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_***

# ANNEX I

**THE PROJECT [*indicate the project's title*]**

**TERMS OF REFERENCE**

1. Assignment of the Consultant

Under the supervision of the Project Director or his/her representative, the Consultant shall perform the following tasks.

2. Inputs provided by [Project Executing Agency].

The Client will provide the following inputs/services:

[The ToR set out in this Appendix shall clearly describe the relevant context and nature of the project to be undertaken and specify the Services to be performed by the Consultant, as well as the start and completion dates of the Services. The ToR shall be comprehensive, detailed, and shall include the time frame and deadlines for the performance of the Services, the performance standards, tasks and objectives to be achieved by the Consultant in performing the Services under this Contract. The skills and experience required of the Consultant to perform the Services, the various tasks to be performed, the methodology, the expected results, the reports and other outputs to be provided under the Contract shall be specified. This Appendix describing the Services to be performed is legally binding on the parties and supersedes any previous description. If the Consultant's proposal for the ToR is more explicit than the ToR prepared by the Client, the relevant additional elements of the proposal shall be incorporated in this Appendix. A mere reference to the said proposal is not sufficient].

# ANNEX II

THE PROJECT [indicate the title of the project]

**CONTRACT AMOUNT AND PAYMENT TERMS**

1. **Amount of the Contract**

Pursuant to Article VIII of this Contract, the Client shall pay to the Consultant, in consideration of the Services and all reasonable costs and expenses incurred in the performance of its obligations under this Contract, the various sums according to the following schedule.

a) Fees

The professional fee payable to the Consultant under this Contract for the satisfactory performance of the Services shall be [insert amount in the relevant currency in words and then (in figures)].

[The amount shall be stated in the currency chosen by the Consultant. In the Borrowing Country, payments to nationals or residents who are subject to foreign exchange restrictions shall be made in the local currency, i.e., unless they prove that they are entitled to be paid in foreign currency].

**b) Travel expenses**

[In the context of missions related to Project activities, all arrangements must be made and payments made in accordance with the Project Policy. Related expenses will be paid directly by the Project and will not be included in its fees].

**i) Subsistence allowance**

The Consultant shall receive a daily subsistence allowance to cover hotel accommodation and personal living expenses, such as meals and other expenses not separately reimbursed under paragraph 1 (b) (iii) of this Annex II. Hotel accommodation will be paid on the basis of actual expenses incurred, subject to the maximum amount determined by the Client.

The subsistence allowance shall be paid at a maximum daily rate of [insert amount in words and (figures)], comprising hotel accommodation at a maximum daily rate of [insert amount] and personal living expenses at a daily rate of [insert amount], for [insert total number of days allowed] days. The total amount payable for DSA should therefore not exceed [insert total amount in local currency].

**(ii) Transport costs**

[Insert number] of round-trip air tickets in [insert class of travel] for the route(s) [insert itinerary] shall be purchased by the Client or shall be directly purchased by the Consultant and reimbursed by the Client, as agreed upon by the parties, on the basis of a total amount not exceeding [insert amount in currency].

[The Consultant shall travel economy class from his place of recruitment to the Project Headquarters or other agreed destination to commence performance of the Services. The same shall apply to his return journey at the end of the contract. For other trips during the execution of the Services, the class of travel shall be the same and the costs shall be borne directly by the Client].

iii) Reimbursable miscellaneous expenses

Reasonable miscellaneous expenses up to [insert amount in currency] to cover expenses accepted by the Client as reimbursable shall be reimbursed to the Consultant.

2. **Modalities of Payment**

The terms of payment for the fees and travel expenses that constitute part of the Contract Sum, as described in Section 1 of this Appendix II, shall be as follows

**a) Fees**

Payments shall be made upon satisfactory completion of the Services as described in the Terms of Reference and shall be as follows

Insert details: amounts and payment schedule] [Insert details: amounts and payment schedule].

[Payments shall be made on presentation of documentary evidence that the Services have been performed. Thus, payments shall be made in one or more instalments upon satisfactory completion of the various stages specified in the ToR, in accordance with the payment schedule negotiated with the Consultant by the Project. Advance payments of more than 10% of the fee shall not be made without the presentation by the Consultant of a valid First Demand Bank Guarantee acceptable to the Bank].

**b) Travel expenses**

**i) Subsistence Allowance**

Subsistence allowance shall be payable to the Consultant upon departure for the destination concerned. This payment shall be in accordance with the provisions of the project's Administrative and Financial Procedures Manual or any other procedure in force at the project level.

or

Upon completion of a given assignment, the Consultant shall reimburse the Project, on the basis of supporting documents, the difference between the actual cost paid for hotel or other accommodation and the amount paid by the Project to the Consultant to cover the hotel accommodation costs.

**(ii)Transportation and (iii) Miscellaneous Reimbursable Expenses**

Travel and miscellaneous expenses shall be reimbursed to the Consultant upon presentation of appropriate receipts or other evidence of expenses incurred by the Consultant in the performance of the above Services.

Any claim for travel expenses shall be made, with supporting documentation, prior to or at the time of the Consultant's request for payment of the final installment of the fee.

# ANNEX III: IsDB’s Policy – Corrupt and Fraudulent Practices

[“*Notes to the Client”: the text in this Attachment 1 shall not be modified*]

Guidelines for Procurement of Consultant Services under Islamic Development Project Financing, September 2018

**Fraud and Corruption:**

1.38 It is IsDB policy to require that Beneficiaries as well as Consultant Firms and Individual Consultants, and their agents (whether declared or not), sub-contractors, sub-consultants, service providers or Suppliers, and any personnel thereof, to observe the highest standard of ethics during the selection and execution of IsDB financed contracts[[8]](#footnote-9). In pursuance of this policy, the requirements of *IsDB Group Anti-Corruption Guidelines on Preventing and Combating Fraud and Corruption in IsDB Group-Financed Projects and Cross Debarment Agreement* shall be observed at all times. IsDB:

1. Defines, for the purposes of this provision, the terms set forth below as follows:
2. “corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
3. “fraudulent practice” is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
4. “collusive practices” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
5. “coercive practices” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party; and
6. “obstructive practice” is deliberately destroying, falsifying, altering, or concealing of evidence material to an investigation or making false statements to investigators in order to materially impede an IsDB investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or acts intended to materially impede the exercise of IsDB inspection and audit rights provided for under Paragraph 1.38(e) below.
7. Will reject a Proposal for award if it determines that the Consultant recommended for award, or any of its personnel, or its agents, or its sub-Consultants, sub-contractors, service providers, Suppliers and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
8. Will declare misprocurement and cancel the portion of the Project Financing allocated to a contract if it determines at any time that representatives of the Beneficiary or of a recipient of any part of the proceeds of IsDB Project Financing were engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the selection process or the implementation of the contract in question, without the Beneficiary having taken timely and appropriate action, satisfactory to IsDB, to address such practices when they occur, including by failing to inform IsDB in a timely manner at the time they knew of the practices;
9. Will sanction a Firm or an individual, at any time, in accordance with prevailing IsDB sanctions procedures[[9]](#footnote-10), including by publicly declaring such Firm or individual ineligible, either indefinitely or for a stated period of time:
10. to be awarded a IsDB financed contract; and
11. to be a nominated sub-contractor, Consultant, sub-Consultant, Supplier, or service provider of an otherwise eligible Firm being awarded a IsDB-financed contract; and
12. Will require that a clause be included in the RFP and in contracts financed by IsDB requiring Consultants, and their agents, personnel, sub-consultants, sub-contractors, service providers, or Suppliers, to permit IsDB to inspect all accounts, records, and other documents relating to the submission of Proposals and contract performance, and to have them audited by auditors appointed by IsDB.

1. Avoid use of *“P.O. Box” address* [↑](#footnote-ref-2)
2. Fill in based on required outputs as described in Annex A (Terms of Reference) and Annex C (Reporting Requirements). Avoid front-loaded payments. Advance payments in contracts with firms require a bank guarantee for the same amount. [↑](#footnote-ref-3)
3. Restrictions about the future use of these documents and software, if any, shall be specified at the end of paragraph 8. [↑](#footnote-ref-4)
4. The law selected by the Client is usually the law of its country. However, the Bank does not object if the Client and the Consultant agree on another law. The language shall be English, French, or Spanish, unless the Contract is entered into with a domestic firm, in which case it can be the local language. [↑](#footnote-ref-5)
5. In case of a Contract entered into with a foreign Consultant, the following provision may be substituted for paragraph 13: “Any dispute, controversy or claim arising out of or relating to this Contract or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force.” [↑](#footnote-ref-6)
6. In this context, any action taken by a Contractor or Consultant or any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, Suppliers, and/or their employees, to influence the selection process or contract execution for undue advantage is improper. [↑](#footnote-ref-7)
7. Individual may be declared ineligible to be awarded an IsDB financed contract upon: (a) completion of the IsDB sanctions proceedings as per its sanctions procedures, including, inter alia, cross-debarment as per IsDB’s Cross Debarment Agreement; and (b) as a result of temporary suspension or early temporary suspension in connection with an ongoing sanctions proceeding. [↑](#footnote-ref-8)
8. In this context, any action taken by a Contractor or Consultant or any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, Suppliers, and/or their employees, to influence the selection process or contract execution for undue advantage is improper. [↑](#footnote-ref-9)
9. Individual may be declared ineligible to be awarded an IsDB financed contract upon: (a) completion of the IsDB sanctions proceedings as per its sanctions procedures, including, inter alia, cross-debarment as per IsDB’s Cross Debarment Agreement; and (b) as a result of temporary suspension or early temporary suspension in connection with an ongoing sanctions proceeding. [↑](#footnote-ref-10)