

10.05.2019

**FRENCH LANGUAGE PROJECT FINANCE TRAINING FACILITATION SERVICES DOUALA,  
CAMEROON – REQUEST FOR PROPOSALS**

**1. Overview of GuarantCo**

GuarantCo was established to mobilise local currency credit solutions for infrastructure projects and support the development of financial markets in lower income countries. GuarantCo is part of the Private Infrastructure Development Group (PIDG).

GuarantCo is funded by the governments of the United Kingdom, The Netherlands, Switzerland, Australia and Sweden, and is rated AA- by Fitch and A1 by Moody's.

**2. Introduction and background to the services**

- 2.1 According to Africa Development Bank, the continent has an infrastructure funding gap of \$87 billion to \$112 billion annually. This constrains economic growth in a region that is one of the world's poorest, despite having vast mineral resources. Sub-standard roads, ports and airports add to the cost of exporting commodities and hamper intra-regional trade. Furthermore, Africa is particularly handicapped by narrow financial markets and (all too often) weak underlying currencies. Aside from those in Nigeria and South Africa, most commercial banks in the region lack the financial muscle and institutional experience to finance major infrastructure deals.
- 2.2 As part of our business strategy, and in line with our mandate, GuarantCo is initiating a capacity building programme that will set the path to continuous engagement, with the objective of building capacity, engendering market confidence, developing market awareness and maintaining an alignment of interest with investors.
- 2.3 GuarantCo believes that local bank capacity building can play a critical role in unlocking the potential for sustainable long-term infrastructure financing by strengthening local banks' analytical skills in understanding project and corporate finance and pricing the risk rating of credit enhancement tools. This will deepen the participation of local banks as natural investors in infrastructure assets. As part of GuarantCo's mandate, building local bank capacity will contribute to improving the volume of infrastructure in sub Saharan through project and corporate finance structures.
- 2.4 GuarantCo intends to hold a three day capacity building training workshop on Project & Corporate Infrastructure Financing (the "Workshop") from Monday 24th until Wednesday 26th June in Douala, Cameroon. We are aiming to invite around fifty participants including heads, credit risk officers, portfolio managers and relationship managers of local corporate banks, and senior representatives from local insurance companies and pension funds.

- 2.5 GuarantCo with the financial support of the Technical Assistance Facility of the PIDG (“TAF”) are looking to appoint a reputable training facilitation/learning solution provider (the “Consultant” or “Facilitator”) to submit technical and financial proposals to be considered for selection as provider of the Workshop.
- 2.6 Terms of reference including description of the scope of the commission is detailed in Section 5 below (the “Services”).
- 2.7 The Services are expected to commence on 22<sup>nd</sup> May 2019, and be completed by 30<sup>th</sup> June 2019.
- 2.8 This is a formal Request for proposal (“RFP”) subject to the terms and conditions set out below. The purpose of this RFP and supporting documents is to explain in further detail the requirements for the Services and the procurement process for submitting a tender proposal.

### 3. Tender conditions and contractual requirements

- 3.1 This section of this RFP sets out GuarantCo’s contracting requirements, policy requirements and the general tender conditions relating to this procurement process (**Procurement Process**).
- 3.2 The appointed supplier will be expected to deliver the Services in Douala, Cameroon.
- 3.3 GuarantCo’s contracting and commercial approach in respect of the required services is set out in Appendix C (Terms and Conditions of contract) (the **Contract**). By submitting a tender response, you are agreeing to be bound by the terms of this RFP and the Contract without further negotiation or amendment.
- 3.4 In the event that you have any concerns or queries in relation to the Contract, you should submit a clarification request in accordance with the provisions of this RFP by the Clarification Deadline (as defined below in the Timescales section of this RFP). Following such clarification requests, GuarantCo may issue a clarification change to the Contract that will apply to all potential suppliers submitting a tender response.
- 3.5 GuarantCo is under no obligation to consider any clarifications / amendments to the Contract proposed following the Clarification Deadline, but before the Response Deadline (as defined below in the Timescales section of this RFP). Any proposed amendments received from a potential supplier as part its tender response shall entitle GuarantCo to reject that tender response and to disqualify that potential supplier from this Procurement Process.
- 3.6 Any information supplied to potential suppliers as part of this Procurement Process is supplied in good faith. The information contained in this RFP and the supporting

documents and in any written or oral communication is believed to be correct at the time of issue but GuarantCo will not accept any liability for its accuracy, adequacy or completeness and no warranty is given as such. This exclusion does not extend to any fraudulent misrepresentation made by or on behalf of GuarantCo.

- 3.7 You are responsible for analyzing and reviewing all information provided to you as part of this Procurement Process and for forming your own opinions and seeking advice as you consider appropriate. You should notify GuarantCo promptly of any perceived ambiguity, inconsistency or omission in the information provided to you as part of this Procurement Process.
- 3.8 At any time prior to the Response Deadline, GuarantCo may amend this RFP. Any such amendment shall be issued to all potential suppliers, and if appropriate to ensure potential suppliers have reasonable time in which to take such amendment into account, the Response Deadline shall, at the discretion of GuarantCo, be extended.
- 3.9 Each potential supplier is responsible for obtaining all information necessary for preparation of a tender response and for all costs and expenses incurred in preparation of the tender response. You will not be entitled to claim from GuarantCo any costs, expenses or liabilities that you may incur in tendering for this procurement irrespective of whether or not your tender response is successful.
- 3.10 GuarantCo reserves the right to disclose all documents relating to this Procurement Process, including without limitation your tender response, to any provider of management services to GuarantCo, advisers or other third parties involved in the procurement or support of the Services.
- 3.11 Your tender response must remain open for acceptance by GuarantCo for a period of sixty days from the Response Deadline. A tender response not valid for this period may be rejected by GuarantCo.

#### **4. General policy requirements**

- 4.1 By submitting a tender response in connection with this Procurement Process, you confirm that you will, and will ensure that any consortium members and/or subcontractors will, comply with all applicable laws, codes of practice, statutory guidance and applicable GuarantCo policies and procedures which can be found on GuarantCo's website (<http://www.guarantco.com/policies-procedures/policies>). The list of relevant policies includes (but is not limited to): Anti-corruption and Integrity Policy and Procedures, Disclosure Policy and Procedures and Travel and Expense Reimbursement Policy and Procedures.

## 5. Terms of reference/scope of works

The Consultant will work in close consultation with the GuarantCo Team to deliver the Workshop. All activities, communications and decisions will require prior approval from the GuarantCo Team. The assignment will cover the following activities:

- Review and agree the course content and agenda for the training subject
- Develop and print the training materials
- Ensure learning outcomes and strategic objectives are successfully attained; this includes follow-up engagement with participants to obtain constructive feedback that will facilitate the effective execution of the Workshop
- The Workshop will have a maximum number of 50 participants in attendance.

Please find in Appendix B below, detailed agenda for the Workshop and if you have any proposed changes, please feel free to make suggestions in your proposal.

## 6. Timescales

Subject to any potential changes notified by GuarantCo in accordance with this RFP, the following timescales shall apply to the Procurement Process:

Activity	Date / time
RFP Issued	09/05/2019
Deadline for submission of RFP responses by potential legal providers ( <b>Response Deadline</b> )	Midnight (London time), 16/05/2019
Final Decision	20/05/2019
Contract concluded with winning legal provider	21/05/2019
Contract start date	TBC

## 7. Format of the proposal

Taking account of the above, your tender response should provide but not exclusively the following information:

- a) Your profile detailing experience and track record on any assignments of a similar nature and scope.

- b) The experience and profile of the key staff and/or their CVs covering their background and experience.
- c) Method Statement – setting out how you propose to carry out the required services and indicative timelines.
- d) Financial Proposal – detailing your fee proposal in a lump sum but broken down in the format indicated in Appendix A.

## 8. Evaluation criteria

- 8.1 Upon receipt of your tender response meeting the requirements of this RFP, GuarantCo will assess each response based on the following scoring:

	<b>Item</b>	<b>Points</b>
(a)	Relevant specific experience	10
(b)	Adequacy of the proposed work plan and methodology in responding to Terms of reference/Scope of work	40
(c)	Qualification and competency of dedicated key staff	40
(d)	Financial proposal	10
<b>TOTAL</b>		<b>100</b>

- 8.2 Responses from suppliers will be assessed to determine the most economically advantageous tender using the criteria and scoring above.
- 8.3 The winning tender shall be the tender response scoring the highest score out of 100. GuarantCo may reject your tender response in full and disqualify you from the Procurement Process if your tender response does not meet the requirements of this RFP or if there is any attempt to inappropriately influence the Procurement Process.

## 9. Instructions for responding

- 9.1 All documents required as part of your tender response should be submitted to [angela.silva@Guarantco.com](mailto:angela.silva@Guarantco.com) and [jules.samain@Guarantco.com](mailto:jules.samain@Guarantco.com) by the Response Deadline, as set out in Section 6.
- 9.2 All clarification requests should be submitted to [angela.silva@Guarantco.com](mailto:angela.silva@Guarantco.com) and [jules.samain@Guarantco.com](mailto:jules.samain@Guarantco.com) by the Clarification Deadline, as set out in Section 6. GuarantCo is under no obligation to respond to clarifications requests received after the Clarification Deadline.
- 9.3 GuarantCo reserves the right to issue any clarification request made by you, and the response, to all potential legal providers unless you expressly require it to be kept confidential at the time the request is made. If GuarantCo considers the contents of the request not to be confidential, it will inform you and you will have the opportunity to withdraw the clarification query prior to GuarantCo responding to all potential suppliers.

**Appendix A: FEE PROPOSAL SUBMISSION** (please note that fee Quotes are to be in USD)

Please state your fixed fee proposal **including all fees, travel, expenses and applicable taxes.**

**CONSULTANT/CONSORTIUM/SUPPLIER NAME:**

\_\_\_\_\_

	Service	Amount (US\$)
	A.	
	B.	
	C.	
	<b>TOTAL</b>	

Proposed Payment Terms

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Completed By:** \_\_\_\_\_




*On Behalf of:* \_\_\_\_\_

\_\_\_\_\_





\_\_\_\_\_

## Appendix B: Workshop agenda


### Capacity Building workshop – Douala, Cameroon 24-26 June 2019

<b>Day 1 – Background to Project &amp; Corporate Finance</b>
<b>1. What is project &amp; Corporate finance?</b>
<ul style="list-style-type: none"> <li>• Definition</li> <li>• Origins of project finance &amp; Corporate Finance</li> <li>• Why project or corporate finance is used</li> <li>• Market review – sectors; geography; and trends</li> <li>• Defaults and loss given defaults</li> <li>• Project finance vs corporate finance – pros &amp; cons</li> </ul>
<b>2. Sponsors and Lenders</b>
<ul style="list-style-type: none"> <li>• Meeting the different objectives</li> <li>• Lenders risk analysis</li> <li>• Balancing equity and debt</li> </ul>
<b>3. The project &amp; Corporate process</b>
<ul style="list-style-type: none"> <li>• Key participants</li> <li>• The role of advisors <ul style="list-style-type: none"> <li>○ Financial advisors</li> <li>○ Technical advisors</li> <li>○ Insurance advisors</li> <li>○ Legal counsel</li> </ul> </li> <li>• The financing feasibility study</li> <li>• Debt structuring</li> <li>• Arranging; Underwriting; Syndication</li> <li>• Ongoing monitoring</li> </ul>
 <b>Group exercise – key principles quiz</b>
<b>4. Qualitative risk analysis and mitigation</b>
<ul style="list-style-type: none"> <li>• Sponsor risk</li> <li>• Construction completion &amp; technology risk and liquidated damages</li> <li>• Input risk (raw materials supply/reserves etc)</li> <li>• Output risk (merchant/contracted/demand/offtake etc)</li> <li>• Security</li> <li>• Operation and maintenance</li> <li>• Country risk &amp; regulation</li> <li>• Environmental risk</li> <li>• Insurance &amp; force majeure provisions</li> </ul>
 <b>Group exercise case study – risk identification</b>
<b>Day 2 – Cashflow Analysis &amp; Debt Structuring</b>
 <b>Group Exercise – Day 1 Review and Quiz</b>
<b>1. Quantitative Risk Analysis</b>



<ul style="list-style-type: none"> <li>• Building the cashflow model</li> <li>• Key inputs</li> <li>• Establishing the debt capacity of a project</li> <li>• Key measurement tools (ADSCR, LLCR &amp; PLCR etc)</li> <li>• The repayment schedule (straight line, sculpted and annuity profiles)</li> <li>• Sensitivity analysis</li> <li>• Key financing risks (interest, inflation and foreign exchange)</li> <li>• Interest rate and exchange rate hedging</li> </ul>
<p> <b>Case study-based exercise</b></p>
<p><b>2. Debt Structuring</b></p>
<p><b>3. Project financing documentation</b></p>
<ul style="list-style-type: none"> <li>• The term sheet</li> <li>• Key provisions</li> <li>• Purpose</li> <li>• Fees &amp; margins</li> <li>• Repayment</li> <li>• Representations &amp; warranties</li> <li>• Covenants &amp; undertakings</li> <li>• Conditions precedent</li> <li>• Security</li> <li>• Cashflow waterfall</li> <li>• Events of default</li> </ul>
<p> <b>Group Exercise – Term Sheet Negotiation (Participants are split into two teams (sponsors &amp; lenders) to negotiate a term sheet)</b></p>
<p><b>Day 3 – Documentation, Credit Enhancement and the Equator Principles</b></p>
<p> <b>Group Exercise – Day 2 Review and Quiz</b></p>
<p><b>1. Infrastructure project &amp; Corporate finance</b></p>
<ul style="list-style-type: none"> <li>• Transportation &amp; social infrastructure sub-sectors</li> <li>• Roads/railways/hospitals/schools etc</li> <li>• Volume-based vs availability-based traffic/volume risk models</li> <li>• Public-private partnerships</li> </ul>
<p> <b>Case Study – An Infrastructure Financing</b></p>
<p><b>2. Sustainable Lending – The Equator Principles</b></p>
<ul style="list-style-type: none"> <li>• Origins and purpose of the equator principles</li> <li>• Recent developments</li> <li>• Banks “obligations”</li> <li>• Project classification under the equator principles</li> <li>• Environment &amp; social impact awareness</li> </ul>
<p><b>3. Power project finance</b></p>
<ul style="list-style-type: none"> <li>• Merchant power markets</li> <li>• Thermal power (coal-fired &amp; gas-fired power generation)</li> </ul>

- Renewable energy (wind & solar)
- Contracts for differences, PPAs & auctions

 **Case Study – A power & renewable energy project & Corporate financing**

**4. Other Sources of Debt Finance & Mitigation**

- The bond markets
- Credit enhancement and guarantees
- Political risk insurance
- Export credit agencies
- Multilateral agencies and development financial institutions
- Sponsor co-lending

**Appendix C:**

**CONTRACT FOR TAF CONSULTANCY SERVICES**

**Section 1**

**FORM OF CONTRACT**

**CONTRACT FOR:**

**THIS CONTRACT is made this ..... day of ..... 2018**

**BETWEEN:** GuarantCo Ltd, a limited liability company organised under the laws of Mauritius, whose registered office is at Level 3, Alexander House, 35 Cybercity, Ebene 72201, Mauritius (“**GuarantCo**”)

**AND:** .....(the “**Consultant**”),  
(together the “**Parties**”).

**WHEREAS:**

- A.** GuarantCo is a member of the Private Infrastructure Development Group (“**PIDG**”) ([www.pidg.org](http://www.pidg.org)), a multi-donor international organisation established to promote private participation in infrastructure in the world’s developing countries.
- B.** GuarantCo has received a grant from the Technical Assistance Facility of the PIDG Trust to fund this Contract. GuarantCo has selected the Consultant to perform the services set out in this Contract.

The Consultant has agreed to provide the Services on the terms and conditions set out in this Contract and in accordance with its tender dated ..... (the “**Tender**”).

**IT IS HEREBY AGREED** as follows:

**1. Documents**

This Contract is comprised of the following documents:

Section 1	Form of Contract
Section 2	General Conditions
Section 3	Terms of Reference
Section 4	Special Conditions
Section 5	Schedule of Prices

This Contract constitutes the entire agreement between the Parties in respect of the Consultant’s obligations and supersedes all previous communications between the Parties, other than as expressly provided for in Section 3 and/or Section 4.

**2. Contract Signature**

- (1) If this Contract is not returned to Angela Silva at GuarantCo Management Company Limited, 6 Bevis Marks, London, EC3A 7BA duly completed, signed and dated on behalf of the Consultant within 30 days of the date of signature on behalf of GuarantCo, GuarantCo will be entitled, at its sole discretion, to declare this Contract void.
- (2) No payment will be made to the Consultant under this Contract until an original of this Contract, signed on behalf of the Consultant, is returned to the address above.

**3. Commencement and Duration of the Services**

The Consultant shall start the Services upon signature of this Contract and shall complete them by ..... 2018 unless this Contract is terminated earlier in accordance with its terms and conditions.

**4. Key Personnel**

The following Key Personnel shall perform the Services:

- i. .
- ii. .
- iii. .

**5. Financial Limit**

GuarantCo's aggregate liability under this Contract shall not, in any circumstances, exceed in aggregate **USD** including all fees, travel, expenses and applicable taxes (the "**Financial Limit**") provided that this clause shall not exclude liability of GuarantCo for death or personal injury or fraud.

**6. Payments**

All payments under this Contract shall be made by GuarantCo in United States dollars.

**7. Time of the Essence**

Time shall be of the essence as regards the performance by the Consultant of its obligations under this Contract.

This Contract has been made in two originals and may be executed in any number of counterparts, and this has the same effect as if the signatories on the counterparts were on a single copy of this Contract.

For **GuarantCo Ltd**

For **[insert Consultant name]**

By:

By:

Title:

Title:

## Section 2

### GENERAL CONDITIONS

#### DEFINITIONS AND INTERPRETATION

##### 1. Definitions

"Code of Conduct and OPPs" means the Code of Conduct and Operating Policies and Procedures of the PIDG (please refer to <http://www.guarantco.com/policies-procedures/policies>).

"Consultant" means the person(s), partnership(s) or company(ies) named in Section 1.

"Consultant's Personnel" means any person instructed pursuant to this Contract to undertake any of the Consultant's obligations under this Contract, including the Consultant's employees, agents and sub-contractors.

"Equipment" means any equipment, computer hardware or software, materials, goods and vehicles and associated services necessarily required for the implementation of the Services, which the Consultant cannot reasonably be expected to provide, which are financed or provided by GuarantCo for use by the Consultant.

"Financial Limit" means the amount specified in Section 1 and is the maximum amount payable by GuarantCo under this Contract including all applicable taxes.

"PIDG" means the Private Infrastructure Development Group and The Private Infrastructure Development Group Limited.

"PIDG Trust" means Private Infrastructure Development Group Trust.

"Premises" means, where applicable, the premises or location where the Services are to be provided, as notified by GuarantCo to the Consultant.

"Relevant Terms" has the meaning given to that term in Clause 9.4.

"Services" means the services set out in the Terms of Reference (Section 3).

"Technical Advisor" means the technical advisor for the Technical Assistance Facility of the PIDG (currently James Leigland).

"Tender" means the Consultant's tender for the Services dated [ ].

"Third Party IPR" means any intellectual property rights not belonging to either Party but used by the Consultant in creation of the Material and/or in the course of or in connection with the Services.

## **2. Interpretation**

- 2.1 In the event of any inconsistency between the Form of Contract (Section 1), these General Conditions (Section 2) and the Special Conditions (Section 4), the Special Conditions shall prevail.
- 2.2 In the event of any inconsistency between the Tender and this Contract, this Contract shall prevail.
- 2.3 The Consultant is not the agent of GuarantCo and has no authority to represent and shall not purport to represent or imply or enter into any commitments on behalf of GuarantCo in any respect.
- 2.4 Nothing in this Contract is intended to make nor shall it make GuarantCo, the employer of the Consultant or any of the Consultant's Personnel.
- 2.5 All communications by the Consultant relating to this Contract, including any notifications or applications for consents or instructions must be addressed to the person named in Section 4 or as otherwise confirmed to the Consultant in writing by GuarantCo.

## **OBLIGATIONS OF THE CONSULTANT**

### **3. Obligations**

- 3.1 The Consultant shall perform all its obligations under this Contract (including the provision of the Services) with all necessary skill, diligence, efficiency and economy to satisfy generally accepted professional standards expected from experts.
- 3.2 If the Consultant is a joint venture then each of the joint venture parties shall have joint and several liability in respect of the Consultant's obligations under this Contract.
- 3.3 The Consultant shall perform the Services in accordance with the Terms of Reference and the Tender and the Consultant represents warrants and undertakes that the Key Personnel named in the Consultant's Tender are available at the time of execution of this Contract and so far as the Consultant is aware they will all be available for the duration of the Contract.
- 3.4 The Consultant shall provide all assistance as reasonably requested by GuarantCo and shall co-operate with GuarantCo in all matters relating to the Services, including in relation to any monitoring or evaluation of the Services carried out by GuarantCo or its representatives.

### **4. Personnel**

All members of the Consultant's Personnel shall be appropriately qualified, experienced and in a suitable physical condition so as to ensure that the Consultant complies with all the Consultant's obligations under this Contract.

- 4.1 No changes or substitutions may be made to members of the Consultant's Personnel identified as Key Personnel in clause 4 of Section 1 of this Contract without GuarantCo's prior written consent.
- 4.2 If GuarantCo considers any member of the Consultant's Personnel unsuitable, the Consultant shall substitute such member as quickly as reasonably possible without direct or indirect charge to GuarantCo with a replacement acceptable to GuarantCo.
- 4.3 The Consultant is responsible for all acts and omissions of the Consultant's Personnel and for the health, safety and security of such persons and their property.

**5. Sub-contractors**

- 5.1 The Consultant shall not sub-contract any of its obligations under this Contract without the prior written consent of GuarantCo.
- 5.2 If, having obtained GuarantCo's consent, the Consultant sub-contracts any of its obligations, the sub-contract shall: -
  - (a) provide that payments due to the sub-contractor shall be made not more than 30 days after provision to the Consultant of a valid invoice; and
  - (b) include rights for the Consultant and obligations on the sub-contractor to ensure that GuarantCo's rights to require replacement of personnel (as set out in clause 4.3 of this Section 2) and GuarantCo's rights and the Consultant's obligations as set out in clauses 6 to 10 (inclusive) of this Section 2 can be enforced against the sub-contractor.

**6. Disclosure of Information**

- 6.1 The Consultant and the Consultant's Personnel shall not, without the prior written consent of GuarantCo, disclose to any third party any Confidential Information obtained during or arising from this Contract (other than in the proper performance of this Contract or as may be required by authority of competent jurisdiction) nor use any Confidential Information for any purpose other than the performance of the Services. The term "Confidential Information" shall mean information in whatever form (including, without limitation, in written, oral, visual or electronic form or on any magnetic or optical disk or memory and wherever located) relating to the business, products, affairs and finances of GuarantCo or its investments for the time being confidential to GuarantCo or its investments and trade secrets including, without limitation, technical data and know-how relating to the business of GuarantCo or its investments or any of the suppliers, clients, customers, agents, distributors, shareholders or management to all the above, whether or not such information (if in



anything other than oral form) is marked confidential. In addition, no publicity is to be given by the Consultant to this Contract without the prior written consent of GuarantCo.

- 6.2 In accordance with the Code of Conduct and OPPs relating to transparency, information contained in this Contract relating to the identity and nationality/jurisdiction of the Consultant, a description of the Services and the duration and value of this Contract will be published on [www.guarantco.com](http://www.guarantco.com).

## **7. Intellectual Property Rights**

- 7.1 All intellectual property rights in all material (including but not limited to reports, data, designs whether or not electronically stored) produced by the Consultant or the Consultant's Personnel pursuant to the performance of the Services ("the Material") shall be the property of the Consultant.
- 7.2 The Consultant hereby grants to GuarantCo, the PIDG, the Technical Advisor and the PIDG Trust a perpetual, worldwide, non-exclusive, irrevocable, royalty free licence to use the Material.
- 7.3 For the purpose of clause 7.2 of this Section 2, "use" shall include, without limitation, the reproduction, publication and sub-licence of the Material and the intellectual property rights therein, including the reproduction and sale of the Material and products incorporating the same for use by any person or for sale or other dealing anywhere in the world.
- 7.4 The Consultant shall ensure that all Material shall contain a statement to the effect that GuarantCo, the PIDG Trust, the Technical Advisor, and the members of the PIDG are licensees.
- 7.5 The Consultant is responsible for obtaining any licences, permissions or consents in connection with any Third Party IPR required for the use of the Material (such licences, permissions or consents to be in writing, confirmation of which the Consultant shall provide to GuarantCo on request). In addition, the Consultant warrants that the provision of the Services and/or the Material does not and will not infringe any third party's intellectual property rights.

## **8. Access and Audit**

- 8.1 The Consultant shall keep accurate and systematic accounts, files and records (the "Records"). The Records shall clearly identify, among other things, the basis upon which invoices have been calculated and the Consultant shall keep the Records throughout the duration of this Contract and for 6 years following its termination.
- 8.2 The Consultant shall upon request provide GuarantCo or its representatives unrestricted access to the Records in order that the Records may be inspected, audited and copied.

The Consultant shall co-operate fully in providing to GuarantCo or its representative's answers to such enquiries as may be made about the Records.

- 8.3 Where it is found by GuarantCo that any overpayment has been made to the Consultant the Consultant shall reimburse GuarantCo such amount within 28 days of the date of GuarantCo's written demand.

**9. Corruption, Commission, Discounts and Anti-bribery**

- 9.1 The Consultant warrants and represents to GuarantCo that neither the Consultant nor any of the Consultant's Personnel:

- (a) has given, offered or agreed to give or accepted, any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of any contract or for showing or forbearing to show favour or disfavour to any person or entity in relation to any contract; or
- (b) has entered into any contract in connection with which commission has been paid or agreed to be paid by or to the Consultant or Consultant's Personnel or on their behalf or to their knowledge unless, before such contract was made, particulars of any such commission and of the terms of any agreement for the payment of such commission were disclosed in writing to GuarantCo, whose written consent was subsequently given to such payment.

- 9.2 Neither the Consultant nor any of the Consultant's Personnel shall accept for their own behalf or on benefit of any other person any trade commission, discount or similar payment or benefit in connection with this Contract.

- 9.3 The Consultant shall:

- (a) comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the UK Bribery Act 2010 ("Relevant Requirements");
- (b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2, 6 or 7 of the UK Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
- (c) not act in a manner which is incompatible with the Code of Conduct and OPPs as may be updated from time to time;
- (d) have and shall maintain in place throughout the term of this Contract its own policies and procedures, including adequate procedures under the UK Bribery

Act 2010, to ensure compliance with the Relevant Requirements and clauses 9.3(b) and (c) of this Section 2, and will enforce them where appropriate;

- (e) promptly report to GuarantCo any request or demand for any undue financial or other advantage of any kind received by the Consultant in connection with the performance of this Contract;
- (f) immediately notify GuarantCo in writing if a foreign public official becomes an officer or employee of the Consultant or acquires a direct or indirect interest in the Consultant, and the Consultant warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this Contract;
- (g) within 10 (ten) days of receiving a written request from GuarantCo referring to this clause 9.3 (g), certify to GuarantCo in writing signed by an officer of the Consultant compliance with this clause 9 by the Consultant and all persons associated with it under clause 9.4 of this Section 2. The Consultant shall provide such supporting evidence of compliance as GuarantCo may reasonably request.

9.4 The Consultant shall ensure that any person associated with the Consultant who is performing services in connection with this Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Consultant in this clause 9 (Corruption, Commission, Discounts and Anti-bribery) and Clause 26 (Status) (the "Relevant Terms"). The Consultant shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to GuarantCo for any breach by such persons of any of the Relevant Terms.

9.5 For the purpose of this clause 9, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the UK Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purpose of this clause 9, a person associated with the Consultant includes but is not limited to any subcontractor of the Consultant.

## **10. Conflict of Interest**

10.1 Neither the Consultant nor any of the Consultant's Personnel shall engage in any personal, business or professional activity which conflicts or could conflict with any of their obligations in relation to this Contract.

10.2 The Consultant and the Consultant's Personnel shall notify GuarantCo immediately of any real, apparent or potential conflict together with recommendations as to how the conflict can be avoided.

## **11. Indemnity**

- 11.1 Except where arising from the negligence of GuarantCo or GuarantCo's employees or agents, the Consultant shall indemnify GuarantCo in respect of any costs or damages howsoever arising out of or related to breach of warranty or representation, contract or statutory duty, or tortious acts or omissions by the Consultant or the Consultant's Personnel or any claims made against GuarantCo by third parties in respect thereof.
- 11.2 Except where arising from the negligence of GuarantCo or GuarantCo's employees or agents, the Consultant shall indemnify GuarantCo, the PIDG, the PIDG Trust, the CMO and the Technical Advisor in respect of (i) any loss, damage or claim howsoever arising out of or related to negligence by the Consultant or any of the Consultant's Personnel in relation to the performance of the Services; and (ii) any claim howsoever arising by any person employed or otherwise engaged by the Consultant.

## **PROCUREMENT AND EQUIPMENT**

### **12. Procurement**

- 12.1 If GuarantCo agrees to finance the purchase of any Equipment for use in providing the Services, such Equipment shall be procured in accordance with GuarantCo's Procurement Policy and Guidelines as may be updated from time to time.
- 12.2 If GuarantCo agrees to reimburse any travel or other expenses, such expenses must be incurred in accordance with GuarantCo's Travel and Expenses Reimbursement Policy and Procedures, available here:  
<http://www.guarantco.com/policies-procedures/policies>.

### **13. Use of and Responsibility for Equipment**

- 13.1 Equipment may only be used in providing the Services and shall be safely kept and maintained. Personal use of Equipment by the Consultant is not permitted unless GuarantCo gives prior written consent.
- 13.2 The Consultant shall keep an up to date inventory of the Equipment, its condition and location and make such inventory available to GuarantCo immediately on request.
- 13.3 Subject to clause 13.4 of this Section 2, the Consultant shall be responsible for all loss or damage to Equipment other than that caused by fair wear and tear. The Consultant shall notify GuarantCo immediately the Consultant becomes aware of any loss of or damage to Equipment.
- 13.4 Except as required by law, the Consultant shall not insure Equipment. GuarantCo shall

bear the risk in respect of loss or damage provided such loss or damage was not due to the Consultant's negligence and provided the Consultant obtains and pays to GuarantCo such proper compensation as may be due from others.

- 13.5 The Consultant shall obtain GuarantCo's instructions on the disposal of Equipment and comply with such instructions.

## **PRICE AND PAYMENT**

### **14. Applicable Provisions and Financial Limit**

- 14.1 Unless different provisions are substituted in Section 4, clauses 14 to 18 (inclusive) of this Section 2 shall apply in relation to price and payment.
- 14.2 The components which comprise the Financial Limit are set out in the Schedule of Prices, Section 5. No expenditure may be incurred in excess of the Financial Limit and no virements between components shown in the Schedule of Prices in Section 5 are permitted without the prior written approval of GuarantCo.

### **15. Price/Fees**

- 15.1 Any price or fees payable (as set out in Section 5) are deemed to cover the cost of salary, overseas inducements, leave allowances and bonuses of the Consultant's Personnel and all profit, taxes (including but not limited to sales or ad valorem taxes or similar impositions), insurances, super-annuation, non-working days and all other costs including, but not limited to, clothing, passports, visas and vaccinations and overheads of whatsoever nature that may be incurred except those otherwise specifically provided for in this Contract, if any.

### **16. Expenses**

- 16.1 The Consultant will subject to the terms of this Contract be reimbursed up to the limit of the reimbursable expenses set out in Section 5.

### **17. Invoicing Instructions**

- 17.1 Unless otherwise expressly provided in Section 4 or Section 5, invoices should be submitted monthly in arrears to Angela Silva, GuarantCo Management Company Limited, 6 Bevis Mark, London EC3A 7BA for payment by GuarantCo and in accordance with the remainder of this clause 17.
- 17.2 GuarantCo shall unless otherwise expressly provided in Section 4 make payments due by direct credit. All invoices must contain details of the account to which payments are to be made.

- 17.3 Invoices should include the Consultant's form of letterhead, reference number to this Contract name and date and bear an original signature. They should be numbered sequentially, dated and marked "For the attention of Finance Director, GuarantCo Ltd, C/o GuarantCo Management Company Limited, 6 Bevis Marks, London EC3A 7BA". The final invoice presented in connection with this Contract should be endorsed "Final Invoice".
- 17.4 All invoices should contain details of reimbursable expenditure if any in accordance with Section 4 or 5 of this Contract.
- 17.5 Invoices for reimbursable expenditure if any shall be accompanied by evidence of expenditure satisfactory to GuarantCo. GuarantCo may request proof of payment in respect of any item and shall be entitled to refuse to meet a claim if this is not provided within a reasonable time. All reimbursable expenses must be in accordance with GuarantCo's Travel and Expense Reimbursement Policy and Procedures, available here: <http://www.guarantco.com/storage/pdf/Travel-and-Expense-Reimbursement-Policy-and-Procedures.pdf>.
- 17.6 Any invoice not presented in accordance with the above may be rejected and in any event shall be liable to query and delay in payment. GuarantCo reserves the right not to pay any amount due in respect of an invoice received by GuarantCo more than 90 days after the day of the Consultant becoming entitled to invoice for the payment to which it relates.
- 18. Payments**
- 18.1 Subject to GuarantCo being satisfied that the Consultant is or has been carrying out its duties, obligations and responsibilities under this Contract, sums duly approved shall be paid within 30 days of receipt of a valid invoice.
- 18.2 Payment shall be made in United States Dollars to the account nominated by the Consultant. Reimbursable expenditure (if any) arising in foreign currency shall (subject to the Financial Limit) be reimbursed at the exchange rate stated on [www.bloomberg.com](http://www.bloomberg.com) on the day of payment.
- 18.3 If for any reason GuarantCo is dissatisfied with the Consultant's performance of its duties, obligations or responsibilities under this Contract, an appropriate sum may be withheld from any payment otherwise due. In such event GuarantCo shall identify the particular duties, obligations or responsibilities with which it is dissatisfied together with the reasons for such dissatisfaction, and payment of the amount outstanding will be made upon performance satisfactory to GuarantCo or resolution of outstanding queries.
- 18.4 Should GuarantCo determine after paying any amount under this Contract that the Consultant has not performed its duties, obligations or responsibilities satisfactorily, GuarantCo may recover, or withhold from further payments, and a proportionate

amount until the position has been remedied to GuarantCo's satisfaction.

## **FORCE MAJEURE AND TERMINATION**

### **19. Force Majeure**

- 19.1 Where the performance by the Consultant of its obligations under this Contract is delayed, hindered or prevented by an event or events beyond the reasonable control of the Consultant and against which an experienced consultant could not reasonably have been expected to take precautions, the Consultant shall promptly notify GuarantCo in writing, specifying the nature of the force majeure event and stating the anticipated delay in the performance of this Contract.
- 19.2 From the date of receipt of a notice given in accordance with clause 19.1 of this Section 2, GuarantCo may, at its sole discretion, either suspend this Contract for up to a period of 6 months ("the Suspension Period") or terminate this Contract forthwith.
- 19.3 If by the end of the Suspension Period the Parties have not agreed a further period of suspension or re-instatement of this Contract, this Contract shall terminate automatically.

### **20. Suspension or Termination without Default of the Consultant**

- 20.1 GuarantCo may, at its sole discretion, suspend or terminate this Contract at any time by so notifying the Consultant in writing and giving the reason(s) for such suspension or termination.
- 20.2 Where this Contract has been suspended or terminated pursuant to clause 20.1 of this Section 2, the Consultant shall:
- (a) take such steps as are necessary to suspend or terminate the provision of the Services, (including suspending or terminating any sub-contracts) in a cost-effective, timely and orderly manner; and
  - (b) provide to GuarantCo, not more than 60 days after GuarantCo notifies the Consultant of the suspension or termination of this Contract an account in writing, stating:
    - (i) the fees, if any, or reimbursable expenditure, if any, due before the date of suspension or termination; and
    - (ii) costs if any to be expended after the date of suspension or termination which the Consultant necessarily incurred in the proper performance of this Contract and which it cannot reasonably be expected to avoid or recover.

20.3 Subject to GuarantCo's approval, GuarantCo shall pay such amount referred to in clause 20.2(b) of this Section 2 to the Consultant within 30 days after receipt from the Consultant of an Invoice in respect of the amount due.

**21. Suspension or Termination with Default of the Consultant**

21.1 GuarantCo may notify the Consultant of the suspension or termination of this Contract where the Services or any part of them are not provided to the satisfaction of GuarantCo, giving the reasons for such dissatisfaction and, in the case of suspension, the action GuarantCo may require to be taken by the Consultant to remedy that dissatisfaction and the time within which it must be completed.

21.2 Where this Contract is suspended in accordance with clause 21.1 of this Section 2 and the Consultant subsequently fails to remedy the position to the satisfaction of GuarantCo, GuarantCo may terminate this Contract forthwith.

21.3 GuarantCo may, without prejudice to its other rights, including but not limited to the right to claim for costs and losses incurred, terminate this Contract forthwith where:

- (a) the Consultant or any member of the Consultant's Personnel, either directly or through their servants or agents, breaches any of their duties, obligations or responsibilities under this Contract; or
- (b) the Consultant or any member of the Consultant's Personnel has committed an offence under the UK Bribery Act 2010 or the Anti-Terrorism Crime and Security Act 2001 or breaches this clause 9; or
- (c) the Consultant breaches clause 26; or
- (d) the Consultant is an individual or a partnership and at any time:
  - (i) becomes bankrupt; or
  - (ii) is the subject of a receiving order or administration order; or
  - (iii) makes any composition or arrangement with or for the benefit of the Consultant's creditors; or
  - (iv) makes any conveyance or assignment for the benefit of the Consultant's creditors; or
- (e) the Consultant is a company and:
  - (i) an order is made or a resolution is passed for the winding up of the Consultant; or
  - (ii) a receiver or administrator is appointed in respect of the whole or any



part of the undertaking of the Consultant; or

- (f) the Consultant is a partnership or a company and there is a Change in Control. "Change in Control" means that the person(s) (including corporate bodies) directly or indirectly in Control of the Consultant at the time this Contract is entered into cease to be in Control. "Control" means the power of a person to secure that the affairs of the Consultant are conducted in accordance with the wishes of that person.

21.4 Where this Contract is terminated in accordance with this clause 21, the Consultant shall without prejudice to GuarantCo's other remedies, take any steps necessary to terminate the provision of the Services in a timely and orderly manner but shall not be entitled to any further payment in relation to this Contract.

21.5 Where this Contract is terminated pursuant to clause 21.3(b) of this Section 2 the Consultant shall pay GuarantCo within 10 days of notification such amount as GuarantCo shall have determined as the amount of any loss to GuarantCo resulting from such termination together with the amount or value of any gift, consideration or commission concerned.

## **GENERAL PROVISIONS**

### **22. Variations**

22.1 No variation in the terms or scope of this Contract shall be effective without GuarantCo's prior written consent. GuarantCo shall have no liability in respect of work performed outside the Services set out in Section 3.

### **23. Assignment**

23.1 The Consultant shall not, without the prior written consent of GuarantCo, assign or transfer or cause to be assigned or transferred, whether actually or as the result of takeover, merger or other change of identity or character of the Consultant, any of its rights or obligations under this Contract or any part, share or interest therein.

### **24. Limit of Liability**

24.1 The Consultant's aggregate liability under this Contract shall be limited to an amount equal to three times the Financial Limit, provided that there has not been misconduct, gross negligence, dishonesty or fraud on behalf of the Consultant or the Consultant's Personnel.

### **25. Retention of Rights**

25.1 Clauses 6, 7, 8, 11, 25, 26 and 29 of this Section 2 and any relevant clauses listed under Section 4 shall continue in force following the termination of this Contract.

**26. Status**

26.1 The relationship of the Consultant to GuarantCo will be that of independent contractor and nothing in this Contract shall render the Consultant or any Consultant's Personnel an employee, worker, agent or partner of GuarantCo and the Consultant shall not hold itself out as such.

26.2 This Contract constitutes a contract for the provision of services and not a contract of employment and accordingly the Consultant shall be fully responsible for and shall indemnify GuarantCo for and in respect of payment of the following within the prescribed time limits:

- (a) any income tax, national insurance and social security contributions and any other employment related liability, deduction, contribution, assessment or claim in any applicable jurisdiction arising from or made in connection with either the performance of the Services, or any payment or benefit received by the Consultant (or, where applicable, any Consultant's Personnel) in respect of the Services, where such recovery is not prohibited by law and the Consultant shall further indemnify GuarantCo against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by GuarantCo in connection with or in consequence of any such liability, deduction, contribution, assessment or claim other than where the latter arise out of GuarantCo's negligence or wilful default; and
- (b) any liability for any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by the Consultant (or, where applicable, any Consultant's Personnel) against GuarantCo arising out of or in connection with the provision of the Services, except where such claim is as a result of any act or omission of GuarantCo.

26.3 Where applicable, the Consultant:

- (a) acknowledges and agrees that it is intended that all employees of the Consultant (if any) shall remain employees of the Consultant and that termination of this Contract (or any part of it) shall not operate to transfer the contracts of employment of any employees to GuarantCo or any third party; and
- (b) shall use reasonable endeavours to ensure that no member of its staff is deployed in the delivery of the Services to such an extent that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (or any applicable equivalent legislation in any relevant jurisdiction, including in the European Union the Acquired Rights Directive (Council Directive 77/187 as amended) and any national legislation enacting to such Directive) may operate to transfer the

employment of such member of staff to GuarantCo or any successor service provider upon termination of this Contract.

- 26.4 The Consultant shall indemnify and keep indemnified GuarantCo from and against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on GuarantCo at any time in respect of the Consultant's failure to account for or to pay any VAT relating to payments made to the Consultant under this Contract. Any amounts due under this clause 26.4 shall be paid in cleared funds by the Consultant to GuarantCo not less than seven calendar days before the date on which the tax or other liability is payable by GuarantCo. GuarantCo may grant the Consultant further time to pay where this is deemed appropriate by GuarantCo taking account of the relevant circumstances.
- 26.5 The Consultant agrees that it will not, without the prior written consent of GuarantCo, and whether alone or in conjunction with, or on behalf of, any other person during the term of this Contract or for a period of six (6) months following termination, solicit or entice, or endeavour to solicit or entice away from GuarantCo any person employed by GuarantCo and involved directly in the receipt or use of the Services. This clause shall not apply to any staff who are recruited as a result of a general recruitment campaign.
- 26.6 The Consultant shall:
- (a) not engage in any activity, practice or conduct which would constitute either:
    - (i) a UK tax evasion facilitation offence under section 45(1) of the Criminal Finances Act 2017; or
    - (ii) a foreign tax evasion facilitation offence under section 46(1) of the Criminal Finances Act 2017;
  - (b) have and shall maintain in place throughout the term of this agreement such policies and procedures as are both reasonable to prevent the facilitation of tax evasion by another person (including without limitation employees of the Consultant) and to ensure compliance with clause 26.6(a);
  - (c) promptly report to GuarantCo any request or demand from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Criminal Finances Act 2017;
  - (d) on request by GuarantCo, and annually thereafter, certify to GuarantCo in writing signed by an officer of the Consultant, compliance with this Clause 26 by the Consultant and all persons associated with it under clause 26.7. The Consultant shall provide such supporting evidence of compliance as GuarantCo may reasonably request.

26.7 The Consultant shall ensure that any person associated with it who is performing services in connection with this Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Consultant in the Relevant Terms. The Consultant shall be responsible for the observance and performance by such persons of the Relevant Terms and shall be directly liable to GuarantCo for any breach by such persons of any of the Relevant Terms.

26.8 For the purposes of clause 26, the meaning of reasonable prevention procedure shall be determined in accordance with any guidance issued under section 47 of the Criminal Finances Act 2017 and a person associated with the Consultant includes but is not limited to any subcontractor of the Consultant.

**27. Health & Safety**

27.1 The Consultant shall promptly notify GuarantCo of any health and safety hazards which may arise in connection with the performance of this Contract, take such steps as are reasonably necessary to ensure the health and safety of persons likely to be affected by the performance of the Services and notify GuarantCo of any incident occurring on the Premises or otherwise in connection with the provision of the Services which causes or could give rise to personal injury.

27.2 The Consultant shall take all necessary measures to comply with the requirements of the Health & Safety at Work Etc Act 1974 (or any equivalent legislation in any applicable jurisdiction) and any other acts, orders, regulations and codes of practice (including any approved codes of practice) relating to health and safety, which may apply to the performance of this Contract.

**28. Third Party Rights**

28.1 Other than in respect of the rights granted in clause 7.2 of this Section 2, a person who is not a Party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this.

**29. Law and Jurisdiction**

29.1 This Contract and any non-contractual obligations arising out of or in connection with it shall be governed by the laws of England. The courts of England have non-exclusive jurisdiction to settle any dispute, controversy or claim (including non-contractual disputes or claims) arising out of or relating to this Contract.

**Section 3**

**TERMS OF REFERENCE**

**[As per RFP]**

**Section 4**

**SPECIAL CONDITIONS**

- 1 The Consultant shall maintain during the term of the Contract with a reputable insurance provider the following types of insurance with the following indemnity limits:

<b>Insurance Cover</b>	<b>Indemnity Limit</b>
Employer's liability	in accordance with any legal requirement for the time being in force and applicable to the Consultant
Public liability	adequate insurance cover for the Services being performed
Professional indemnity	adequate insurance cover for the Services being performed
Medical and travel	adequate insurance cover for the Services being performed

or such other insurance cover types and indemnity limits as may be agreed between the Parties in writing from time to time. The Consultant shall produce on request by GuarantCo both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance policy.

- 2 The Consultant shall be paid the fixed price of **USD** in instalments on the satisfactory completion of the milestones in the proportions shown below:
- 3 Invoices for milestone payments should be submitted following achievement of the milestone concerned.
- 4 All communications in relation to this Contract should be made to Angela Silva at [angela.silvagarantco.com](mailto:angela.silvagarantco.com).

**Section 5**

**SCHEDULE OF PRICES**

[Fixed Price ..... including reimbursable expenses Plus any applicable VAT]<sup>1</sup>

---

<sup>1</sup> Update a necessary