



*Mekong River Commission Secretariat*

**Request for Proposal no. RFP10-072**

**Consultancy for Multi-media (water, sediment, biota) monitoring  
and assessment of toxic contaminants in the Mekong  
riverine environment**

**Vientiane, April 2010**

## SECTION I

### INVITATION FOR PROPOSALS

#### **Consultancy for Multi-media (water, sediment, biota) monitoring and assessment of toxic contaminants in the Mekong riverine environment**

The Mekong River Commission Secretariat (hereinafter “the Employer”) hereby invites sealed Proposals from eligible Consultants for the consultancy services called “Consultancy for Multi-media (water, sediment, biota) monitoring and assessment of toxic contaminants in the Mekong riverine environment” in accordance with the terms and conditions mentioned in the Request for Proposal.

This Request for Proposal (RFP) includes the following documents:

Section I	Invitation for Proposals
Section II	Instructions to Bidders
Section III	Technical Proposal Forms
Section IV	Financial Proposal Forms
Section V	Terms of Reference
Section VI	Draft Contract

The proposals shall be submitted in one outer sealed envelope containing two separate sealed envelopes, one envelope containing the Technical Proposal and one envelope containing the Financial Proposal. The outer envelope shall be clearly marked “Consultancy for Multi-media (water, sediment, biota) monitoring and assessment of toxic contaminants in the Mekong riverine environment; RFP No. 10 – 072 - DO NOT OPEN BEFORE DEADLINE SUBMISSION DATE”. The two sealed inner envelopes shall be marked “Technical Proposal” and “Financial Proposal” respectively.

**Deadline for submission of proposals is 28 May 2010, 15.00 hours local time.**

All correspondence related to the tender shall be addressed to:

**Mekong River Commission Secretariat**

Finance and Administration Section

Procurement Unit (RFP 10-072)

P.O. Box 6101, Unit 18 Ban Sithane Neua,

Sikhottabong District, Vientiane 01000, Lao PDR.

Tel: (856) 21 263 263; Fax: (856) 21 263 264

Email: [kiettisack@mrcmekong.org](mailto:kiettisack@mrcmekong.org), [ornchanh@mrcmekong.org](mailto:ornchanh@mrcmekong.org)

Nguyen Thu Mai  
Chief, Finance and Administration Section

## SECTION II

### INSTRUCTION TO BIDDERS

#### 1. Proposal to be considered

- a. **Eligibility:** Proposals which comply with the conditions and terms as stipulated in the Request for Proposal documents will be considered.
- b. **Conflict of Interest:** MRC considers a conflict of interest to be a situation in which a party has interests that could improperly influence that party's performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations.
- c. **Amendment of RFP:** At any time before the submission of Proposals, MRC may amend the RFP by issuing an addendum in writing or by standard electronic means. Consultants having informed MRC about their intention to submit a proposal will be informed directly. Any changes will be posted on MRC's website. MRC reserves the right to extend the submission deadline if the amendment is substantial.

#### 2. Procurement package

The RFP consists of single packages.

#### 3. Clarification

Any additional information required in the preparation of the bid should be requested in writing to the address indicated in this RFP at or before 14 May 2010. The MRCS will reply in writing and all replies will be posted on the MRC's website: [www.mrcmekong.org](http://www.mrcmekong.org) section "**Tenders**".

#### 4. Language of the Proposal

The Proposals prepared by the bidders and all correspondence and documents relating to the Proposal exchanged by the bidders and the MRCS shall be written in the English language. Any printed literature furnished by the bidders may be written in another language so long as accompanied by an English translation of its pertinent passages in which case, for purposes of interpretation of the Proposal, the English translation shall govern.

#### 5. Proposal Currencies.

All prices shall be quoted in US dollars.

#### 6. Period of Validity of Proposals

Proposals shall remain valid for 120 days after the date of Proposal submission prescribed by the MRC.

## **7. Submission of Proposals**

### **7.1 Sealing and Marking of Proposals**

The proposals shall be submitted in one outer sealed envelope containing two separate sealed envelopes, one envelope containing the Technical Proposal(s) and one envelope containing the Financial Proposal(s). The outer envelope shall be clearly marked “Proposal: RFP No. 10 – 072. Consultancy for Multi-media (water, sediment, biota) monitoring and assessment of toxic contaminants in the Mekong riverine environment; - DO NOT OPEN BEFORE DEADLINE SUBMISSION DATE”. The two sealed inner envelopes shall be marked “Technical Proposal(s)” and “Financial Proposal(s)” respectively. The sealed envelope shall be addressed to the Mekong River Commission Secretariat at the following address:

#### **Mekong River Commission Secretariat**

Finance and Administration Section

Procurement Unit (RFP 10-072)

P.O. Box 6101, Unit 18 Ban Sithane Neua,

Sikhottabong District, Vientiane 01000, Lao PDR.

Tel: (856) 21 263 263; Fax: (856) 21 263 264

Email: [kiettisack@mrcmekong.org](mailto:kiettisack@mrcmekong.org), [ornchanh@mrcmekong.org](mailto:ornchanh@mrcmekong.org)

Alternatively, bidders/consultants are allowed to submit their proposal by email. Bidders/consultants who intend to submit electronic proposals must follow the submission instruction as follows:

- Bidders can submit a proposal through email. The proposal shall be separated in two files i.e. one for the technical proposal and one for the financial proposal.
- The file for the financial proposal shall be protected by password which shall be kept with the bidders. If the company passed the technical proposal threshold (got minimum 75% points) MRC would then request the password to open the financial file. However, if the company loses the password or in case the file could not be opened the MRC would not be responsible in this matter.
- The file shall be in the form of MS word or MS excel (MS Office 2003) or PDF version 7.
- Please send the electronic proposal to [kiettisack@mrcmekong.org](mailto:kiettisack@mrcmekong.org) and copy to [ornchanh@mrcmekong.org](mailto:ornchanh@mrcmekong.org)
- Please be aware that bids or proposals emailed to MRCS will be rejected if they are received after the deadline for bid submission. As an email may take some time to arrive after it is sent, especially if it contains a lot of information, we advise all bidders to send email submissions well before the deadline.

Please note that the proposal must be arrive in the mail box before the submission deadline

### **7.2 Deadline for Submission of Proposals**

The deadline for submission of the bids is **28 May 2010 15:00 pm** local time.

Proposals should contain details of the criteria for the selection mentioned below. The bid shall be prepared in English and one (1) original and three (3) copies must be submitted. The sealed bid envelope must be received by the Mekong River Commission Secretariat on or before the hour and date fixed for receipt of bids, in accordance with the invitation for bids.

### 7.3 Confirmation of participation

The company who is willing to submit their proposal should confirm by fax/email to MRCS procurement unit no later than 14 May 2010.

### 8. Late Proposals

Any proposal received by MRCS's procurement unit after the deadline for submission of Proposals will be rejected.

### 9. Criteria for Selection.

After the deadline for submission of proposals (28 May 2010 15:00 pm) the Technical Proposals will be opened by the MRCS Procurement Office in the presence of members of the evaluation panel.

The evaluation panel will fully evaluate the Technical Proposals. The panel will determine which of the Technical Proposals pass the minimum agreed technical score.

(a) Evaluation of Technical Proposal: The evaluation committee shall examine the Technical Proposals applying the evaluation criteria given in the table below. Each Technical Proposal will be given a technical score. **The minimum technical score for a Technical Proposal to be deemed responsive to the TOR is 75 points.**

No.	Description	Max Points
1	Qualifications of the Consultant Team	30
2	Proposed methodology and approach	30
3	Experience on similar assignments	25
4	Experience in the Lower Mekong Basin	15
	Total	100

After the evaluation of Technical Proposals has been completed, the MRCS will notify those Consultants whose proposals did not pass the minimum technical score or were considered to be non-responsive to the TOR.

(b) Evaluation of Financial Proposal: The evaluation shall be based on the lowest price of those bidding firms which submitted responsive Technical Proposals. The formula for determining the financial scores is the following:

$S_f = 100 \times F_m / F$ , in which  $S_f$  is the financial score,  $F_m$  is the lowest price and  $F$  the price of the proposal under consideration.

(c) Final evaluation and negotiations: The final ranking of the proposals will be based on the quality of technical proposals and lowest cost.

The total score will be calculated as the weighted sum of the technical and financial scores, with the weights given to the technical and financial scores being 80% and 20%, respectively.

With regard to contract negotiations the MRCS reserves the right to invite the next-ranked firm to negotiate, if negotiations with the first-ranked firm do not result in a contract.

Bidders who pass the minimum score, but are unsuccessful based on the calculation of the technical and financial scores, will be notified after the contract with the winner has become effective.

## **10. Association**

Proposals submitted by an association of two or more firms as partners shall comply with the stipulations:

- (i) The Proposal shall be signed so as to be legally binding on all partners.
- (ii) One firm shall be nominated as the lead firm of the association.
- (iv) The lead firm shall be liable for the execution of the Contract in accordance with the Contract terms.
- (v) The lead firm shall receive instructions for and on behalf of any and all partners.

## **11. Rejection of proposals**

Should any Proposal fail to comply with the terms and conditions stipulated in this Request for Proposals, or be incomplete, conditional or obscure, or contain additions not called for or irregularities of any kind, or does not respond to important aspects of the RFP, and particularly the Terms of Reference or if it fails to achieve the minimum technical score indicated in Section II-9 (a) above, it may be rejected as non-responsive.

MRCS reserves the right to accept or reject any proposal, and to annul the bidding process and reject all proposals at any time prior to contract award, without thereby incurring any liability to the bidders.

## SECTION III

### TECHNICAL PROPOSAL FORMS

#### FORM TECH-1 TECHNICAL PROPOSAL SUBMISSION FORM

[Location, Date]

To: Mekong River Commission Secretariat P.O. Box 6101, 184 Fa Ngoum Road, Unit 18, Ban Sithane Neua, Sikhottabong District, Vientiane 010000, Lao PDR.

Ladies and gentlemen,

We, the undersigned, offer to provide the consulting services for [*Insert title of assignment*] in accordance with your Request for Proposal dated [*Insert Date*] and our Technical Proposal. We are hereby submitting our Proposal, which includes this Technical Proposal, and a Financial Proposal sealed under a separate envelope.

If negotiations are held during the period of validity of the Proposal, i.e., before [*Insert Date*], we undertake to negotiate on the basis of the proposed staff. Our Proposal is binding upon us and subject to the modifications resulting from contract negotiations.

We understand you are not bound to accept any Proposal you receive.

We remain,

Yours sincerely,

Authorized Signature [*In full and initials*]: \_\_\_\_\_

Name and Title of Signatory: \_\_\_\_\_

Name of Firm: \_\_\_\_\_

Address: \_\_\_\_\_

**SECTION IV**  
**FINANCIAL PROPOSAL FORMS**

**FORM FIN-1 FINANCIAL PROPOSAL SUBMISSION FORM**

[Location, Date]

To: Mekong River Commission Secretariat P.O. Box 6101, 184 Fa Ngoum Road, Unit 18, Ban Sithane Neua, Sikhottabong District, Vientiane 010000, Lao PDR

Ladies and gentlemen,

We, the undersigned, offer to provide the consulting services for [*Insert title of assignment*] in accordance with your Request for Proposal dated [*Insert Date*] and our Technical Proposal. Our attached Financial Proposal is for the sum of [*Insert amount(s) in words and figures*<sup>1</sup>].

Our Financial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, up to expiration of the validity period of the Proposal.

No commissions or gratuities have been or are to be paid by us to agents relating to this Proposal and Contract execution.

We understand you are not bound to accept any Proposal you receive.  
We remain,

Yours sincerely,  
Authorized Signature [*In full and initials*]:  
Name and Title of Signatory:  
Name of Firm:  
Address:

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<sup>1</sup> Amounts must coincide with the ones indicated under Total Cost of Financial Proposal in Form FIN-2.



**FORM FIN-2 BREAKDOWN OF COSTS**

	<b>Description</b>	<b>Unit</b>	<b>Rate/Unit Cost</b>	<b>Quantity</b>	<b>Total in USD</b>
1	Breakdown of remuneration Consultant fee				
2	Breakdown of reimbursable expenses				
	International Airfares	Return trip			
	Airfare in the Mekong region	Return trip			
	Per diem allowances in the Mekong region <sup>1</sup>	Day			
	Visa		35		
	Other				

Note

The actual cost will be reimbursed only on the submission of original invoices/receipts. The amounts reimbursed will not exceed the amounts specified in the table above.

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1 MRCS' DSA rate (75% of the UN DSA rate) of the month of mission shall be applied

## SECTION V

### TERM OF REFERENCE

**Title:** Multi-media (water, sediment, biota) monitoring and assessment of toxic contaminants in the Mekong riverine environment

**Subject:** Review of potential toxic contaminant point and non-point sources in the Mekong riverine environment; monitoring of toxic contaminants including persistent organic pollutants, heavy metals, trace elements and other toxic pollutants in the Mekong River environment; and assessment of status and trends for water and environmental quality of the Mekong River with respect to toxic contaminants.

**Type of Service:** Short term consultancy

**Division:** Environment Division, Mekong River Commission Secretariat

**Programme:** Environment programme

**Duration:** 12 months

**Starting date:** 1 August 2010

**Location:** MRCS, Vientiane, Lao PDR and MRC Member Countries (Cambodia, Laos, Vietnam and Thailand)

**Reporting to:** Environment Programme Coordinator

#### 1 Rationale

A previous diagnostic study of the water quality in the Mekong River conducted in 2003 and 2004 (MRC 2007). The study provided a useful, but preliminary, picture of the quality of the river's water and sediments and potential risks of contamination. It established baseline conditions for environmental contaminants in the lower Mekong River and its major tributaries. Concentrations of metals in water and sediment were mainly below any level of concern. In other words, it showed that the lower Mekong Basin was relatively unpolluted with industrial organic pollutants and metals, but also issued warnings that these levels should be checked after some time. Its assessment in 2003-2004 was based on contaminants recorded at a limited number of sites with a limited number of samples. More than five years has passed, MRC now considers to resume such a basin-wide monitoring and assessment to report the current situation in recognition of significant basin development and increased human activities.

Key toxic contaminants are so far not included in MRC's Water Quality Monitoring Network, but they are considered as strategically important to be included in future monitoring and assessment activities, considering the expected economic growth and

increased basin development of the Mekong riparian countries. As many of these contaminants such as persistent organics pollutants and heavy metals, tend to accumulate along the food-chain, they are a concern and potential risk for both aquatic life and the protection of human health. Available data and information on the past and current status and trends of toxic contaminants both basin-wide and at hotspots in the Mekong riverine environment is limited. This assignment will provide an update of toxic contaminants in the lower Mekong riverine environment.

## **2 Objectives**

The objective of this assignment is to report on monitoring and assessment of current status and trends on toxic contaminants in the Mekong riverine environment (water, sediment and biota) through a review of update secondary information and a collection of primary data and information from field sampling and laboratory analysis. It will also provide recommendations on approaches, methods and tools for future long term monitoring and impact assessments of these contaminants in the Lower Mekong basin. The assignment should:

- Identify and assess the threats of human activities and sources of pollution, such as industrial, agriculture and domestic activities potentially affecting the Mekong water quality, biota and human health.
- Design and prepare a monitoring and assessment plan including details of monitoring stations, target parameters, matrices, methodologies for sampling, laboratory analysis and data analysis and reporting in consultation and agreement with Member Countries and the MRC Secretariat prior to conducting field surveys.
- Conduct field surveys and laboratory analysis according to the monitoring and assessment plan and in recognition of current MRC Water Quality Network, to update the status and trends and to fill gaps of information for toxic contaminants in Mekong Riverine environment.
- Provide baseline data that can be used to monitor and assess the long-term trends of toxic contaminants in Mekong riverine environment.
- Assess and report the current status and trends of the Mekong River Water Quality with emphasis on toxic contaminants.

## **3 Background**

A good water quality is the basis for healthy aquatic ecosystems and the provision of clean water and food. Millions of people depend on water and aquatic organism from the Mekong River system. The well being of the river, its major tributaries, and their associated floodplains, lakes and wetland habitats is, thus, a major concern to the people and governments in the basin. These concerns are embedded in the 1995 Agreement that established the MRC. In particular, Article 7 of the agreement states that ‘harmful effects on aquatic ecosystems resulting from the development and use of the water resources of the lower Mekong Basin, or the discharge of wastes and return flows, are to be avoided, minimised or mitigated.’

The MRC water quality and biomonitoring programmes respond directly to article 7 and constitute a key function of the MRC. The programmes are designed for regional-scale

monitoring reflecting the MRC's remit to address issues that cross the national borders of its Member Countries. They bring the riparian countries together to jointly manage the water resources of the Mekong River and safeguard that development activities in the basin do not compromise the water-quality and the aquatic health of the Mekong River. The monitoring programmes provide governments and their line agencies with early warning of changes in the water quality and ecology of the river, so that they can take remedial actions if necessary. They also increase the awareness and knowledge about the aquatic environment of the Mekong River to different stakeholders in the basin.

Earlier studies by MRC concluded that the quality of the water in the Mekong River is, in general, good and available data indicate that there are no serious water quality issues that need to be urgently addressed. However, areas with high population densities, industries and intense agriculture and aquaculture are starting to show signs of decreased water quality. Recent reports on elevated levels of DDT, PCB and mercury in Mekong freshwater dolphins also indicate potential impacts of persistent organic pollutants (POPs) and heavy metals in rural areas.

Currently, micro-pollutants are not included in MRC's Water Quality Monitoring Network, but it is seen as strategically important to make preparations to include persistent pollutants and other toxic substances in future activities, considering the expected economic growth and development of the Mekong riparian countries. As these pollutants tend to accumulate along the food-chain, they are a concern for both wildlife and the protection of human health.

Guidelines for highest acceptable levels of toxic micro-pollutants (Direct Impact Parameters) in water have recently been developed, targeted to implement the MRC Procedures on Water Quality. Technical Guidelines for the protection of human and aquatic life have been developed, indicating both the increasing focus on, and need for, more adequate information about the distribution of these substances in the aquatic environment of the Mekong River.

#### **4 Approach, principal activities and outputs**

As an important starting point for designing a monitoring and assessment plan, a review to update on potential pollution sources in the basin and, to the extent possible, a quantitative assessment of pollution loads covering at least COD, BOD<sub>5</sub>, nutrients and micropollutants should be made. The review should be based on water quality data from the MRC database, other studies on pollution sources and contaminants in the Mekong Basin and experiences from elsewhere.

The monitoring and assessment plan should outline a comprehensive sampling programme, covering many different aquatic environments along the Mekong River. It should build on MRC's other monitoring programmes, and the field survey should be closely coordinated with ongoing monitoring activities by the MRC Water Quality Monitoring Network. In addition, the plan should define methodology, tools for sampling, laboratory analysis, data assessment, and reporting. The Plan shall be

completed in consultation with Member Countries and the MRC Secretariat prior to field surveys.

Contaminants should be measured in several different matrices including water, sediment and biota, to generate a good understanding of the distribution of contaminants in the aquatic environment, and to assess potential threats to wildlife and humans.

An assessment of the current status and trends of the water quality of the Mekong River should be prepared focusing on the micro pollutants based on the monitoring and study results and other relevant information. The final report should, based on experiences and lesson learned from the activities, provide clear recommendations on a future long term monitoring programme for heavy metals, persistent organic pollutants (POP's) and other toxic contaminants in the Mekong River.

## **4.1 Principal activities**

### **4.1.1 Review of Pollution Sources**

An important input to any monitoring activities of pollutants is to have a good understanding of potential pollution sources in the basin. The review should map and quantify pollution sources. This will provide an important background to indicate both which pollutants could be expected to be found in the environment, and to better understand *if, where* and *when* pollution levels are likely to reach critical levels. Because of the long range transport of many pollutants, trans-boundary water pollution issues are of special concern and need to be carefully addressed. Mapping and quantification of pollution sources will also help to interpret the monitoring results

### **4.1.2 Multi-media (water, sediment, biota) sampling**

Field monitoring will focus on measuring levels of toxic contaminants in water (both dissolved and suspended), sediments and selected aquatic species of fish and/or other aquatic organisms as appropriate -see annex 1). **Surface water** should be analyzed since it is directly affected by the input of contaminants via tributary inflow, atmospheric deposition, point and non-point source pollution. Since contaminants in water occur in the dissolved phase as well as associated with suspended particulate matter, it is expected that these two fractions are analyzed separately.

Two distinct ecological groups of *finfish* (i.e., bottom-feeders and predators) should be target species for monitoring of contaminants in biota. This enables assessment of a wide variety of habitats, feeding strategies, and physiological factors that might result in differences in bioaccumulation of contaminants. Bottom-feeding species are chosen because they tend to accumulate high concentrations of contaminants from direct physical contact with contaminated sediment and/or by consuming benthic invertebrates and epibenthic organisms that live in contaminated sediment. Predator species are good

indicators of persistent pollutants (e.g., mercury or DDT and its metabolites) that may be biomagnified through several trophic levels of the food web.

In addition, filter feeders such as freshwater bivalves may be candidates for tissue contaminant investigations. The use of cosmopolitan species of freshwater bivalve such as mussel should be investigated.

#### 4.1.3 Sampling locations, frequency and period

The choice of *sampling locations* should be considered in relation to a number of different parameters, including location of major pollution sources, protected areas, trans-boundary areas and the location of sampling sites in other MRC monitoring programmes. The sampling site selection strategy should enable an overall basin wide assessment supplemented by selected more detailed hot-spot considerations. The final sites for sampling will be discussed and agreed with the MRC Member Countries with the aim to meet the immediate needs of the MRC monitoring programmes as well as the needs expressed by different governmental authorities in the four MRC Member Countries.

Figure 1 and Annex 1 outlines 21 proposed sample sites along the Mekong River and some of the major tributaries. Almost all these sites were included in the earlier diagnostic study on persistent pollutants in the Mekong river, conducted in 2003 and 2004. They are all included in the Water Quality Monitoring Network and has at least been sampled once in the biomonitoring programme.

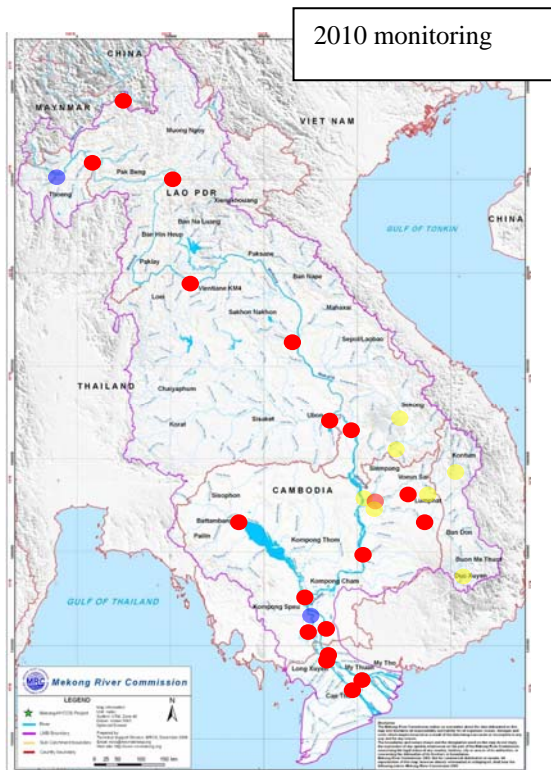


Figure 1. Proposed sites to be included in the monitoring program. Sites marked in blue indicate sites that could be included if resources is available. Sites marked in yellow are alternative sites in the 3 S region.

Water and sediment sampling should be conducted for at least 21 sites. Modifications to the proposed sites would be justified based on the review of pollution sources and discussion with MRCS and MRC Member Countries. At each of the 21 site, 10 samples (*replicates*) of sediments and bottom feeding organisms should be collected. The number of replicates for water depends on the volume of filtered water. Carnivorous migratory fish should be sampled from at least 11 different sites (10 replicates per site) representing different regions of the Mekong River and its tributaries. Standard water parameters should be taken from MRC’s Water Quality Monitoring Network or, if necessary, measured directly in the field at each site.

In order to facilitate detection of pollutants the *period* of the fieldwork for water, suspended material and sediment will be the transition phase between the dry season and the wet season typically May. Previous experience from the bio-monitoring programme indicates that biota sampling (bivalves and fish) should be conducted during March Any other periods for sampling shall be subjected to MRCS approval.

#### 4.1.4 Target contaminants

Priority *target contaminants* include persistent organochlorines and heavy metals and are outlined in table 1 as priority 1 contaminants. These should be analysed in all samples. The final choice of contaminants to be analysed should be decided in close consultation with MRCS taking into account the review on water pollution sources and the contaminants covered in the MRC Technical guidelines for Protection of human health and aquatic life.

Table 1. Contaminants to be monitored in the Mekong River and its tributaries. Priority 1 substances should be measured in all samples while priority 2 substances should be measured if they can be included in the analysis upon specific concerns raised in relationship to these substances and negotiation with MRCS.

Persistent Organochlorines		Heavy metals and other trace elements		Non-persistent toxic substances	
Priority 1	Priority 2	Priority 1	Priority 2	Priority 1	Priority 2
- DDT and metabolites	- Toxaphene	- Mercury (Hg)	- Zinc (Zn)	- Cyanide (CN)	- Polyaromatic hydrocarbons (total PAH)
- Hexachlorobenzene (HCB)	- Aldrin, Endrin & dieldrin	- Cadmium (Cd)	- Barium (Ba)	- Phenols	- Pyrethroids & Organophosphates
- Alpha- and gamma-hexachlorocyclopentadiene	- Polybrominated diphenyl ethers and polybrominated	- Lead (Pb)	- Manganese (Mn)		
		- Arsenic (As)	- Selenium (Se)		
		- Chromium			

clohaxane (HCH) - Chlordane (CHL) - Total PCB - Total Organo- chlorine Pesticides	biphenyls flame retardants - Endosulphan - Dioxins and Furans	m (Cr) - Nickel (Ni) - Copper (Cu)			
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## 4.2 Expected outputs

### 4.2.1 Report on review of current status of contaminants and their sources, route and pathway in the Mekong Basin

The review of current status of contaminants in the Mekong Basin, should be produced in the initial phase of the assignment as it will form a basis and “rationale” for the final design of a monitoring and assessment plan. It should outline; 1) up-to-date data and information on current status of contaminants; 2) identification of their potential sources, route and pathway to lower Mekong basin; 3) the cause-effect relationships between the economic activities in the lower Mekong Basin (the drivers of pollution), the pollution load (the pressures on the environment) and the water quality of the Mekong River. It should map and quantify (e.g. through estimations) the contaminant sources, route and pathway covering the key sectors (agriculture, aquaculture, domestic sources, industries including mining and navigation). It should at least include COD, BOD<sub>5</sub>, nutrients and the considered micro-pollutants. The report on the review shall be finalized incorporating member countries’ views and comments.

### 4.2.2 Preparation of a monitoring and assessment plan

The design of monitoring and assessment plan should be guided by the summary outline above, and the more detailed outline in annex 1, and should engage MRCS and MRC Member Countries to jointly decide on practical details for the final design of the approaches, methodology, field sampling, laboratory analysis and reporting. The design should take into account the preliminary results from the review on pollution sources (previous section) and complement earlier and ongoing MRC monitoring activities. A detailed budget should be attached to the monitoring and assessment plan, providing the costs to perform the outlined activities. The monitoring and assessment plan should be structured so it provides clear guidance to conduct the work and provide a basis for future long term monitoring of persistent pollutants and other toxic pollutants of concern in the Mekong Basin.

Laboratory(ies) responsible for sampling and analysis shall be identified in the monitoring and assessment plan. The laboratory (ies) shall ensure its performance at a high quality preferably by ISO IEC 17025 (or equivalent). Quality control and assurance is obligatory to verify the results of sampling and laboratory analysis. Technical requirement of responsible laboratory, namely quality control procedures, equipment



calibration and traceability, shall be assured. Chain-of-custody for sampling and laboratory analysis is obligatory to certify and trace a reliability of the results.

#### **4.2.3 Implementation of field sampling and laboratory analysis**

This is basically the implementation of the agreed monitoring and assessment plan, and should be conducted in close collaboration with partners in the region. The field sampling is expected to be conducted in March 2011 (biota) and May 2011 (water and sediment). The field work would be conducted in close collaboration with MRC Water Quality Monitoring Network partners from the MRC Member Countries. The results from the field survey are expected to provide baseline data on the levels of toxic contaminants in Mekong River, and their possible impacts on the aquatic biota. It is expected that practical experiences from the implementation of the field work is documented and used to provide recommendations on a realistic and practical field sampling and laboratory analysis to guide the future monitoring of target contaminants of concern in the Mekong Basin.

During the implementation of the monitoring and assessment plan, the consultant is expected to report on the progress of the work to the MRCS through the Environment Division on a monthly basis. This should be done in short written reports highlighting achievements (referring to steps in the field survey plan), problems, and planned activities (next steps). MRC staff is expected to be involved in supporting the field work, planning workshops etc. enabling a continuous insight in the implementation process.

#### **4.2.4 Reporting**

##### ***1) Review of current status of contaminants and their sources, route and pathway in the Mekong Basin***

The review should be produced in the initial phase of the assignment as it will form a basis and “rationale” for the final design and approval of the monitoring and assessment plan. The report should describe methodology and approach as well as the results achieved. It should be rich in references and give a clear picture of the cause-effect relationships between contaminant sources and water quality of the Mekong River, map and provide quantitative estimates for the main sources of pollution in basin.

##### ***2) Comprehensive report on field surveys***

A comprehensive report following the MRC format and the outline under “Data analysis and reporting” in annex 1, should be written to document the field survey. It is important that clear recommendations are given for possible future work, so that learning experiences and results from this survey can be used in the final design of future monitoring activities.

##### ***3) Overall assessment report presenting the entire study***

The final report should incorporate all findings of the review report on pollution sources in the Mekong Basin and provide a clear assessment of the pollution status of the Mekong River. It should present the findings of the field survey and a comprehensive assessment of the status and trends of the water quality of the Mekong River focusing on persistent organic pollutants and other toxic substances investigated in the study. The report should

also provide a framework for future risk assessment of pollutants to aquatic organisms and make a preliminary health risk assessment for people and other top consumers to consume aquatic animals, and especially fish. Based on the survey and assessment results it should present a baseline that can be used to monitor and assess the long-term trends of persistent pollutants and other toxic substances in the Mekong River.

The report should refer to other monitoring activities both within MRC and in the region and provide recommendations for future long term monitoring of persistent pollutants and other toxic pollutants in the Mekong Basin. The report should outline how such monitoring activities can provide an early warning system that can discover new emerging threats to aquatic organisms and human health.

## **5 Implementation arrangements**

The study is expected to be conducted by a consultant team engaging international as well as riparian expertise. The field and laboratory work should be conducted by experts and laboratory(ies) from any of the riparian countries. The field sampling will be done in close collaboration with the Water Quality Monitoring Network Partners from MRC Member Countries. The main chemical analyses are expected to be conducted in the region, and appropriate quality assurance processes should be established to secure reliability of the results.

Overall coordination will be provided by the team leader who reports to the Environment programme at MRCS. The team leader should ensure necessary technical backstopping to the field and laboratory work, ensure harmonized methodologies are applied across the survey and has the overall responsibility for the development, implementation and reporting of the field surveys including quality assurance.

A kick-off and planning meeting will take place within six weeks after signing the contract. A draft inception report will be prepared for the meeting detailing methodologies and approaches and provide the background for discussion of details of the work plan. The inception report including a detailed workplan will be finalized following the kick-off and planning meeting and serve as a reference for the implementation of the work.

## **6 Resources**

A Team leader will steer and coordinate the assignment to deliver the outputs according to the above descriptions and within the specified timeframe.

The expected requirements for technical expertise for the assignment are (the Team leader will be expected to cover one of these aspects):

- Expertise on aquatic ecotoxicology
- Expertise in environmental/analytical chemistry
- Expertise on pollution assessment
- Expertise on field surveys

Financial proposal shall cover for the following activities;

- 1) Review of pollution sources
- 2) Preparation of the monitoring and assessment plan
- 3) Implementation of the monitoring and assessment plan covering field and laboratory work in the riparian countries including sampling at the agreed sites and media (water sediment, biota), transport to laboratories and analysis according to the description of implementation arrangements. The financial proposal should specify costs for monitoring and analysis of priority 1 contaminants (Table 1) and provide estimated additional costs for priority 2 contaminants.
- 4) Two regional workshops to i) discuss and agree on the overall survey plan (site selection, sampling, parameters) and ii) presentation of survey results and findings of the study.
- 5) Four team visits (planning, field work, laboratory work, reporting) to the MRCS, Vientiane, Lao PDR
- 6) Other costs related to acquiring literature (in addition to access to international literature databases, which is expected to be provided by the consultant).
- 7) Reporting according to specifications in section 4.2.4 above.

## **7 Timeframe and milestones**

The assignment will be implemented according to the following schedule assuming the contract is signed by 1 August 2010. The assignment covers one year because of the timing of the survey.

<b>Task</b>	<b>Timing</b>
Draft inception report	1 September 2010
Kick-off and planning meeting	15 September 2010
Final inception report	1 October 2010
Draft review of pollution sources	1 December 2010
Draft survey plan	1 December 2010
Workshop 1	15 December 2010
Final survey plan	15 January 2011
Final review of pollution sources	1 February 2011
Survey, field and laboratory work	Within March 2011 (biota); within May 2011 (water and sediment)
Draft survey report	1 June 2011
Workshop 2	15 June 2011
Final survey report	1 July 2011
Draft overall assessment report	1 July 2011
Final overall assessment report	1 August 2011

## **8 Working Principles / Reporting line:**

The consultant will be working under the overall supervision of the Director of the Environment Division, direct supervision and reporting to the Environment Programme

Coordinator and Chief Technical Advisor and in close consultation with the Water Quality Programme Officer.

### **9 Qualifications:**

The consultant team should have:

- Extensive experience on monitoring of micro-pollutants in fresh water, sediments and biota in riverine environment.
- Strong experience on assessment of contaminants to riverine environments
- Strong experience on literature review, compilation and analysis of information
- Strong experience on environmental assessments with particular focus on toxic contaminants to riverine environments
- Free access to and strong experience with international literature databases to facilitate the baseline compilation
- Strong competence in working/engaging in laboratory service and analysis in the Mekong region.
- Technical competence in water quality review, field survey, sampling, laboratory analysis and data reporting and assessment
- Familiarity with issues and developments of water and water related resources and the environment of the Mekong River Basin.
- Demonstrated ability to coordinate work of diverse teams to deliver a common output.
- Knowledge of any of the riparian countries languages is of advantage
- Strong skills to communicate scientific information in English

### **10 References:**

MRC 2008a. The Mekong River Report Card on Water Quality (2000-2006) Volume I, September 2008, Mekong River Commission, Vientiane.

MRC 2008b. An Assessment of Water quality in the Lower Mekong Basin, MRC Technical paper No19, Mekong River Commission , Vientiane.

MRC 2008c. Biomonitoring of the Lower Mekong Basin, MRC Technical paper No20, Mekong River Commission , Vientiane.

MRC 2007, Diagnostic Study of Water Quality in the lower Mekong Basin , MRC Technical paper No15, Mekong River Commission , Vientiane.

**Annex 1:**

Site description (from bio-monitoring programme, MRC 2008b)					Parameters used to select sampling sites								Parameters to be measured <sup>5</sup>				
Site code <sup>1</sup>	River	Location	Year sampled	Coordinates (UTM)	Benthic richness <sup>1</sup>	Benthic abundance <sup>1</sup>	Benthic tolerance <sup>1</sup>	Bio-monitoring Class <sup>1</sup>	Sediment toxicity impact <sup>2</sup>	WQI Aquatic life <sup>3</sup>	WQI Human <sup>3</sup>	Rationale <sup>4</sup>	Water chemistry <sup>6</sup>	Bottom feeding species	Carnivorous fish	Sediment chemistry	
LMH	Mekong	Near Houa Khong water quality station	2005	E0723733 N2383320	Y	Y	Y	B	Y	A	B	TP	4 O1 H1 T1	10 O1 H1 T1	10 O1 H1 T1 02?	10 O1 H1 T1	
TKO	Kok	About 15 km upstream of Chieng Rai Weir	2004	E0576165 N2205993	Y	Y	Y	B		A	B	TP	4 O1 H1 T1	10 O1 H1 T1	10 O1 H1 T1	10 O1 H1 T1	
			2005	E0576410 N2205793	Y	Y	Y	A									
TMC	Mekong	Chiang Saen Wiangkhai, between Sop Ing Tai and Ban Huai Ian, near Cham Pong	2005	E0655974 N2231281	Y	Y	Y	A	N	A	B	TP	4 O1 H1 T1	10 O1 H1 T1		10 O1 H1 T1	
LPB	Mekong	Above Luang Prabang, upstream of Pak Nam Kam	2004	E0201739 N2203028	Y	Y	Y	A	Y	A	A	P	4 O1 H1 T1	10 O1 H1 T1	10 O1 H1 T1	10 O1 H1 T1	
			2005	E0206113 N2206957	Y	Y	Y	A									
LVT	Mekong	Upstream of Vientiane	2004	E0239871 N1988731	N	N	Y	C		A	A	P	4 O1 H1 T1	10 O1 H1 T1	10 O1 H1 T1	10 O1 H1 T1	

Site description (from bio-monitoring programme, MRC 2008b)					Parameters used to select sampling sites								Parameters to be measured <sup>5</sup>				
Site code <sup>1</sup>	River	Location	Year sampled	Coordinates (UTM)	Benthic richness <sup>1</sup>	Benthic abundance <sup>1</sup>	Benthic tolerance <sup>1</sup>	Bio-monitoring Class <sup>1</sup>	Sediment toxicity impact <sup>2</sup>	WQI Aquatic life <sup>3</sup>	WQI Human <sup>3</sup>	Rationale <sup>4</sup>	Water chemistry <sup>6</sup>	Bottom feeding species	Carnivorous fish	Sediment chemistry	
			2007	E0229378 N1990015	Y	Y	N	B									
LBF/T??	Se Bang Fai/Nakhon Phanom	Se Bang Fai	2007/2008	E0498437 N1888075	Y	Y	Y	B		A	A		<sup>4</sup> O1 HI T1	10 O1 HI T1	10 O1 HI T1	10 O1 HI T1	
TMM	Mun-Chi	Mekong (Mun - Kong Chiam)	2007	E0552854 N1692378	Y	Y	N	B		A	A	T P	<sup>4</sup> O1 HI T1	10 O1 HI T1	10 O1 HI T1	10 O1 HI T1	
LPS	Mekong	Pakse, upstream of Se Done mouth	2004	E0587623 N1671756	Y	Y	Y	A	N	A	A	T V	<sup>4</sup> O1 HI T1	10 O1 HI T1		10 O1 HI T1	
CSS	Sesan	Veunsai district, Rattanakiri Province	2004	E0696445 N1545480	N	N	N	B		A	B	T P	<sup>4</sup> O1 HI T1	10 O1 HI T1		10 O1 HI T1	
			2005	E0695488 N1546145	Y	Y	Y	A									
CSP	Sre Pok	Kampong Saila, Lumpat	2004	E0716971 N1490691	Y	Y	Y	A		A	B	T	<sup>4</sup> O1 HI T1	10 O1 HI T1		10 O1 HI T1	
			2005	E0716971 N1490691	Y	Y	Y	A									
			2006	E0717424 N1490804	Y	Y	Y	A									

Site description (from bio-monitoring programme, MRC 2008b)					Parameters used to select sampling sites								Parameters to be measured <sup>5</sup>				
Site code <sup>1</sup>	River	Location	Year sampled	Coordinates (UTM)	Benthic richness <sup>1</sup>	Benthic abundance <sup>1</sup>	Benthic tolerance <sup>1</sup>	Bio-monitoring Class <sup>1</sup>	Sediment toxicity impact <sup>2</sup>	WQI Aquatic life <sup>3</sup>	WQI Human <sup>3</sup>	Rationale <sup>4</sup>	Water chemistry <sup>6</sup>	Bottom feeding species	Carnivorous fish	Sediment chemistry	
			2007	E0717104 N1490800	Y	Y	Y	A									
CKM	Sekong	River mouth	2005	E0615596 N1500691	Y	N	Y	A		A	B	PV	<sup>4</sup> O1 H1 T1	10 O1 H1 T1	10 O1 H1 T1	10 O1 H1 T1	
			2006	E0615508 N1500632	N	N	Y	B									
			2007	E0615573 N1500696	Y	N	Y	B									
CKT	Mekong	Kampi pool	2004	E0610951 N1393569	N	Y	Y	A		A	A	V	<sup>4</sup> O1 H1 T1	10 O1 H1 T1	10 O1 H1 T1	10 O1 H1 T1	
			2006	E0609207 N1393544	Y	Y	Y	A	N								
CSK	Stoeng Sangke	Battambang	2006	E0348375 N1465699	Y	Y	N	C		B ?	C ?	PV	<sup>4</sup> O1 H1 T1	10 O1 H1 T1	10 O1 H1 T1	10 O1 H1 T1	
CTU	Tonle Sap	Prek Kdam ferry	2004	E0477884 N1309367	Y	Y	N	C	N	A	C	PV	<sup>4</sup> O1 H1 T1	10 O1 H1 T1		10 O1 H1 T1	
			2006	E0478364 N1307071	Y	Y	N	C									
CPP	Tonle Sap	Phnom Penh Port	2004	E0492492 N1279903	Y	Y	N	C		A	C	PS	<sup>4</sup> O1 H1 T1	10 O1 H1 T1		10 O1 H1 T1	
			2006	E0491666 N1280205	Y	Y	N	C									
CNL	Mekong	Nak Loeung	2006	E0528321 N1250852	Y	Y	N	B	Y	A	B	P	<sup>4</sup> O1 H1 T1	10 O1 H1 T1		10 O1 H1 T1	

Site description (from bio-monitoring programme, MRC 2008b)					Parameters used to select sampling sites								Parameters to be measured <sup>5</sup>				
Site code <sup>1</sup>	River	Location	Year sampled	Coordinates (UTM)	Benthic richness <sup>1</sup>	Benthic abundance <sup>1</sup>	Benthic tolerance <sup>1</sup>	Bio-monitoring Class <sup>1</sup>	Sediment toxicity impact <sup>2</sup>	WQI Aquatic life <sup>3</sup>	WQI Human <sup>3</sup>	Rationale <sup>4</sup>	Water chemistry <sup>6</sup>	Bottom feeding species	Carnivorous fish	Sediment chemistry	
CKL	Bassac	Koh Khel	2006	E0503327 N1246641	Y	Y	N	B	Y	A	B	P	4 O1 H1 T1	10 O1 H1 T1	10 O1 H1 T1	10 O1 H1 T1	
VCD	Bassac	Chau Doc	2004	E0515263 N1187502	Y	Y	N	B		A	B		4 O1 H1 T1	10 O1 H1 T1		10 O1 H1 T1	
			2006	E0510969 N1188413	Y	Y	N	C	Y								
VTC	Mekong	Tan Chau	2004	E0528931 N1194535	Y	Y	N	B		A	A	PTS	4 O1 H1 T1	10 O1 H1 T1	10 O1 H1 T1	10 O1 H1 T1	
			2006	E0524259 N1195808	Y	Y	N	C	Y								
VCT	Bassac	Can Tho	2006	E0588365 N1110673	Y	Y	N	C		A	A	PTS	4 O1 H1 T1	10 O1 H1 T1P2?		10 O1 H1 T1 T2?	
VTR	Vinh Long	Vinh Long	2006	E0603976 N1135759	Y	Y	N	C		C ?	C	PS	4 O1 H1	10 O1 H1 T1 P2?		10 O1 H1 T1 T2?	

<sup>1</sup>See assessment from MRC biomonitoring programme (MRC 2008b). Y=no impact, N=impact

<sup>2</sup>See sediment toxicity test done in MRC Diagnostic study 2003 and 2004 (MRC 2007). Y= impact, N=no impact

<sup>3</sup> See assessment from MRC WQMN (MRC 2008a). A=no impact, B=some impact, C=clear impact

<sup>4</sup> P= Pollution sources of concern, V=Vulnerable or sensitive areas; T=Trans-boundary areas

<sup>5</sup>For parameters to be analysed see table 4 in the text. 1=first priority, 2=second priority, O=persistent organochlorines, H=heavy metals, T=non-persistent toxic compounds



**SECTION VI**

**Draft Contract**



# Mekong River Commission

P.O. Box 6101, 184 Fa Ngoum Road, Unit 18,  
Ban Sithane Neua, Sikhottabong District, Vientiane 01000, Lao PDR  
Telephone: (856-21) 263 263 Facsimile: (856-21) 263 264  
Email: [mrcs@mrcmekong.org](mailto:mrcs@mrcmekong.org)

DD/MM/YY

## MEKONG RIVER COMMISSION CONTRACT FOR SERVICES # [Insert Contract Number/Current Year]

Dear Sir/Madam,

The Mekong River Commission (hereinafter referred to as "the Employer"), wishes to engage your [Insert company/organization/institution], duly incorporated under the Laws of [Insert the name of the country] (hereinafter referred to as the "Contractor") in order to perform services in respect of [INSERT SUMMARY DESCRIPTION OF THE SERVICES] (hereinafter referred to as the "Services"), in accordance with the following Contract:

### 1. Contract Documents

- 1.1 This Contract is subject to the Employer General Conditions for Professional Services attached hereto as Annex I. The provisions of such Annex shall control the interpretation of this Contract and in no way shall be deemed to have been derogated by the contents of this letter and any other Annexes, unless otherwise expressly stated under section 4 of this letter, entitled "Special Conditions".
- 1.2 The Contractor and the Employer also agree to be bound by the provisions contained in the following documents, which shall take precedence over one another in case of conflict in the following order:
  - a) this letter including Annex I;
  - b) the Terms of Reference [ref. ....dated.....], attached hereto as Annex II;
  - c) the Contractor's technical proposal [ref....., dated .....], as clarified by the agreed minutes of the negotiation meeting<sup>1</sup> [dated.....], both documents not attached hereto but known to and in the possession of both parties.

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<sup>1</sup> If there are updates to the technical proposal or correspondence exchanged in clarification of certain aspects, reference them too, provided that they are fully acceptable to the Employer. Otherwise, aspects which resolution is pending should be dealt with in this letter itself or in the Terms of Reference, as appropriate.

1.3 All the above shall form the Contract between the Contractor and the Employer, superseding the contents of any other negotiations and/or agreements, whether oral or in writing, pertaining to the subject of this Contract.

2. Obligations of the Contractor

2.1 The Contractor shall perform and complete the Services described in Annex II with due diligence and efficiency and in accordance with the Contract.

2.2 The Contractor shall provide the services of the following key personnel:

Name	Specialization	Nationality	Period of Service

2.3 Any changes in the above key personnel shall require prior written approval of **[Insert Name], Chief Executive Officer**, the Employer.

2.4 The Contractor shall also provide all technical and administrative support needed in order to ensure the timely and satisfactory performance of the Services.

2.5 The Contractor shall submit to the Employer the deliverables specified hereunder according to the following schedule:

List of Deliverables	Delivery Dates
[Insert e.g. Progress Report]	[Insert Date]
[Insert e.g. Final Report]	[Insert Date]

2.6 All reports shall be written in the English language, and shall describe in detail the services rendered under the Contract during the period of time covered in such report. All reports shall be transmitted by the Contractor by **[MAIL, COURIER AND/OR FAX]** to the address specified in 9.1 below.

2.7 The Contractor represents and warrants the accuracy of any information or data provided to for the purpose of entering into this Contract, as well as the quality of the deliverables and reports foreseen under this Contract in accordance with the highest industry and professional standards.

**OPTION 1 (FIXED PRICE)**

3. Price and Payment<sup>2</sup>

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<sup>2</sup> This version of section 3 is to be used for fixed price contracts. Fixed price contracts should normally be used when it is possible to estimate with reasonable accuracy the costs of the activities which are the subject of the Contract.

- 3.1 In full consideration for the complete and satisfactory performance of the Services under this Contract, the Employer shall pay the Contractor a fixed contract price of **[INSERT CURRENCY & AMOUNT IN FIGURES AND WORDS]**.
- 3.2 The price of this Contract is not subject to any adjustment or revision because of price or currency fluctuations or the actual costs incurred by the Contractor in the performance of the Contract.
- 3.3 Payments effected by the Employer to the Contractor shall be deemed neither to relieve the Contractor of its obligations under this Contract nor as acceptance by the Employer of the Contractor's performance of the Services.
- 3.4 The Employer shall effect payments to the Contractor after acceptance by the Employer of the invoices submitted by the Contractor to the address specified in 9.1 below, upon achievement of the corresponding milestones and for the following amounts:

<b>MILESTONE<sup>3</sup></b>	<b>AMOUNT</b>	<b>TARGET DATE</b>
[Insert milestone]	[Insert amount]	[Insert date]

Invoices shall indicate the milestones achieved and corresponding amount payable.

**OPTION 2 (COST REIMBURSEMENT)**

3. Price and payment<sup>4</sup>

- 3.1 In full consideration for the complete and satisfactory performance of the Services under this Contract, the Employer shall pay the Contractor a price not to exceed **[INSERT CURRENCY & AMOUNT IN FIGURES AND WORDS]**.
- 3.2 The amount contained in 3.1 above is the maximum total amount of reimbursable costs under this Contract. The Breakdown of Costs in Annex **[INSERT ANNEX NUMBER]** contains the maximum amounts per cost category that are reimbursable under this Contract. The Contractor shall reflect in his invoices the amount of the actual reimbursable costs incurred in the performance of the Services.
- 3.3 The Contractor shall not do any work, provide any equipment, materials and supplies, or perform any other services which may result in any costs in excess of the amount under 3.1 or of any of the amounts specified in the Breakdown of Costs for each cost category without the prior written agreement of **[NAME and TITLE]**, the Employer.

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<sup>3</sup> If an advance payment is granted, define the first milestone as "upon signature of the contract by both parties". Please note that advance payments should be granted only in exceptional cases, and that they must comply with the Employer policies and procedures.

<sup>4</sup> This version of section 3 is to be used for cost reimbursement contracts. Normally, cost reimbursement contracts should be used when it is not possible to estimate with reasonable accuracy the total costs of the activities which are the subject of the Contract.

3.4 Payments effected by the Employer to the Contractor shall be deemed neither to relieve the Contractor of its obligations under this Contract nor as acceptance by the Employer of the Contractor's performance of the Services.

3.5 The Contractor shall submit invoices for the work done every **[INSERT PERIOD OF TIME OR MILESTONES]**.

OR

3.5. The Contractor shall submit an invoice for **[INSERT AMOUNT AND CURRENCY OF THE ADVANCE PAYMENT IN FIGURES & WORDS]** upon signature of this Contract by both parties and invoices for the work done every **[INSERT PERIOD OF TIME OR MILESTONES]**.<sup>5</sup>

3.6 Progress and final payments shall be effected by the Employer to the Contractor after acceptance of the invoices submitted by the Contractor to the address specified in 9.1 below, together with whatever supporting documentation of the actual costs incurred is required in the Breakdown of Costs or may be required by the Employer. Such payments shall be subject to any specific conditions for reimbursement contained in the Breakdown of Costs.

4. Special conditions<sup>6</sup>

4.1 The advance payment to be made upon signature of the contract by both parties is contingent upon receipt and acceptance by the Employer of a bank guarantee for the full amount of the advance payment issued by a Bank and in a form acceptable to the Employer.

4.2 The amounts of the payments referred to under section 3.6 above shall be subject to a deduction of **[INSERT PERCENTAGE THAT THE ADVANCE REPRESENTS OVER THE TOTAL PRICE OF THE CONTRACT]** % (... percent) of the amount accepted for payment until the cumulative amount of the deductions so effected shall equal the amount of the advance payment.<sup>7</sup>

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<sup>5</sup> This clause should be used if an advance payment is granted. Please note that advance payments should be granted only in exceptional cases, and that they must comply with the Employer policies and procedures. Any advance which represents 30% or more of the proposed total contract value must be cleared by the Office of Finance and Administration prior to contract signature, with the exception of contracts below \$20,000.

<sup>6</sup> Under this Section, you may propose special clauses in order to adapt the model contract to the specific situation. In this sample clause 4, several clauses of common use are given. If they are not required, they should be deleted. If there are no special conditions, please choose the alternative version of 4 in order to conform to clause 1.1.

<sup>7</sup> This clause must be used when an advance payment is granted (whatever the amount) in a cost reimbursement contract. A payment upon signature is considered an advance payment.

4.3 Owing to [.....], Article(s) [.....] of the General Conditions in Annex I shall be amended to read/be deleted.<sup>8</sup>

OR

4.1 No special conditions shall apply.

5. Submission of invoices

5.1 An original invoice shall be submitted by mail by the Contractor for each payment under the Contract to the office of the Employer as mentioned in clause 9.

5.2 Invoices submitted by fax or copies of invoices shall not be accepted by the Employer.

6. Time and manner of payment

6.1 Invoices shall be paid within thirties (30) days of the date of their acceptance by the Employer. The Employer shall make every effort to accept an invoice or so advise the Contractor of its non-acceptance within a reasonable time from receipt.

6.2 All payments shall be made by the Employer to the following Bank account of the Contractor:

***[Insert NAME OF THE BANK]***

***[Insert ACCOUNT NAME/NUMBER]***

***[Insert ADDRESS OF THE BANK]***

7. Entry into force. Time limits.

7.1 The Contract shall enter into force upon its signature by both parties.

7.2 The Contractor shall commence the performance of the Services not later than ***[INSERT DATE]*** and shall complete the Services within ***[INSERT NUMBER OF DAYS OR MONTHS]*** of such commencement.

7.3 All time limits contained in this Contract shall be deemed to be of the essence in respect of the performance of the Services.

8. Modifications

8.1 Any modification to this Contract shall require an amendment in writing between both parties duly signed by the authorized representative of the Contractor and ***[NAME OF CEO], Chief Executive Officer***, the Employer.

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<sup>8</sup> This is a sample clause for the rare cases where there is a conflict with a provision of the General Conditions which does not involve privileges and immunities, arbitration or some other fundamental aspects of the Employer legal status.

9. Notifications

9.1 For the purpose of notifications under the Contract, the addresses of the Employer and the Contractor are as follows:

**For the Employer:**

Mekong River Commission Secretariat  
Procurement Office  
P.O. Box 1112  
364 Monivong Boulevard, Phnom Penh, Cambodia  
Tel. 855 23 720979, Fax. 855 23 720972  
Email: [mrcs@mrcmekong.org](mailto:mrcs@mrcmekong.org)

**For the Contractor:**

***[INSERT COMPANY NAME, ADDRESS AND TELEX, FAX AND CABLE NUMBERS]***

If the above terms and conditions meet with your agreement as they are typed in this letter and in the Contract Documents, please initial every page of this letter and its attachments and return to this office one original of this Contract, duly signed and dated.

Yours sincerely,

***[INSERT NAME OF CEO]***  
**Chief Executive Officer**  
***Mekong River Commission Secretariat***

For ***[INSERT NAME OF THE COMPANY/ORGANIZATION]***

Agreed and Accepted:

---

[Insert name, title, company name and address]

Date:

---

Clearance by:

---

*[Insert Programme Officer Name and Title]*

Funds are available and obligated:

---

Nguyen Thu Mai

Chief, Finance and Administration Section

**Project Code:** *[Insert Project Code, Budget Line and Activity Code]*



**ANNEX I**  
**GENERAL CONDITIONS OF CONTRACT**  
**FOR PROFESSIONAL SERVICES**

**Article 1 - Independent Contractor**

Nothing contained in this Contract shall be construed as establishing or creating between the Employer and the Contractor the relationship of master and servant, principal and agent or employer and employee; it being understood that the Contractor is an independent Contractor in relation to the Employer. No person engaged by the Contractor in connection with the performance of any obligation under this Contract shall be regarded as an agent, servant, employee of the Employer, and the Contractor shall be solely responsible for all claims by such persons arising out of or in connection with their engagement by the Contractor. The Contractor shall inform such persons of the foregoing.

**Article 2 - Contractor's General Responsibilities**

1. The Contractor shall perform its obligations under this Contract with due diligence and efficiency and in conformity with sound professional, administrative and financial practices.
2. The Contractor shall act at all times so as to protect, and not be in conflict with, the interests of the Employer, and shall take all reasonable steps to keep all costs and expenses at a reasonable level.
3. The Contractor shall be responsible for work or services performed by its agents, servants, employees, subcontractors and independent contractors in connection with this Contract. To this end, and without limiting the generality of the foregoing, the Contractor shall select reliable persons who will perform effectively, respect local customs and conform to the highest standards of professional, moral and ethical conduct.
4. The Contractor shall respect and abide by all applicable laws, regulations and ordinances of Cambodia and shall take all reasonable measures to ensure that its agents, servants, employees, subcontractors and independent contractors do.

**Article 3 - Assignment of Personnel**

Other than persons specifically named in this Contract, no person shall be assigned by the Contractor to work or perform services in connection with this Contract until after the Contractor has notified the Employer of the identity of such proposed persons and has provided the Employer with their curricula vitae, and the Employer has notified the Contractor that the Employer approves of such assignments.

**Article 4 - Removal of Personnel**

1. Upon notice by the Employer, the Contractor shall forthwith withdraw any person assigned to work or perform services in connection with this Contract and shall assign new persons in accordance with the provisions of Article 3. Such withdrawal or replacement shall not be a cause for suspension of the contract.

2. Any costs or expenses resulting from any withdrawal or replacement of persons pursuant to paragraph 1 of this Article 4 shall be borne by the Contractor.

#### **Article 5 - Employee's Compensation and other Insurance**

1. The Contractor shall take out and maintain:
  - (a) all applicable employee's compensation and liability insurance with respect to its agents, servants and employees performing work or services in connection with this Contract;
  - (b) liability insurance in an appropriate amount for death, bodily injury or damage to property arising from the operation of any vehicles, boats or airplanes or other equipment owned or leased by the Contractor or its agents, servants, employees, subcontractors and independent contractors performing work or services in connection with this Contract;
  - (c) comprehensive general liability insurance in an appropriate amount for all claims for death, bodily injury or damage to property, including, but not limited to, products liability, arising from acts performed or omissions committed by the Contractor, its agents, servants, employees, subcontractors and independent contractors in connection with this Contract; and
  - (d) such other insurance as may be agreed upon between the Employer and the Contractor.
2. Upon request by the Employer, the Contractor shall provide evidence, to the reasonable satisfaction of the Employer, of the insurance referred to above and shall give the Employer reasonable advance notice of any proposed changes related to such insurance.
3. The Employer undertakes no responsibility to provide life, health, accident, travel or any other insurance coverage, which may be necessary or desirable in respect of any persons performing services in connection with this Contract.

#### **Article 6 - Encumbrances**

The Contractor shall not cause or permit any lien, attachment or other encumbrance by any third party to be placed on file or to remain on file in any public office or on file with the Employer against any money due or to become due for any work done or services rendered in connection with this Contract, or by reason of any claim or demand against the Contractor.

#### **Article 7 - Source of Instructions**

The Contractor, its agents, servants, employees, subcontractors and independent contractors, shall neither seek nor accept instructions from any authority external to the Employer in connection with the performance of their obligations under this Contract, and shall refrain from any action which may adversely affect the Employer. The Contractor shall take all reasonable measures to ensure that its agents, servants, employees, subcontractors and independent contractors comply with the Provisions of this Article.

#### **Article 8 - Prohibition of Conflicting Activities**

The Contractor and its personnel shall not engage in any business or other activity that conflicts with performance of duties under this Contract.

#### **Article 9 - Officials not to Benefit**

The Contractor warrants that no Employer official has been or will be, directly or indirectly, offered or given any inducement or benefit in connection with this Contract or the award thereof.

#### **Article 10 - Subcontracting**

The Contractor shall engage no subcontractor to perform any work or services in connection with this Contract unless the Contractor shall have notified the Employer of the identity of the proposed subcontractor and the Employer shall have notified the Contractor of its approval of the engagement of the subcontractor. The approval by the Employer of the engagement of a subcontractor shall not relieve the Contractor of any of its obligations under this Contract or from its responsibility for the work or services performed by the subcontractor.

The terms of any subcontract shall be subject to and in conformity with the provisions of this Contract. The term "subcontractor" includes any independent contractor or other person or entity with which the Contractor enters into an association, affiliation or relationship of any form for the purposes of performing work or services in connection with this Contract, other than an agent, servant or employee of the Contractor.

#### **Article 11 - Assignment**

The Contractor shall not assign, transfer, pledge or make other disposition of this Contract or any part thereof or of any of the Contractor's rights, claims or obligations under this Contract except after obtaining the prior written approval of the Employer.

#### **Article 12 - Records, Accounts, Information and Audit**

1. The Contractor shall maintain accurate and systematic records and accounts in respect of the performance of its obligations under this Contract.
2. The Contractor shall furnish, compile and make available at all reasonable times to the Employer any records, accounts or other information, oral or written, which the Employer may reasonably request in respect of the performance by the Contractor of its obligations under this Contract.
3. The Contractor shall allow the Employer or its authorized agents to inspect and audit such records, accounts or other information upon reasonable notice.

#### **Article 13 - Language, Weights and Measurers**

Except as may otherwise be specified in this Contract, the English (UK) language shall be used by the Contractor in all written communications to the Employer with respect to the performance of the obligations under this Contract and with respect to all documents procured or prepared by the Contractor pertaining to such obligations. The metric system of weights and measures shall be used in respect of all work and services performed in connection with this Contract.

#### **Article 14 - Title to Equipment or Property**

1. Title to all equipment and property furnished by the Employer for the purpose of this Contract shall rest with the Employer. The Contractor shall be responsible and accountable to Employer for all equipment or property purchased with funds provided or to be reimbursed by the Employer. The Contractor shall take all reasonable measures, including maintaining appropriate insurance, necessary to preserve such equipment or property from loss or damage until returned to the duly authorized office of the Employer upon

completion of the work or services or termination of this Contract, or when no longer needed by the Contractor for the purposes of this Contract. Such equipment or property shall be returned to the Employer in the same condition as when made available to the Contractor, subject to normal wear and tear. The Contractor shall be liable to the Employer for the loss of or damage to such equipment or property, except to the extent that the Contractor proves that it took all reasonable measures to avoid the loss or damage.

2. The Contractor shall maintain an up-to-date and complete list of all equipment and property purchased by the Contractor in connection with this Contract.

#### **Article 15 - Confidential Nature of Documents**

1. All maps, drawings, photographs, plans, manuscripts, records, reports, recommendations estimates, documents and all other data (referred to hereinafter in this Article as “documents” compiled by or received by the Contractor or its agents, servants, employees, subcontractors or independent contractors in connection with this Contract shall be the property of the Employer shall be treated as confidential and shall be delivered only to duly authorized Employer officials on completion of work or services under this Contract or termination of the Contract, or as may otherwise be required by the Employer.
2. In no event shall the contents of such documents or any information known or made known to the Contractor by reason of its association with the Employer be made known by the Contractor or its agents, servants, employees, subcontractors or independent contractors to any unauthorized person without written approval of the Employer.
3. Subject to the provisions of this Article, the Contractor may retain a copy of documents produced by the Contractor.
4. The Contractor shall take all reasonable measures to ensure that its agents, servants, employees, subcontractors and independent contractors comply with the provisions of this Article.
5. The obligations in this Article do not lapse upon termination of this Contract.

#### **Article 16 - Use of Name, Emblem or Official Seal of the Employer**

The Contractor, its agents, servants, employees, subcontractors and independent contractors shall not advertise the fact that it is performing, or has performed, work or services for the Employer or, or use the name, emblem or official seal of the Employer or any abbreviation of the name of the Employer in connection with its business for advertising purposes or for any other purposes. The Contractor shall take all reasonable measures to ensure compliance with this provision by its agents, servants, employees, subcontractors, and independent contractors. This obligation does not lapse upon termination of the Contract.

#### **Article 17 - Copyright, Patents and Other Proprietary Rights**

1. All intellectual property and other proprietary rights, including but not limited to patents, copyrights and trademarks, in all countries, with regard to maps, drawings, photographs, plans, manuscripts, records, reports, recommendations, estimates, documents and other

materials, (referred to hereinafter in this Article as “materials”) except pre-existing materials, publicly or privately owned, collected or prepared in consequence of or in the course of the performance of this Contract, shall become the sole property of the Employer, which shall have the sole right to publish the same in whole or in part and to adapt and use them as may seem desirable, and to authorize all translations and extensive quotations there from. If the Contractor incorporates in its materials any previously published or unpublished materials, it shall obtain permission for the publication, use and adaptation in any language free of cost to the Employer from the persons in whom any existing copyrights therein may be vested and produce evidence to the Employer of such permission.

2. The Contractor agrees that it will forthwith disclose and assign to the Employer all discoveries, processes, or inventions, made or conceived in whole or in part by it alone or in conjunction with others relating to or arising out of this Contract, and the said discoveries, processes, or inventions, shall become and remain the property of the Employer, whether or not patent applications are filed thereon
3. Upon request of the Employer and at its expense, the Contractor shall take all necessary steps, execute all necessary documents and generally assist the Employer in securing such proprietary rights and transferring them to the Employer in compliance with the requirements of the applicable law.
4. The obligations in this Article do not lapse upon termination of the Contract.

#### **Article 18 - Amendments**

No modification of or change in this Contract, waiver of any of its provisions or additional contractual provisions shall be valid or enforceable unless previously approved in writing by the parties to this Contract or their duly authorized representatives in the form of an amendment to this Contract duly signed by the parties hereto.

#### **Article 19 - Force Majeure**

1. “Force majeure” as used herein means acts of God, natural disasters, invasion or war (whether declared or not) and other hostilities, revolution, rebellion, industrial disturbance, except where solely restricted to employees of the Contractor, insurrection or riot, commotion or other disorder, ionising radiation or contamination by regular activity from any nuclear fuel or waste, radio-active toxic explosives or other hazardous properties of any explosives, nuclear assembly or nuclear components thereof, or other act, event or circumstance of a similar nature or force arising from circumstances beyond the control of the parties or which the parties could not reasonably be expected to have taken into account at the time of the conclusion of this Contract and which or the consequences of which the parties could not reasonably be expected to have avoided or overcome.
2. In the event of and as soon as possible after the occurrence of any cause constituting force majeure, which renders the Contractor unable, wholly or in part, to perform his obligations and meet his responsibilities under this Contract, the Contractor shall give notice and full particulars of such force majeure to the Employer. The notice shall include steps proposed

by the Contractor to be taken, subject to the written approval of the Employer, including any reasonable alternative means for performance that is not prevented by force majeure. Subject to acceptance by the Employer of the existence of such force majeure, which acceptance shall not be unreasonably withheld, the following provisions shall apply:

- (a) The obligations and responsibilities of the Contractor under this Contract shall be suspended to the extent of its inability to perform them and, subject to the provisions of Para. (e) hereof, for as long as such inability continues. During such suspension and in respect of work suspended, the Contractor shall be reimbursed by the Employer for the Contractor's substantiated reasonable costs of maintenance of any of the Contractor's equipment and for reasonable per diem for the Contractor's permanent personnel rendered idle by such suspension, subject to Para. (d) hereof;
- (b) The Contractor shall within fifteen (15) days after the notice to the Employer the occurrence of the force majeure submit to the Employer a statement of estimated costs referred to under sub-paragraph (a) above during the period of suspension. Within thirty (30) days after the end of the suspension, the Contractor shall submit to the Employer a complete statement of the Contractor's actual costs;
- (c) The term of this Contract shall be extended for a period equal to the period of suspension taking, however, into account any special condition, which may reasonably justify the period of extension to be different from the period of suspension;
- (d) Where the Contractor's equipment or permanent personnel referred to in sub-paragraph (a) are idle on site as a result of the suspension for a period exceeding thirty (30) days, the Contractor shall confer with the Employer in good faith with a view towards agreeing upon a reasonable reduction of the costs incurred with respect to such equipment and personnel and a reasonable apportionment between the parties of such costs. If the parties fail to agree upon such reduction or apportionment within seven (7) days after the initial thirty (30) days of suspension, the matter will be resolved in accordance with Article 29 hereof;
- (e) If the Contractor is rendered permanently unable, wholly or in part, by reason of force majeure, to perform its obligations and meet its responsibilities under this Contract, the Employer shall have the right to terminate this Contract on the same terms and conditions as are provided for in Article 22, Termination by the Employer, except that the period of notice shall be seven (7) instead of fourteen (14) days; and
- (f) The Employer may consider the Contractor permanently unable to perform in case of any suspension period of more than ninety (90) days.

## **Article 20 - Suspension by the Employer**

1. The Employer may suspend, for a specified period of time not exceeding thirty (30) days, in whole or in part, payments to the Contractor and/or any of the Contractor's obligations under this Contract, if, in the Employer's sole determination:

- (a) any condition arises which interferes, or threatens to interfere, with the successful carrying out of the work or services under this Contract, the Employer Project or the accomplishment of the purpose thereof, or with the performance by either party of its obligations under this Contract: or
  - (b) the Contractor shall have failed, in whole or in part, to perform any of its obligations under this Contract.
2. Notice of such suspension shall be given by the Employer to the Contractor, specifying the duration of the suspension. The suspension shall take effect seven (7) days after such notice.
3. If, by the expiry of the period of suspension, the Employer has not notified the Contractor to resume the performance of a suspended obligation, the Contractor may request permission of the Employer to resume such performance. If the Employer does not within 7 days after its receipt of the request, notify the Contractor to resume the performance, either party may terminate the portions of this Contract relating to the suspended obligation by giving the other party seven (7) days prior notice of such termination. If it is not possible or reasonably practicable for only those portions of the Contract to be terminated, the entire Contract may be terminated upon seven (7) days prior notice. The provisions of paragraph 2 of Article 22 shall apply in the event of any such termination.
4. (a) The Contractor shall be reimbursed by the Employer for the Contractor's substantiated reasonable extra costs, occasioned by the suspension, of necessary measures to maintain any of the Contractor's equipment and personnel assigned to the performance of this Contract, while such equipment and personnel are idle as a result of the suspension. However, such reimbursement shall not be paid if the Contractor could reasonably re-assign such equipment or personnel to other tasks or to other contracts of the Contractor;
- (b) As a condition for reimbursement under this paragraph 4, the Contractor shall:
- (i) within fifteen (15) days after a suspension takes effect, notify the Employer of the Contractor's good faith estimate of the anticipated extra costs; and
  - (ii) within thirty (30) days after the end of the suspension, notify the Employer of the Contractor's actual extra costs.
- (c) The Contractor shall not be entitled to the reimbursement provided for in this paragraph 4 where the Employer has suspended an obligation of the Contractor for reasons attributable to the fault or neglect of the Contractor, its agents, servants, employees, subcontractors or independent contractors, or to a failure by the Contractor to perform an obligation under this contract

#### **Article 21 - Additional Rules relating to Suspension**

- 1. Except as otherwise provided in this Contract, the rules set forth in this Article apply in the event of any suspension under Article 19 or Article 20.
- 2. During the period of suspension, the Contractor shall provide such information as may reasonably be requested by the Employer concerning the preservation and protection of the work and services performed by the Contractor and the results thereof, and of all property

of the Employer, and shall take all reasonable measures to provide for such preservation and protection. Except as provided in paragraph 4 of this Article, the Contractor shall be reimbursed by the Employer for substantiated reasonable costs incurred by the Contractor in providing such information and taking such measures, provided that an estimate of such costs shall have previously been notified to and approved by the Employer.

3. The Contractor shall produce such reports as may reasonably be requested by the Employer covering the work executed or services performed up to the time of suspension. The reports shall conform to any reasonable requirements by the Employer as to nature, structure and content. Except as provided in paragraph 4 of this Article, the Contractor shall be reimbursed for its reasonable and substantiated costs in preparing the reports, provided that an estimate of such costs shall have been previously notified to and a approved by the Employer.
4. The Contractor shall not be entitled to the reimbursement provided for in paragraphs 2 and 3 of this Article where the Employer has suspended an obligation of the Contractor pursuant to Article 20 for reasons attributable to the fault or neglect of the Contractor, its agents, servants, employees, subcontractors or independent contractors, or to a failure by the Contractor to perform an obligation under this Contract.

## **Article 22 - Termination by the Employer**

1. Notwithstanding the provisions of Articles 19 and 20, the Employer may terminate this Contract for any reason upon not less than fourteen (14) days (in the case of Contracts initially for a period of sixty (60) days or more) or seven (7) days (in the case of Contracts initially for a period of less than sixty (60) days) notice to the Contractor.
2. Upon termination of this Contract:
  - (a) the Contractor shall take immediate steps to terminate the work and services in a prompt and orderly manner and, to that end, shall provide such information as may reasonably be requested by the Employer concerning the preservation and protection of the work or services performed by the Contractor and the results thereof and all property of the Employer, and to minimize losses and further expenditures; the Contractor shall also take all reasonable measures to provide for such prevention and protection and for minimization of losses and expenditures;
  - (b) the Contractor shall be entitled, against appropriate vouchers, to be compensated in accordance with this Contract for work or services performed satisfactorily and in accordance with this Contract prior to its receipt of the notice of termination;
  - (c) unless the termination has been occasioned by any fault or neglect on the part of the Contractor, its agents, servants, employees, subcontractors or independent contractors, or by any failure of the Contractor to perform an obligation under this Contract, the Contractor shall also be entitled, against appropriate vouchers, to be reimbursed for such reasonable costs and expenses as shall have been duly and properly incurred in accordance with this Contract prior to the date of such notice of termination, including such forward commitments as could not with diligent effort be cancelled or reduced, and for reasonable costs incident to the orderly termination of the services, the return travel of Contractor's personnel and the return shipment of their personal effects and of



the equipment of the Contractor, to the extent that the same are not otherwise covered by any fees, reimbursements or other compensation paid or payable to the Contractor;

(d) the Contractor shall produce such reports as may reasonably be requested by the Employer covering the work and services performed up to the time of termination. The reports shall conform to any reasonable requirements by the Employer as to nature, structure and contents. The Contractor shall be reimbursed for its reasonable and substantiated costs in preparing the reports, provided that an estimate of such costs shall have previously been notified to and approved by the Employer; and

(e) the Contractor shall not be entitled to receive any payments other than those provided for in this paragraph 2.

### **Article 23 - Termination by the Contractor**

The Contractor may terminate this Contract in accordance with Articles 19.2(e) and 20.3 above.

### **Article 24 - Other Rights and Remedies of the Employer**

1. Nothing in or relating to this Contract shall be deemed to prejudice or constitute other rights or remedies of the Employer.
2. The Employer shall not be liable for any consequence of, or claim based upon, any act or omission the part of the Employer.

### **Article 25 - Bankruptcy**

Should the Contractor be adjudged bankrupt, or become insolvent or should control of the Contractor change by virtue of insolvency, the Employer may, without prejudice to any other right or remedy, terminate this Contract immediately by giving the Contractor notice of such termination.

### **Article 26 - Facilities, Exemptions, Privileges and Immunities of Contractor and Contractor's Personnel**

1. The compensation, reimbursement, remuneration and payment provided for in this Contract do not include any taxes, duties, fees or levies which may be imposed in the recipient country on salaries or wages earned by the Contractor's personnel (except the Employer nationals employed locally) in the performance of the Contract or on any equipment, materials or supplies which the Contractor may bring into that country in connection with the contract or which after having been brought into that country may be subsequently withdrawn there from. If any authority of the Employer refuses to recognize exemption from or reimbursement for such taxes duties, fees or levies, the Employer shall in no event be liable beyond the amount of said taxes, duties, fees and levies or for any failure or delay in obtaining such exemption or reimbursement.
2. The Employer will use its best efforts to obtain for the Contractor and its personnel (except the Employer nationals employed locally) such additional facilities, exemptions, privileges and immunities as the Employer has generally agreed to grant to the Contractors performing services for the Employer within the country and to their personnel. An information copy of the provisions relating to such facilities, exemptions, privileges and immunities that are contained in the Operational Agreement, may be obtained from the

Employer. However, the Employer shall in no event be liable for any consequences of, or any claim based upon, any failure on the part of the Employer to carry out such undertakings.

3. Any Provisions whether in an Agreement, Project Document, or any other instrument to which the recipient Employer is a party, by which the recipient Employer confers benefits upon the Contractor and its personnel in the form of facilities, exemptions, privileges and immunities by reason of the performance of services for the Employer on this Project, may be waived by the Employer where, in its opinion, such immunity would impede the course of justice and can be waived without prejudice to the successful completion of the project or to the interests of the Employer.

#### **Article 27 - Indemnification**

The Contractor shall indemnify, hold and save harmless and defend at its own expense the Employer and its officials, agents, servants and employees from and against all suits, claims, demands and liability of any nature or kind, including costs and expenses associated therewith, arising out of acts or omissions of the Contractor or its officers, agents, servants, employees subcontractors or independent contractors in the performance of any work or services in connection with this Contract. Without limiting the generality of the foregoing, this Article shall extend to suits, claims, demands and liability in the nature of workmen's compensation, products liability, and liability arising out of the use of patented inventions or devices, copyrighted material or other intellectual property by the Contractor, its officers, agents, servants, employees, subcontractors or independent contractors and or others responsible to the Contractor, as well as by the Employer. The obligations in this Article do not lapse upon termination of the Contract.

#### **Article 28 - Good Faith**

The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

#### **Article 29 - Arbitration**

Any dispute, controversy or claim arising out of or relating to this Contract, or the breach, termination or invalidity thereof, shall, unless it is settled amicably by direct negotiation, be settled by arbitration in Vientiane accordance with the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL) as at present in force. The appointing authority shall be the Chairman or Deputy Chairman of the Singapore International arbitration Centre ("SIAC"). The number of arbitrators shall be one. The language to be used in the arbitral proceedings shall be English. The Parties agree to be bound by the arbitration award rendered in accordance with such arbitration, as the final adjudication of any such disputes controversy or claim.

#### **Article 30 - Privileges and Immunities**

Nothing in or relating to this Contract shall be deemed a waiver of any of the privileges and immunities of the Employer.

#### **Article 31 - Tax Exemption**

The Operational Agreement provides, inter alia, that the Employer including its subsidiary organs, is exempt from all direct taxes and from customs duties in respect of articles imported or exported for its official use. Accordingly, the Contractor authorizes the Employer to deduct from the Contractor's invoice any amount representing such taxes or duties. Payment of such corrected invoiced amount shall constitute full payment by the Employer. In the event any taxing authority refuses to recognize the Employer exemption from such taxes, the Contractor shall immediately consult with the Employer to determine a mutually acceptable procedure.

**Article 32 - Form of Notice, Request, Statement or Approval**

Any notice request, statement or approval provided for in these General Conditions shall be effective if it is given in writing either by letter, facsimile or email.

**Article 33 - OBSERVANCE OF THE LAW**

The Consultant shall comply with all laws, ordinances, rules, and regulations bearing upon the performance of its obligations under the terms of this Contract. The Governing Law of this contract is the law of Lao PDR.

ANNEX II

**TERMS OF REFERENCE (TOR)**  
*[Insert TOR texts]*

**ANNEX [*INSERT ANNEX NUMBER*]**

**BREAKDOWN OF COSTS<sup>9</sup>**

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<sup>9</sup> A Breakdown of Costs must be inserted only for cost reimbursement contracts.