# Recovery and Development Agency

# Invitation to Tender

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# BOOKLET 2

## CONDITIONS OF CONTRACT

## FOR

## REPAIRS TO THE ANEGADA ADMINISTRATION BUILDING

## THE SETTLEMENT

## ANEGADA

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SAMPLE

Engineering and Construction

# Short Contract

A contract between Virgin Islands Recovery and Development Agency

and .....

.....

.....

for Repairs to the Anegada Administration Building, The Settlement, Anegada

Contents Page

Contract Forms
Contract Data 2
The *Contractor*'s Offer 4
The *Employer*'s Acceptance 4
Price List 5
Works Information 6
Site Information 9
Conditions of Contract CC1

Notes about this contract are printed in boxes like this one. They are not part of the contract.



SAMPLE

# Contract Data

| | | |
|---|---|---|
| | The *Employer* is | |
| Name | Virgin Islands Recovery and Development Agency | |
| Address | Wickham's Cay II, Tortola VG 1110, British Virgin Islands | |
| Telephone | (284) 393 8003 | |
| E-mail address | procurement@bvirecovery.vg | |
| The *works* are | Repairs to the Anegada Administration Building, The Settlement, Anegada | |
| The *site* is | Anegada Administration Building, Anegada | |
| The *starting date* is | Estimated November 2020 | |
| The *completion date* is | Estimated May 2021 | |
| The *period for reply* is | Two (2) | weeks. |
| The *defects date* is | Twenty-six (26) | weeks after Completion. |
| The *defect correction period* is | Three (3) | weeks. |
| The *delay damages* are | Two Hundred US Dollars (US$200) | per day. |
| The *assessment day* is the | 28th | of each month. |
| The *retention* is | 10% reducing to 5% during defects liability period. | %. |
| The following documents also Contract: | Letter of Acceptance, Form part of the Letter of Tender, General Conditions of Contract, The Specifications, Bill of Quantities, Schedule of Payments, Clarifications emails, Bidders' Conference and Site Visit Question and Answer Notes with additions to Requirement, The Requirements, The Drawings, Minutes of Meeting, Trade License and Certificates of Good Standing. | |
| The Language of the Contract is | English | |
| | The *Adjudicator* is | |
| Name | British Virgin Islands International Arbitration Centre | |
| Address | Ritter House, 3rd Floor, P.O. Box 3438, Road Town, Tortola VG 1110, British Virgin Islands | |
| Telephone | (284) 393 8003. | |
| E-mail address | info@bviiac.org | |



SAMPLE

# Contract Data

The interest rate on late payment is 0.5 % per complete week of delay.

The *Contractor* is not liable to the *Employer* for loss of or damage to the *Employer*'s

property in excess of US$500,000.00 for any one event.

| | |
|---|---|
| The *Employer* provides this insurance | Not Applicable |
| The minimum amount of cover for the third insurance stated in the Insurance Table is | US$1,000,000.00 |
| The minimum amount of cover for the fourth insurance stated in the Insurance Table is | US$1,000,000.00. |
| The *Adjudicator nominating body* is | British Virgin Islands International Arbitration Centre |
| The *tribunal* is | Arbitration |
| If the *tribunal* is arbitration, the arbitration procedure is | Any dispute, controversy or claim arising out of or relating to this Contract, or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the BVI IAC Arbitration Rules |

The *conditions of contract* are the NEC3 Engineering and Construction Short Contract April 2013 and the following additional conditions

The Project Manager is Tom Lilleyman c/o Virgin Islands Recovery and Development Agency, Ritter House, Wickham's Cay II, Tortola VG1110, British Virgin Islands



SAMPLE

# Contract Data

## The *Contractor*'s Offer

The *Contractor* is

Name . . . . . .

Address . . . . . .

. . . . . .

Telephone . . . . . Fax . . . . . .

E-mail address . . . . . .

The percentage for overheads and profit added to the Defined Cost for people is . . . . . %.

The percentage for overheads and profit added to other Defined Cost is . . . . . %.

The *Contractor* offers to Provide the Works in accordance with the *conditions of contract* for an amount to be determined in accordance with the *conditions of contract*.

The offered total of the Prices is . . . . . .

**Enter the total of the Prices from the Price List.**

Signed on behalf of the *Contractor*

Name . . . . . .

Position . . . . . .

Signature . . . . . Date . . . . . .

In the presence of . . . . . Name . . . . . .

Witness

## The *Employer*'s Acceptance

The *Employer* accepts the *Contractor*'s Offer to Provide the Works

Signed on behalf of the *Employer*

Name . . . . . .

Position . . . . . .

Signature . . . . . Date . . . . . .

In the presence of . . . . . Name . . . . . .

Witness



SAMPLE

# Contract Data

## Price List

Refer to Bill of Quantities

| Item number | Description | Unit | Quantity | Rate | Price |
|---|---|---|---|---|---|
| ..... | ..... | ..... | ..... | ..... | ..... |
| ..... | ..... | ..... | ..... | ..... | ..... |
| ..... | ..... | ..... | ..... | ..... | ..... |
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| ..... | ..... | ..... | ..... | ..... | ..... |
| ..... | ..... | ..... | ..... | ..... | ..... |
| | | | | The total of the Prices | |

# Contract Data

## Works Information

### 1 Description of the *works*

Refer to Booklet 2 – Requirements / Scope of Works document provided.

### 2 Drawings

| Drawing number | Revision | Title |
|---|---|---|

Refer to Drawings provided.



SAMPLE

# Contract Data

## Works Information

### 3 Specifications

Refer to Bill of Quantities provided.

| Title | Date or revision | Tick if publicly available |
|---|---|---|
| Refer to Bill of Quantities provided. | | |

### 4 Constraints on how the *Contractor* Provides the Works

Contractor is required to adhere to the COVID-19 preventative protocols and instructions of Construction operations as outlined by the laws of British Virgin Islands.



SAMPLE

# Contract Data

# Works Information

## 5 Requirements for the programme

Refer to Booklet 2 – Requirements / Scope of Works document provided and Gantt chart (i.e. Gantt chart prepared by successful Tenderer).

## 6 Services and other things provided by the *Employer*

| Item | Date by which it will be provided |
|---|---|
| Not Applicable | |
| | |
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SAMPLE

# Contract Data

## Site Information

Refer to Scope of Work/ Requirements document for site information . . . .. . . . . .

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SAMPLE

# Contract Forms

This Section contains forms which, once completed, will form part of the Contract. The forms for Performance Security and Advance Payment Security, when required, shall only be completed by the successful Bidder after contract award.

- **Form of Tender-Securing Declaration**
- **Letter of Acceptance**
- **Advance Payment Security**
- **Performance Security (Bank Guarantee)**

# Form of Tender-Securing Declaration

Date: *[insert date (as day, month and year)]*
Tender No.: *[insert number of tender process]*

To: *[insert complete name of Purchaser]*

We, the undersigned, declare that:

We understand that, according to your conditions, tenders must be supported by a Tender-Securing Declaration.

We accept that we will automatically be suspended from being eligible for tendering in any contract with the Recipient for the period of time of 12 months starting on *[insert date*], if we are in breach of our obligation(s) under the tender conditions, because we:

(a) have withdrawn our Tender during the period of tender validity specified in the Instructions to Tender document; or

(b) having been notified of the acceptance of our tender by the Purchaser during the period of bid validity, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the ITT.

We understand this Tender-Securing Declaration shall expire if we are not the successful Tenderer, upon the earlier of (i) our receipt of your notification to us of the name of the successful Tenderer; or (ii) twenty-eight days after the expiration of our Tender.

Signed: *[insert signature of person whose name and capacity are shown]* In the capacity of *[insert legal capacity of person signing the Tender-Securing Declaration]*

Name: *[insert complete name of person signing the tender-Securing Declaration]*

Duly authorised to sign the tender for and on behalf of: *[insert complete name of Tenderer]*

Dated on _____ day of _____, _____ *[insert date of signing]*

Corporate Seal *(where appropriate)*

*[Note: In case of a Joint Venture, the Tender-Securing Declaration must be in the name of all partners to the Joint Venture that submits the tender.]*

# Letter of Acceptance

***[On letterhead of the Employer]***

. . . . . ***[Date]***. . . . . .

To: . . . . . ***[Name and Address of the Contractor]*** . . . . . .

Subject: . . . . . ***[Notification of Award Contract No]***. . . . . .

Thank you for taking part in the above-mentioned tender process. This Letter of Acceptance is to notify you that your Tender dated . . . . ***[insert date] . . .*** . for execution of the . . . . . ***.[insert name of the contract]*** . . . . . for a price not exceeding . . . . . ***.[insert amount in numbers and words and name of currency]***, is hereby accepted by our Agency.

This letter constitutes the formation of a Contract until the formal Contract Agreement is signed by both parties. A draft Contract Agreement will be forwarded for your review in a separate email, subject to the Board's formal approval. The Adjudicator for this Contract is the British Virgin Islands International Arbitration Center (BVIAC).

You are requested to furnish the Performance Security within 28 days in accordance with the Conditions of Contract, using for that purpose the Performance Security Form included below in this Invitation to Tender Document.

Authorised Signature: .....

Name and Title of Signatory: .....

# Advance Payment Security

***[Bank's Name, and Address of Issuing Branch or Office]***

**Beneficiary: ..... *[Name and Address of Employer]* .....**
**Date: .....**
**Advance Payment Guarantee No.: .....**

We have been informed that . . . . . ***[name of the Contractor]***. . . . . (hereinafter called "the Contractor") has entered into Contract No. . . . . ***[reference number of the Contract]***. . . . . dated . . . . . .with you, for the execution of . . . . . ***[name of contract and brief description of Works]***. . . . . (hereinafter called "the Contract").

Furthermore, we understand that, according to the Conditions of the Contract, an advance payment in the sum . . . . . ***[name of the currency and amount in figures]*** [1]. . . . . (. . . . . ***[amount in words]***. . . . . ) is to be made against an advance payment guarantee.

At the request of the Contractor, we . . . . . ***[name of the Bank]***. . . . . hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of . . . . . ***[name of the currency and amount in figures]****. . . . . (. . . . . ***[amount in words]***. . . . . ) upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation under the Contract because the Contractor used the advance payment for purposes other than the costs of mobilization in respect of the Works.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Contractor on its account number . . . . . ***[Contractor's account number]***. . . . . at . . . . . ***[name and address of the Bank]***. . . . . .

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Contractor as indicated in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that eighty (80) percent of the Contract Price has been certified for payment, or on the . . . day of . . . . . , . . . . . [2], whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

. . . . . ***[Seal of Bank and Signature(s)]***. . . . . .

*All italicised text is for guidance on how to prepare this demand guarantee and shall be deleted from the final document.*

[1] *The Guarantor shall insert an amount representing the amount of the advance payment denominated either in the currency(ies) of the advance payment as specified in the Contract, or in a freely convertible currency acceptable to the Employer.*

[2] *Insert the expected expiration date of the Time for Completion. The Employer should note that in the event of an extension of the time for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Employer's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.*

# Performance Security (Bank Guarantee)

***[Bank's Name, and Address of Issuing Branch or Office]***

**Beneficiary: ..... *[Name and Address of Employer]* .....**

**Date: .....**

**Performance Guarantee No.: .....**

We have been informed that . . . . . ***[name of the Contractor]***. . . . . (hereinafter called "the Contractor") has entered into Contract No. . . . . ***[reference number of the Contract]***. . . . . dated . . . . . .with you, for the execution of . . . . . ***[name of contract and brief description of Works]***. . . . . (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Contractor, we . . . . . ***[name of the Bank]***. . . . . hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of . . . . . ***[name of the currency and amount in figures]*** [1]. . . . . (. . . . . ***[amount in words]***. . . . . ) such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation(s) under the Contract, without your needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire, no later than the . . . . . Day of . . . . . , . . . . . [2], and any demand for payment under it must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

. . . . . .
***[Seal of Bank and Signature(s)]***

*All italicised text is for guidance on how to prepare this demand guarantee and shall be deleted from the final document.*

[1] *The Guarantor shall insert an amount representing the percentage of the Contract Price specified in the Contract and denominated either in the currency(ies) of the Contract or a freely convertible currency acceptable to the Employer.*

[2] *Insert the date 28 days after the expected completion date. The Employer should note that in the event of an extension of the time for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Employer's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."*