

The Bidding Documents are available in English and Georgian languages at Georgian E-Government Procurement System. Georgian version of the document is provided for facilitation only. In case of discrepancies, English version prevails.

Section 8: Particular Conditions of Contract

The following Particular Conditions of Contract shall supplement the GCC. Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

A. General	
GCC 1.1 (d)	The financing institutions is Asian Development Bank
GCC 1.1 (r)	The Employer/Implementing Agency is Municipal Development Fund of Georgia represented by Mr. George Shengelia, Executive Director of MDF. Address: 150 David Agmashenebeli Avenue Tbilisi, 0112 Georgia Tel.: (+995 32) 2437001, 2437002, 2437003, 2437004
GCC 1.1 (w)	The Intended Completion Date for the whole of the Works shall be Fifteen (15) months after Start Date.
GCC 1.1 (cc)	Project Manager's name: EPTISA Servicios de Ingenieria, S.L. (Spain) Address: Emilio Munoz 35-37 Madrid 28037 Spain.
GCC 1.1 (ff)	The Site is located at Eastern Georgia, in Akhaltsikhe Municipality, Village Agara (c.c. 62.05.58.505).
GCC 1.1 (ii)	The Start Date shall be 28 days after signing the Contract. The commencement of work is subject to fulfillment of GCC 24.2 (ii).
GCC 1.1 (mm)	The Works consist of Building works for Construction of Kindergarten in Agara (Akhaltsikhe); including water supply, sanitation, electric works and landscaping. See the Bill of Quantities attached to this bid documents package.
GCC 2.2	Sectional Completions are: Not Applicable
GCC 2.3 (j)	The following documents also form part of the Contract: <ul style="list-style-type: none"> - Environmental Assessment and Review Framework (EARF) (Appendix A) - Land Acquisition and Resettlement Framework (LARF) (Appendix B) - Initial Environmental Examination Report (IEE) (Appendix C) - Social Due Diligence Report (SDDR) (Appendix D)
GCC 3.1	The language of the contract is: either English or Georgian <i>[based on the language of the Bidder's Bid]</i> .

	The law that applies to the Contract is the law of Georgia.
GCC 8.1	Add the following after the existing sentence in GCC 8.1. “The Contractor shall also comply with all reasonable requests of the national and local authorities responsible for enforcing environmental health and safety controls.”
GCC 11.1	The Project Manager may not delegate any of his duties and responsibilities.
GCC 14.1	Schedule of other contractors: Not applicable
GCC 19.1	The minimum insurance amounts and deductibles shall be: <ul style="list-style-type: none"> (a) for loss or damage to the Works, Plant and Materials: Equivalent to the 1.1 times Contract Price; Deductible: GEL 10,000.00 (b) for loss or damage to Equipment: GEL: 500,000.00; Deductible: GEL 5,000.00 (c) for loss or damage to property (except the Works, Plant, Materials, and Equipment) in connection with Contract: GEL 500,000.00; Deductible: GEL 10,000.00 (d) for personal injury or death: <ul style="list-style-type: none"> (i) of the Contractor’s employees: GEL 250,000.00 (ii) of other people: GEL 250,000.00
GCC 20.1	Site Investigation Reports are: Not applicable
GCC 22.2	The Contractor shall adequately record the condition of roads, agricultural land and other infrastructure prior to starting to transport materials and construction. Avoidance of damage to fences and other private property located along the road and prompt restoration in case it may not be avoided. In other cases, the damage shall be compensated in accordance with SPS 2009 by the contractor.
GCC 23.1	The following shall be designed by the Contractor: The Contractor is required to conduct a full review of the design drawings and Bill Of Quantities to identify any potential deficiencies or shortcomings.
GCC 24.2	<ul style="list-style-type: none"> (i) The Contractor is responsible for providing site workers with safe and healthy working conditions and establish an operating system to prevent accidents, injuries, and disease. This includes the establishment of preventive and emergency preparedness and response measures to avoid, and where avoidance is not possible, to minimize, adverse impacts and risks of the construction site work to the health and safety of local communities. (ii) Within 28 days from the date of the Letter of Acceptance, the Contractor shall submit a detailed Site Specific Environmental, Health and Safety Management Plan (SSEHSMP) for the Project Manager’s no objection showing how it intends to comply with environmental, health and safety laws and regulations and other specific requirements prescribed in the Contract, addressing all the monitoring and mitigation measures set forth in the Initial Environmental Examination Report (“IEE”) and the Environmental Management Plan (“EMP”) of the project as well as related Supplementary Information attached in Section 6- Employer’s Requirements. Work shall not commence on the Site until the no objection of SSEHSMP has been obtained from the Project Manager. Such confirmation of

	<p>no objection by the Project Manager shall not relieve the Contractor of any of his obligations or responsibilities under the Contract.</p> <p>(iii) The Contractor is required to provide all personnel on site including Employer's Personnel and visitors with personal protective equipment, including protection for feet (safety boots), head, eyes, ears (safety helmets) and hands, etc., in accordance with the Contractor's SSEHSMP. The Contractor should ensure that his Subcontractors comply with the SSEHSMP and provide all such necessary equipment to their personnel.</p> <p>(iv) The Contractor shall (a) establish an operational system for managing environmental, health and safety impacts, (b) comply with the approved SSEHSMP and any corrective or preventative actions set out in safeguards monitoring reports that the Employer will prepare from time to time to monitor the implementation of the project EMP through the SSEHSMP, (c) allocate the budget required to ensure that such measures, requirements and actions are carried out, (d) submit semi-annual reports on the compliance of such measures to the Project Manager and the Employer.</p> <p>(v) Where unanticipated health and safety hazards, or environmental risks or impacts become apparent during the Contract, the Contractor is required to update the SSEHSMP to outline the potential impacts to site works and associated mitigation measures for the Project Manager's approval.</p> <p>(vi) Provide the Employer with a written notice of any accident, unanticipated environmental or resettlement risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the IEE, including EMP, and the SDDR (construction of kindergarten in Agara). In the event of a significant injury involving medical treatment or hospitalization and fatal accident the Contractor shall notify the Project Manager immediately by verbal communication and submit a formal report as soon as practicable after its occurrence. For all accidents, whether fatal or not, the Contractor shall also notify the appropriate local authorities in accordance with the Laws of the Country.</p> <p>(vii) The Contractor shall submit (i) periodic SSEHSMP implementation report to the Project Manager and the Employer. The frequency and deadline of submission will be communicated by the Project Manager/Employer in the approval of the SSEHSMP, and (ii) semi-annual reports on the compliance of such measures to the Project Manager and the Employer.</p> <p>(viii) Provide the Project Manager and the Employer with a written notice of any complaints/grievances received on sites and actions implemented to address such complaint/grievance.</p>
<p>GCC 24.3</p>	<p>The Contractor shall at all times take all reasonable precautions to maintain the health and safety of the Contractor's Personal and to provide a safe work environment.</p> <p>The Contractor shall conduct health and safety programs for workers employed under the project, and shall include information on the trafficking of women and the risk of sexually transmitted diseases, including HIV/AIDS in such programs.</p> <p>In the process of the heavy machinery movement, the Contractor shall pay special attention to children and implement relevant measures in order to ensure safety movement adjacent to the public building, schools, kindergartens and others.</p>

GCC 26.1	The Site (located at Eastern Georgia, in Akhaltsikhe Municipality, Village Agara (c.c. 62.05.58.505) Possession Date(s) shall be: three (3) days after the signing of the Contract.
GCC 27.2	<p>The Contractor shall comply with (i) the measures and requirements set forth in the Social Due Diligence Report (SDDR) and Land acquisition and Resettlement Framework (LARF) attached hereto as Appendix D and Appendix B, to the extent it concerns impacts on affected people during construction; and (ii) any corrective or preventive actions set out in safeguards monitoring reports that the Employer will prepare from time to time to monitor implementation of the mentioned social documents (LARF, LARP, SDDR)."</p> <p>The Contractor shall allocate a budget for compliance with these measures, requirements and actions.</p>
GCC 29.1	<p>Appointing Authority for the Adjudicator:</p> <p>Dispute Resolution Center, 71 Vazha Pshavela Ave., Block 1, Floor 1, Tbilisi, Georgia. Tel: 032 2207 327; E-mail: info@drc-arbitration.ge</p>
GCC 30.3	The Adjudicator shall be paid by the hour at the rate of: USD 120 equivalent , travel and accommodation expenses accordingly with actual costs
GCC 30.4	<p>Institution whose arbitration procedures shall be used:</p> <p>(a) Contracts with foreign contractors: International arbitration shall be conducted in accordance with the rules of International Chamber of Commerce.</p> <p>Arbitration shall be administered by International Chamber of Commerce.</p> <p>The place of arbitration shall be: Paris, France.</p> <p>(b) Contracts with domestic contractors: Arbitration shall be conducted in accordance with the laws of the Employer's country.</p>
GCC 31.1	The Contractor shall not employ any child to perform any work, including work that is economically exploitative, or is likely to be hazardous to, or to interfere with, the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development. "Child" means a child below the statutory minimum age of eighteen specified under the laws of Georgia.
GCC 34.2	<p>The following sentence shall apply:</p> <p>Respectful Work Environment</p> <p>The Contractor shall ensure that its employees and Subcontractors observe the highest ethical standards and refrain from any form of bullying, discrimination, misconduct and harassment, including sexual harassment and shall, at all times, behave in a manner that creates an environment free of unethical behavior, bullying, misconduct and harassment, including sexual harassment. The Contractor shall take appropriate action against any employees or Subcontractors, including suspension or termination of employment or sub-contract, if any form of unethical or inappropriate behavior is identified.</p>

	The Contractor shall conduct training programs for its employees and Subcontractors to raise awareness on and prevent any form of bullying, discrimination, misconduct and harassment including sexual harassment, and to promote a respectful work environment. The Contractor shall keep an up to date record of its employees and Subcontractors who have attended and completed such training programs and provide such records to the Employer or the Project Manager at their first written request.
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C. Time Control

GCC 35.1	The Contractor shall submit for approval a Program for the Works within 10 days from the date of the Letter of Acceptance. Such Program submission should include the environmental, health and safety information required in 24.2 (ii).
GCC 35.3	The period between Program updates is 60 days. The amount to be withheld for late submission of an updated Program is GEL 50,000.00
GCC 40.3	In addition to the foregoing, the Contractor shall sufficiently in advance provide the Engineer with a written notice of any unanticipated environmental or resettlement risks or impacts that arise during construction, which were not considered in the Environmental Assessment and Review Framework (EARF) or the Land Acquisition and Resettlement Frameworks (LARF), Social Due Diligence Report (SDDR) and Initial Environmental Examination (IEE) attached hereto as Appendix A through Appendix D.

D. Quality Control

GCC 43.1	The Defects Liability Period is: 365 days.
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E. Cost Control

GCC 53.1	The currency of the Employer's country is: Georgian Lari
GCC 54.1	The Contract is not subject to price adjustment in accordance with GCC Clause 54.
GCC 55.1	The proportion of payments retained is: 5%
GCC 56.1	The liquidated damages for the whole of the Works are 0.1% of the final Contract Price per day. The maximum amount of liquidated damages for the whole of the Works is 5% of the final Contract Price.
GCC 57.1	The Bonus for the whole of the Works is: Not Applicable
GCC 58.1	The Advance Payments shall be 15% of the contract cost and shall be paid to the Contractor no later than 28 days after submission of Advance Payment Bank Guarantee for the same amount, acceptable by the Employer.

	<p>The Advance Payments Security shall be issued ONLY from local commercial Banks operating on the territory of Georgia. Full list of commercial Bank's operating on the territory of Georgia is available on National Bank of Georgia's website on following link: www.nbg.gov.ge/index.php?m=403&lng=eng</p> <p>Please note that mentioned link is for the purpose of facilitating process of identification of suitable local Bank and under no-circumstances commit the Employer to undertake responsibility regarding credibility of any and/or all commercial Bank's on the list.</p>
GCC 58.3	<p>Repayment of the Advance Payments shall be: 18.75% from each payment certificate.</p> <p>The advance payment shall be fully repaid by deducting proportionate amounts from payments no later than Eighty percent (80%) of the Works, completed on a payment basis, is reached.</p>
GCC 59.1	<p>The Performance Security amount is 10% of the Contract Price</p> <p>Performance Security shall be issued ONLY from local commercial Banks operating on the territory of Georgia. Full list of commercial Bank's operating on the territory of Georgia is available on National Bank of Georgia's website on following link: www.nbg.gov.ge/index.php?m=403&lng=eng</p> <p>Please note that mentioned link is for the purpose of facilitating process of identification of suitable local Bank and under no-circumstances commit the Employer to undertake responsibility regarding credibility of any and/or all commercial Bank's on the list.</p>
G. Finishing the Contract	
GCC 69.2	<p>Upon the completion of construction, the Contractor shall fully reinstate pathways, other local infrastructure, and agricultural land to at least their pre-project condition as recorded by the Contractor in consonance with its obligation in Clause 22.</p>
GCC 72.1	<p>The date by which "as built" drawings are required is: 14 days after Completion of the Works.</p>
GCC 72.2	<p>The amount to be withheld for failing to produce "as built" drawings by the date required in GCC 72.1 is GEL 50,000.00</p>
GCC 73.2 (h)	<p>The maximum number of days is: 50 calendar days</p>
GCC 75.1	<p>The percentage to apply to the value of the work not completed, representing the Employer's additional cost for completing the Works, is 10%.</p>
GCC 80	<p>The Contractor shall comply with all applicable national, provincial, and local environmental/social laws and regulations as well as ADB safeguard policy. The Contractor shall (a) establish an operational system, including responsible specialists for managing environmental as well as social impacts, (b) carry out all of the monitoring and mitigation measures to ensure that project will be implemented in line with the requirements set out under LARF, EARF, IEE and SDDR (c) allocate the budget required to ensure that such measures are carried out, and (d) comply with any corrective or preventative actions set out in safeguards monitoring reports that</p>

	the Construction Company and Supervision Company will prepare from time to time to monitor implementation of the safeguards requirements. The Contractor shall submit quarterly and semi-annual reports on the carrying out of such measures to the Employer.
GCC 81	The Contractor shall provide the Employer with quarterly and semi-annual reports regarding the carried activities under the Project, including information about its obligations envisaged under Sub-Clauses 22, 24, 27, 31, 32, 33, 34, 80, and 82.
GCC 82	The Contractor shall comply with all relevant (a) labor laws and regulations applicable to the Contractors personnel, including staff, consultants, contractors, and agents; and (b) workplace health and safety laws. The Contractor shall not make employment decisions based upon personal characteristics unrelated to job requirements. The Contractor shall base the employment relationship upon equal opportunity and fair treatment, and shall not discriminate with respect to aspects of the employment relationship, including recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment or retirement, and discipline. The Contractor shall provide equal wages and benefits to men and woman for work of equal value or type.
GCC 83	<p>In this Sub-Clause, “infringement” means an infringement (or alleged infringement) of any patent, registered design, copyright, trademark, trade name, trade secret or other intellectual or industrial property right relating to the Works; and “claim” means a claim (or proceedings pursuing a claim) alleging an infringement.</p> <p>Whenever a Party does not give notice to the other Party of any claim within 28 days of receiving the claim, the first Party shall be deemed to have waived any right to indemnify under this Sub-Clause.</p> <p>The Employer shall indemnify and hold the Contractor harmless against and from any claim alleging an infringement which is or was:</p> <ul style="list-style-type: none"> (a) an unavoidable result of the Contractor’s compliance with the Contract, or (b) a result of any Works being used by the Employer: <ul style="list-style-type: none"> i. for a purpose other than that indicated by, or reasonably to be inferred from, the Contract, or ii. in conjunction with any thing not supplied by the Contractor, unless such use was disclosed to the Contractor prior to the Base Date or is stated in the Contract. <p>The Contractor shall indemnify and hold the Employer harmless against and from any other claim which arises out of or in relation to (i) the manufacture, use, sale or import of any Goods, or (ii) any design for which the Contractor is responsible.</p> <p>If a Party is entitled to be indemnified under this Sub-Clause, the indemnifying Party may (at its cost) conduct negotiations for the settlement of the claim, and any litigation or arbitration which may arise from it. The other Party, shall, at the request and cost of the indemnifying Party, assist in contesting the claim. This other Party (and its Personnel) shall not make any admission which might be prejudicial to the indemnifying Party, unless the indemnifying Party failed to take over the conduct of any negotiations, litigation or arbitration upon being requested to do so by such other Party.</p>