



Government of Montserrat

Invitation to Tender

Contract Title: Montabacco Hospital Storage

Contract Reference: MOHSS-2-040723

Date of Issue: 13th July 2023

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1. Welcome

- 1.1. The Government of Montserrat is inviting bids for the opportunity described in this Invitation to Tender (ITT).
- 1.2. This ITT comes in the following parts:
 - 1.2.1. Part 1 (this part). It describes what the opportunity is, who can bid, competition rules and timelines plus guidance on how we will assess your bid.
 - 1.2.2. Part 2 – Your Bid. You must download Part 2 and return to us. More information is included under the How to Bid section of this part.
 - 1.2.3. Part 3 – Specifications
 - 1.2.4. Part 4 – Pricing Schedule. You must download and complete Part 4 and return to us as part of your bid.
- 1.3. Make sure you read this pack and all the attachments carefully. The guidance, information and instructions that we provide are there to help you to make your best bid.
- 1.4. If anything isn't clear, see 7.8 When and how to ask questions.

2. The Opportunity

- 2.1. This procurement will:
 - 2.1.1. Establish a contract with a suitably qualified organisation to convert part of the Montobacco building into a suitable temperature controlled storage facility for the new National Hospital project. The work site is at Brades, opposite the Power Station.
 - 2.1.2. The construction period will be approximately 4 weeks
 - 2.1.3. The contract will be between the successful bidder and the Government of Montserrat.

3. What You Need To Know

- 3.1. There is information you need to know before you prepare a bid.
- 3.2. When we use '**we**', '**us**' or '**our**' we mean the Government of Montserrat.
- 3.3. When we use '**you**' or '**your**' we mean your organisation, or the organisation you represent, in this competition.

- 3.4. The Public Finance (Management and Accountability) (Procurement) Regulations 2019 ("the Regulations") regulate how we procure. This means that we and you must follow processes that are fair, transparent and equitable for all bidders.

4. Who Can Bid

- 4.1. Any organisation that can demonstrate compliance with Regulation 6 of the Public Finance (Management and Accountability) (Procurement) Regulations 2019 and is not included in the World Bank Corporate Procurement Listing of Non-Responsible Vendors and World Bank Listing of Ineligible Firms and Individuals may submit a bid.
- 4.1.1. You may not have an unresolved conflict of interest. Please refer to section 5 for definitions.
- 4.1.2. You can bid as a single entity or as a joint venture / partnership to deliver the requirements. If your proposed structure changes after you have submitted your bid you must tell us or you may be excluded from this procurement.

5. Conflicts of Interest

- 5.1. You shall be considered to have a conflict of interest if:
- You have a close business or family relationship with our personnel who can influence decisions made by or on behalf of us.
 - You are associated, or have been associated in the past, directly or indirectly, with any individual, organisation or its affiliates engaged by us to provide consulting services for the preparation of designs, specifications, or other documents related to this ITT.
 - You have interest in other bidders, including when they have common ownership and/or management. You shall not submit more than one bid, except for alternative offers, if permitted. This includes situations where you are the bidder in one bid and a sub-contractor on another; however, this does preclude an organisation or individual acting as a sub-contractor in more than one bid.
- 5.1.1. You must disclose any actual or potential conflict of interest in your bid. Please refer to '**Part 2 – Your Bid**' of this ITT.
- 5.1.2. Your bid will be deemed ineligible for this procurement unless such conflict of interest is resolved in a manner acceptable to the Head of Procurement and Commercial Development of the Ministry of Finance and Economic Development. Failure to disclose any actual or potential conflict of interest may lead to you being sanctioned further.

6. Timeline for The Procurement

- 6.1. These are the intended timelines but for many reasons, dates can change. We will tell you if this happens.

Procurement Stage	Proposed Date
Publication of ITT	Thursday, 13 th July 2023
Clarification Period Starts	Thursday, 13 th July 2023
Site Visits	Thursday, 27 th July 2023, 10:00 am at the Montobacco Building in Brades, below the Ministry of Communications, Works, Labour & Energy Office
Bid Clarification Deadline	Wednesday, 2 nd August 2023
Deadline for responses to Clarification questions	Friday, 4 th August 2023
Bid Submission Deadline	Wednesday, 9 th August 2023
Commencement of Evaluation Process	Friday, 11 th August 2023
Expected execution (signature) date for Contract	Friday, 8 th September 2023
Commencement of Works / Services	Wednesday, 13 th September 2023
Handover	Friday, 14 th October 2023

7. How To Make Your Bid

- 7.1. Your bid must be made by the organisation that will be responsible for providing the works or services if your bid is successful. Remember to download and complete **Part 2 - Your Bid** and submit your bid in hard copy as set out in **7.9** below
- 7.2. Make sure you answer ALL questions. You must not answer any of the questions by cross referencing other questions or other materials e.g., your website or brochures. The Evaluation Committee may or may not decide to communicate with you to provide missing/additional information, in the event you don't fully answer a question.
- 7.3. Submit your bid before the Bid Submission Deadline.
- 7.4. Upload/include **only** those attachments we have asked for. Any other supporting evidence such as certificates, will be requested separately by us.
- 7.5. If we **do not** require attachments and have specified this, please only use the Text Boxes provided for your answer.

- 7.6. Check for messages throughout the competition at <https://tenders.gov.ms/>
- 7.7. If you are unsure, ask questions before the Bid Clarification Deadline by sending queries to our email: procurement@gov.ms.
- 7.8. When And How to Ask Questions
- 7.8.1. If you have any questions you need to ask them as soon as possible after the procurement event is published as there is a deadline for submitting clarifications questions (Refer to timelines in 6.0 above). This gives you the chance to check that you understand everything before you submit your bid.
- 7.8.2. You need to send your questions through to procurement@gov.ms. This is the only way we can communicate with you. Ensure your question is specific and clear and does not include your identity. This is because we publish all the questions and our responses to all bidders.
- 7.8.3. If you feel that a particular question should not be published, you must tell us why when you ask the question. We will decide whether to publish the question and response.
- 7.9. Submitting a hard copy bid
- 7.9.1. You will need two (2) plain envelopes for a hard copy the Bid submission.
- 7.9.2. You must follow these instructions. Failure to do so may result in the tender being non-compliant and not considered any further.
- 7.9.3. Envelope 1
- Follow the steps written below:
- a) Write the name of the Bidder on this envelope.
- b) Write the name of the project and the address on the envelope as written below:
- Montobacco Hospital Storage
The Chairperson
Public Procurement Board
Ministry of Finance and Economic Management
P.O. Box 292
Brades
Montserrat, MSR1110
- c) Now put this envelope into another plain envelope (Envelope 2)
- 7.9.4. Envelope 2
- d) Envelope 1 should now be inside this envelope (Envelope 2), seal the envelope and then write the Project Title and address on the envelope:

Montobacco Hospital Storage
The Chairperson

Public Procurement Board
Ministry of Finance and Economic Management
P.O. Box 292
Brades
Montserrat, MSR1110

- 7.9.5. Envelope 2 must not have the Bidder's name on it or any other markings
- 7.9.6. Tenders are to be delivered to the address above by the bid submission deadline in Section 6
- 7.9.7. Late submission of Tenders will not be accepted

8. Making The Competition Work

- 8.1. We run our competitions so that they are fair and transparent for all bidders. This section sets out the rules of this competition.
- 8.2. What you can expect from us
- 8.2.1. We will not share any information from your bid which you have identified as being confidential or commercially sensitive with third parties, other than stakeholders in the competition. We may however share this information where the law requires.
- 8.2.2. We will appoint an evaluation panel in accordance with the Regulations who will assess your bid fairly and impartially.
- 8.3. What we expect from you
- 8.3.1. You must comply with the rules in this ITT and any other instructions given by us. You must also ensure members of your consortium (if relevant), group companies, subcontractors or advisers comply.
- 8.3.2. You may
- Submit one bid
 - Your bid must remain valid for 90 days after the bid submission deadline
 - You must submit your bid in English and through the www.mytenders.co.uk website or by hard copy in person
- 8.3.3. Involvement in multiple bids
- 8.3.4. If you are connected with another bid for the same requirement, we may make enquiries. For example, where you either submit a bid:
- In your own name and or as a subcontractor and or as a member of a consortium connected with a separate bid.

- In your own name which is like a separate bid from another bidder within your group of companies.

8.3.5. This is so we can be sure that your involvement doesn't cause:

- Potential or actual conflicts of interest.
- Supplier capacity problems.
- Restrictions or distortions in competition.

8.3.6. We may require you to amend or withdraw all or part of your bid if, in our reasonable opinion, any of the above issues have arisen or may arise.

8.4. Contracting Arrangements

8.4.1. Only you or, as applicable, your subcontractors (as set out in your bid) or consortium members (if relevant) can provide services through the contract.

8.5. Bidders Conduct and Conflict of Interest

8.5.1. You must not attempt to influence the contract award process. For example, you must not ever directly or indirectly:

- Collude with others over the content and submission of bids. However, you may work in good faith with a proposed partner, supplier, consortium member (if relevant) or provider of finance.
- Canvass our staff or advisors about this competition.
- Try to get information from any of our staff or advisors about another bidder or bid.

8.5.2. You must ensure that no conflicts of interest exist between you and us. If you do not tell us about a known conflict, we may exclude you from the competition. We may also exclude you if a conflict cannot be dealt with in any other way.

8.6. Confidentiality

8.6.1. You must keep the contents of this Bid Pack confidential (including the fact that you have received it). This obligation does not apply to anything you have to do to:

- Submit a bid.
- Comply with a legal obligation

8.7. Publicity

8.7.1. You must not publicise the deliverables or the award of any contract unless we have given written consent. For example, you are not allowed to make statements to the media about any bid or its contents.

8.8. Our Rights

8.8.1. We reserve the right to:

- Waive or change the requirements of this Bid Pack without notice.

- Verify information, seek clarification or require evidence or further information about your bid.
- Withdraw this Bid Pack at any time, or re-invite bids on the same or alternative basis.
- Choose not to award any contract or Lot as a result of the competition.
- Choose to award different Lots at different times.
- Make any changes to the timetable, structure or content of the competition.

8.9. We reserve the right to exclude you if:

- You submit a non-compliant bid.
- Your bid contains false or misleading information.
- You fail to tell us of any change in the contracting arrangements between bid submission and award.
- The change in the contracting arrangements would result in a breach of procurement law.
- For any other reason provided in this ITT.
- For any reason set out in the Regulations.

8.10. Consequences of misrepresentation

8.10.1. If a misrepresentation by you induces us to enter into a contract with you, you may be:

- suspended for a period not exceeding two years, from being considered for any procurement contract by a procuring entity.
- barred from participation in any or a certain type of procurement process, subject to any conditions we consider necessary.
- sued by us for damages.
- If fraud, or fraudulent intent, can be proved, you may be prosecuted and convicted under the laws of Montserrat.

8.11. Bid costs

8.11.1. We will not pay your bid costs for any reason.

8.12. Warnings and disclaimers

8.12.1. We will not be liable:

- Where parts of this ITT are not accurate, adequate or complete.
- For any written or verbal communications.
- You must carry out your own due diligence and rely on your own enquiries.
- This ITT is not a commitment by us to enter into a contract.

8.13. Intellectual Property Rights

8.13.1. This ITT remains our property. You must use the ITT only for this competition.

8.13.2. You allow us to copy, amend and reproduce your bid so we can:

- Run the competition.
- Comply with law and guidance.
- Carry out our business.

8.13.3. Our advisors, subcontractors and other government bodies can use your bid for the same purposes.

9. The Requirement

9.1. To facilitate construction of the new National Hospital additional climate controlled storage space is required. The Montobacco building Brades has been identified as a suitable locations.

9.2. The works include, but are not limited to:

9.2.1. Interior demolition and removal of redundant walls and plant

9.2.2. Construction of new concrete block walls and stud partitions

9.2.3. Construction of a gypsum board sheathed timber framed internal roof over the new storage area of approximately 2340 ft²

9.2.4. Installation of two new steel doors

9.2.5. Installation and commissioning of six split unit air-conditioning units and associated ducting

9.2.6. Electrical works including upgrade to local wiring and installation of lighting and socket outlets.

9.3. The full specification is included in Part 3 of this ITT.

10. Evaluation

10.1. Qualification

10.1.1. We will complete a mandatory evaluation to ensure you have answered all questions and completed all attachments in line with our instructions. All bids passing the mandatory evaluation will be progressed to the Technical Evaluation. Your tender will be disqualified from this process if you don't answer all questions, however, the Evaluation Committee may reach out to you should they need missing/additional information or clarification.

10.2. Technical Evaluation

10.2.1. Your technical response will be assessed using the response guidance included which each question and the evaluation criteria. Evaluators will give a score and a reason for their score for each question they are assessing. The Evaluators will use the following scoring mechanism.

Rating of Response	Score
Excellent The response is comprehensive and unambiguous, demonstrating a thorough understanding of the requirements and provides details of how the requirement will be met in full.	5
Good Meets all the requirements and is explained in reasonable detail. Includes all the information requested and instils confidence that the supplier can fully meet the requirements of the Contract.	4
Compliant Meets the essential requirements and is explained in adequate detail. Although brief or lacking some detail, all the information requested has been supplied and the GoM is relatively confident that the supplier can meet the requirements of the Contract.	3
Partially Compliant Submission which in some areas falls short of requirements and is poorly explained. Not all the information requested has been supplied and causes concern regarding the supplier's ability to meet the requirements of the Contract.	2
Non-Compliant Clearly fails to meet requirements and is not explained. Key information requested has not been supplied and the GoM has major concerns regarding the supplier's ability to meet the requirements of the Contract.	1

10.2.2. Each technical question is weighted according to its importance and the percentage score for each question is calculated as follows:

$$\frac{\% \text{ Weighting for question}}{\text{Maximum Score Available (5)}} \times \text{Score Awarded}$$

For example, a question with a weighting of **15%** awarded a score of **4**:

$$\frac{15\%}{5} \times 4 = 12\%$$

10.2.3. If the evaluation panel wishes to clarify any areas of your bid, bid clarification questions will be issued on an individual basis.

10.2.4. The evaluators will discuss the technical responses and review their scores and reasons for that score. The discussion will continue until they reach a consensus regarding the score, and reason for that score, for each question. These final scores will be used to calculate your technical score.

10.2.5. If you have not met the minimum acceptable score for each question, you will be excluded from the competition and you will not receive a Commercial score. We will tell you that you have been excluded from the procurement and why at the award stage.

10.3. Commercial Evaluation

10.3.1. We will consider your commercial response, conduct compliance checks, review for abnormal bids and request clarifications required to formally evaluate your submission. Your commercial score will be calculated as follows:

$$\frac{\text{Lowest Bid}}{\text{Your Bid}} \times \% \text{ Weighting}$$

10.4. Clarifications

10.4.1. If we wish to clarify any areas of your bid, bid clarification questions will be issued on an individual basis

10.5. Final Scores

10.5.1. Your technical scores will be added to your commercial score, to create your final score.

10.6. Award

10.6.1. Award(s) will be made to the bidder with the highest score subject to contract and our governance procedures. We will notify successful and unsuccessful bidders.

11. Part 2 - Your Bid

11.1. This is a separate attachement to this ITT named MOHSS-2-040723-ITT-Part 2-Your Bid which you must download, complete and return as described in section 7.

12. Part 3 - Specifications

12.1. Please refer to document MOHSS-2-040723-ITT-Part 3 - Specifications

13. Part 4 – Pricing Schedule

13.1. Please refer to document MOHSS-2-040723-ITT-Part 4 – Pricing Schedule

14. Form of Contract

Our Ref:

This Contract is made on the.....between

The Government Of Montserrat

(Hereinafter called the Employer of the one part)

and

XYZ Construction Ltd

(Hereinafter called the Contractor of the other part and each a Party and together the Parties)

WHEREAS The Ministry of [XXXXXXX] (the "Procuring Entity") wishes the following Works to be delivered: [Description of Works] and **XYZ Construction Ltd** has agreed to deliver the Works in accordance with this Contract.

These Works are to be carried out under the direction of the appointed Contract Administrator or his/her alternate as notified to the Contractor at any time.

The Contractor agrees to commence the specified works within working days of this dated agreement and complete the said works over by [xx/xx/xxxx] for the aggregate sum of:

EC\$Amount in Words.....
.....

NOW THIS AGREEMENT IS MADE AND WITNESSED AS FOLLOWS:

The following documents shall form and be read as part of this Agreement:

- This Contract Order Form
- The Contract General Conditions
- The Works Information

The Employer will pay to the Contractor the Contract Price as shall become payable hereunder at the time and in the manner specified in the Conditions.

The Contractor agrees to complete the Works in accordance with the provisions of the General Conditions.

Signed by or on behalf of the Procuring Entity	SIGNATURE	NAME IN BLOCK
In the presence of	SIGNATURE	NAME IN BLOCK
Signed by or on behalf of the Contractor	SIGNATURE	NAME IN BLOCK
In the presence of	SIGNATURE	NAME IN BLOCK

15. General Conditions of Contract

1. INTERPRETATION

1.1. In these conditions

The “**Contract**” means the agreement concluded between the Employer and the Contractor including all specifications which are described and attached hereto to include the tender instructions, scope of works and other documents which may be incorporated or referred to herein;

The “**Contractor**” means the company/companies/individuals that have responsibility for carrying out the requirements of the contract.

The “**Contract Price**” means the gross price to be paid by the Employer and the method of payment of the Contract Price shall be agreed between the parties.

2. VARIATIONS OF CONDITIONS

2.1 The supply and delivery of Works outlined in the Terms of Reference shall be carried out in accordance with these Conditions and requirements and no amendment or variation either to the terms and conditions or to the requirements shall be made unless agreed in writing between the parties and incorporated into this agreement.

3. NON-DELIVERY

3.1 Without prejudice to any other right or remedy, should the Contractor not deliver the Works or any portion thereof within the time or times specified in the Contract, except in cases of force majeure and subject always to the receipt of written notice within 5 days of the force majeure event relied on or if the Works are delayed due to events outside of the Contractor’s control, in which case the Contractor shall be entitled to a fair and reasonable time for such delay, then:

3.1 The Employer shall be at liberty to determine the Contract and to procure Works of the same or similar description from another Contractor to make good such default; and,

3.2 The Employer shall recover from the Contractor any sum or sums paid to the Contractor in respect of the Works. Also, the Employer shall be able to recover from the Contractor any increased costs resulting from obtaining supplies from an alternative Contractor.

4. PAYMENT

4.1 As full consideration for the Works performed by the Contractor under the terms of this Contract, the Employer will pay the fees as outlined within 10 days of receipt of an invoice, payable against original invoices delivered to the Employer by the Contractor, provided that Employer give notice in writing of its intention not to pay such fee and provide the relevant reason where:

- (a) The Contractor has failed to carry out Works, or has inadequately carried out Works required by this Contract to be carried out and has not remedied such failure or deficiency within a reasonable time;
- (b) The Contractor, by act or omission has caused damage to personnel or property of the Employer or any third party;
- (c) There is a breach of any other provision of this Contract; and upon giving such notice the Employer may withhold payment accordingly.

4.2 Employer, whenever under the Contract any sum of money shall be recoverable from or payable by the Contractor, the same may be deducted from any sum then due or which at any time thereafter may become due to the Contractor under the Contract as a debt, providing that such sum is agreed by the parties as recoverable by GOM or has been fully ascertained and substantiated.

5. INDEMNITY AND INSURANCE

5.1 The Contractor shall be liable for and shall indemnify the Employer against any liability, loss, costs, expenses, claims or proceedings whatsoever arising under any statute or common law in respect of:-

- (a) Any loss of or damage to property (whether real or personal) caused by the Contractor, its servants or agents; and
- (b) Any injury to any person including injury resulting in death, in consequence of or in any way arising out of any negligent act or omission which may arise in the performance of the Contract by or on behalf of the Contractor except insofar as such loss, damage or injury shall have been caused by negligence on the part of the Employer, its employees, servants or agents.

5.2 The Contractor shall only be liable to pay compensation to the Employer under or in connection with this Contract if a breach of Clause 3 is established against the Contractor.

5.3 Neither party shall be liable to the other for any indirect, special or consequential loss (including but not limited to loss of profit whether direct or indirect, loss of production, loss of contracts, loss of use, loss of business, and loss of business opportunity.

5.4 Further and without prejudice to the aforesaid limit of liability and such liability of the Contractor for the loss or damage in respect of any claim or claims shall be limited to

such sum or sums as it would be just and equitable for the Contractor to pay having regard to the Contractor's responsibility for the same and on the basis that:

- (a) All other parties appointed or to be appointed by the Employer to perform related services in connection with the Project shall be deemed to have provided undertakings on terms no less onerous than this Contract and shall be deemed to have paid to the Employer such contribution as it would be just and equitable for them to pay having regard to their responsibility for the loss or damage; and
- (c) It shall be deemed that all such other parties have not limited or excluded their liability to the Employer for the loss or damage in any way which may be prejudicial to the Contractor's liability under this clause

6. INSURANCE

6.1 The Contractor shall insure against its full liability under this Contract.

6.2 The Contractor shall produce to Employer, upon request, documentary evidence that insurance is properly maintained.

7. ASSIGNMENT

7.1 The Employer shall be entitled to assign the benefit of this Contract or any part thereof and shall give written notice of any assignment to the Contractor.

7.2 The Contractor shall not:-

- (a) Assign the Contract or any part thereof or the benefit or interest of the Contract without the prior written consent of the Employer; or
- (b) Subcontract any provision of the Contract or any part thereof to any person without the previous written consent of the Employer, such consent shall not be unreasonably withheld or delayed, which if given shall not relieve the Contractor from any liability or obligation under the Contract and the Contractor shall be responsible for the acts, defaults, or neglect of any sub-Contractor or his agents or employees in all respects as if it were the acts, defaults or neglect of the Contractor or its agents or employees.

8. CONFIDENTIALITY

8.1 All information, requirements, documents and other data which the Employer may have imparted and may from time to time impart to the Contractor relating to its business, employees, customers, prices, requirements, or any computer system (including hardware and software or maintenance thereof) and including any technical specifications is proprietary and confidential.

8.2 The Contractor hereby agrees that it shall use such confidential information and all other data solely for the purposes of this Contract and that it shall not at any time during or

any time after the completion, expiry or termination of this Contract, disclose the same whether directly or indirectly to any third party without the Employer's prior written consent.

8.3 The obligations set forth in Clauses 8 and 16 shall expire two (2) years after the termination of the Contract.

9. BRIBERY AND CORRUPTION

9.1 Either party shall be entitled to determine the Contract and to recover from the other party the amount of any loss resulting from such action if:-

- (a) Any party that has offered or given or agreed to give to any person any gift or consideration of any kind as inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the Contract or any other contract with the other party; or
- (b) The like acts shall have been done by any person employed by the Parties or acting on its behalf (whether with or without the knowledge of the Party); or
- (c) In relation to any contract with the Employer the Contractor or person employed by it or acting on its behalf shall:-
- (d) Have committed an offence under the Integrity in Public Office Act No. 2 of 2010 or
- (e) Have given any fee or reward, the receipt of which is an offence, under the relevant laws.

9.2 In the performance of their obligations under or in connection with this Contract the parties, their agents and employees shall comply with all applicable laws, rules and regulations including and not limited to the Bribery Act 2010 and where appropriate, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

10. TERMINATION

10.1 The Employer may terminate this Contract in any of the circumstances set out below by giving to the Contractor notice in writing where the Contractor:

- (a) Commits a material breach of any of its obligations under this Contract; and despite notice of such breach in writing by the Employer to the Contractor, the Contractor fails to remedy such breach within fourteen (14) days of the notice then the Employer may terminate the Contract forthwith. The Contract may be terminated if it becomes evident that the Contractor is not taking satisfactory and urgent steps to address warranted expressed concerns.
- (b) Suffers an Insolvency Event as defined in the Framework definitions

10.2 If the Contract is terminated as provided in this condition, then the Employer shall: -

- (a) Cease to be under any obligation to make further payment until the costs or loss resulting from or arising out of the termination of this Contract shall have been calculated, and shall make such payment only in accordance with a court order or pursuant to the applicable law;
- (b) Be entitled to repossess any of its Equipment (if any) in the possession of the Contractor;
- (c) Be entitled to deduct any losses to the Employer resulting from or arising out of the termination of this Contract (from any sum or sums which would but for the termination of the contract as aforesaid have been due from the Employer to the Contractor as a debt). Such loss shall include the reasonable cost to the Employer of the time spent by the Employer in terminating of the Contract as aforesaid have been due to the Contractor.

11. WAIVER

11.1 The failure by either party to enforce at any time or for any period any one or more of the terms or conditions of this Contract shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of this Contract. No waiver of any default or non-performance by any party shall be considered a waiver of any subsequent default or non-performance.

12. COMPLETE CONTRACT

12.1 This Call-Off Contract supersedes any prior Call-Off Contract between the parties whether written or oral relating to the subject matter hereof, but without prejudice to any rights which have already accrued to either of the parties.

13. GOVERNING LAW

13.1 This Contract shall be governed by the laws of Montserrat in every particular and shall be deemed to be made in Montserrat.

14. FORCE MAJEURE

14.1 Both parties shall be released from their respective obligations in the event of national emergency, natural disaster, war, prohibitive governmental regulation or if any other cause beyond the reasonable control of the parties or either of them renders the performance of this Contract impossible whereupon all money due under this Contract shall be paid immediately.

15. NOTICES

15.1 Any notice required to be served under this Contract shall be in writing and may be served by electronic mail to the correct address, facsimile transmission to the correct number, post or hand delivery to the last known business address of the party upon whom it is being served. Notice shall be deemed to have been effected within 24 hours of the date of sending of the notice when sent by electronic mail or facsimile

transmission, within seventy-two (72) hours of the date of posting of the notice when sent by post and upon delivery when hand delivered.

15.2 A notice shall be delivered as follows:

A. if to the Contractor, to:

.....

B. if to the Procuring Entity, to:

.....

16. CONFIDENTIALITY

16.1 The Contractor shall not at any time during or after the term of this Contract divulge or allow to be divulged to any person any information which comes into its possession by virtue of its performance of this Contract, which relates to the business and affairs of the Employer except upon authorization by the Employer. The Contractor shall not seek to acquire any such information outside of the performance of its duties under this Contract.

17. MEDIATION AND ARBITRATION

17.1 If a dispute arises under this Contract, the parties agree to first try to resolve the dispute through mutual agreement within 14 days. If unsuccessful, then the dispute shall be settled with the help of a mutually agreed-upon mediator in Montserrat. The parties shall share any costs and fees other than attorney fees associated with the mediation equally.