**consultant service AGREEMENT**

This Consultant Service Agreement (“**agreement**”) is made on \_\_\_\_\_\_\_\_\_\_ 2022

Between:-

**A InfraCo Cambodia Water Pte Ltd** (Company Registration Number: \_\_\_\_\_\_\_\_\_\_), a company incorporated in Singapore with its registered address at [insert address] (the “**Company”**)

and

**b** [insert name of Consultant] (Company Registration Number: [insert number]), a company incorporated in [insert country] with its registered address at [insert address] (the “**Consultant”**);

(the Consultant and the Company shall be known individually as a **“Party”** and collectively as the **“Parties**”)

**BACKGROUND**

1. The Company intends to engage the Consultant to provide the Services (as defined below).
2. The Consultant is desirous of providing the Services to the Company.
3. To facilitate the foregoing, the Parties agree that the Company shall engage the Consultant as an independent Consultant to provide the Services (as defined below) in accordance with the terms and conditions of this Agreement.

**The Parties hereby agree as follows:**

1. **DEFINITIONS AND INTERPRETATIONS** 
   1. Unless the context otherwise requires, the following words and expressions shall have the following meanings in this Agreement:

|  |  |
| --- | --- |
| “Agreement” | 1. means this Consultant Service Agreement including the schedules. |
| “Confidential Information” | 1. means all non-public information or data in written, electronic or oral form, or acquired by observation, (i) which is disclosed to, received by, or observed or acquired in the course of performing the Services by the Consultant, whether or not labelled, marked or designated as confidential, relating to the projects, investments, products, services, business or proposed business, finances, transactions, customers, staff and affairs of the Company and its related entities, including Intellectual Property Rights and trade secrets, or (ii) any information or data of a confidential or proprietary nature, which is labelled, marked or designated as confidential, or (iii) notes, memoranda, reports, or studies including Deliverables under this Agreement which contain, extract or are developed from any Confidential Information. |
| “Data Protection Legislation” | 1. means all laws or regulations in any jurisdiction, as may be amended from time to time, which apply to the parties and relate to the collection, disclosure, use or processing of personal data, sensitive personal data, personally identifiable data, or privacy, including but not limited to the Personal Data Protection Act 2012 of Singapore. |
| “Deliverables” | 1. means the deliverables (if applicable) required to be provided as part of the Services as stipulated in this Agreement. |
| “Effective Date” | 1. means the \_\_\_\_\_\_\_\_\_\_\_\_ 2022. |
| “Equipment” | means any equipment, computer hardware or software, materials, goods and vehicles and associated services necessarily required for the implementation of the Services, which the Consultant cannot reasonably be expected to provide, which are financed or provided by the Company for use by the Consultant. |
| “Fees” | 1. shall mean the fee to be paid in consideration of the provision of the Services as specified in the Fee Payment Particulars. |
| “Fee Payment  Particulars” | 1. shall mean the particulars set out in Schedule 2. |
| “Intellectual Property Rights” | 1. means any and all copyright and related rights, rights in or to inventions, processes, patents, goodwill, know-how, trade secrets, trademarks and trade names, service marks, design rights, rights in get-up, database rights and rights in data, utility models, domain names and all similar rights, whether registered or unregistered, and including all applications for and renewals or extensions of such rights. T**he term** “intellectual property” shall be given the broadest interpretation possible and shall include any intellectual property conceived, designed, devised, developed, perfected or made by the Consultant during off-duty hours and away from the Company’s premises, as well as those conceived, designed, devised, developed, perfected or made in the regular course of the Consultant’s performance under this Agreement. |
| “Personal Data” | 1. shall mean data, or information (including, without limitation, any information in the form of text, images, video, audio, multimedia and electronic form) which is regulated under applicable Data Protection Legislation, and at the minimum, mean any information in any form (whether true or not) that may be used to identify, or lead to the identification of, an individual natural person, whether living or deceased, in respect of which the receiving Party first became aware, whether before or after the date of this Agreement, either through disclosure of any information by the disclosing Party to the receiving Party, or otherwise through the receiving Party’s involvement with the disclosing Party. |
| “Services” | 1. means the tasks and services set out in Schedule 1. |
| “Term” | 1. has the meaning given to it in clause 8.1. |
| “Works” | 1. all Deliverables, materials, records, programs and documents in whatever form or medium (including hardware documents, operating or training manuals, instructions, notes, files, information and data), prepared by, contributed to or produced by the Consultant in providing or related to the Services. |

* 1. In this Agreement,

1.2.1 The headings contained in this Agreement are for reference only and shall not be used in its construction or interpretation of any of the provisions of this Agreement.

* + 1. References to a Party shall include its successors and permitted assigns.
    2. References to any gender includes any other gender and the plural shall include the singular and bodies corporate shall include unincorporated bodies and (in each case) vice versa.
    3. Reference to any statute, enactment, ordinance, order, regulation or other similar instrument shall be construed to include a reference to the statute, enactment, ordinance, order, regulation or instrument as from time to time amended, extended, re-enacted or consolidated and all statutory instruments, orders, regulations or instruments made pursuant to it.
    4. Each Schedule shall be subject to the terms and conditions of this Agreement. This Agreement contains the following Schedules:

Schedule 1 – Services

Schedule 2 – Fee Payment Particulars

Schedule 3 – Standards of Service

Other than as expressly set out in a Schedule if there is any conflict or inconsistency between the terms in the Schedule and the clauses in the body of this Agreement, the latter will prevail.

1. **Appointment** 
   1. The Parties mutually acknowledge and agree that as from the Effective Date the Consultant shall be engaged as an independent Consultant to provide the Services to the Company in accordance with the terms and conditions of this Agreement.
2. **General Obligations of The Consultant**
   1. The Consultant shall perform the Services and complete the Deliverables in accordance with the timelines and requirements stipulated in Schedule 1 (Services).
   2. The Consultant shall perform the Services competently and expeditiously and perform its obligations under this Agreement with promptness and diligence in a professional and workmanlike manner and at a level of proficiency and with a standard of care to be expected of a Consultant (if an individual) with the background, skills, qualifications and experience that Consultant has represented it has, or (if an entity, association or other legal venture, whether or not having separate legal personality) with the relevant track record, experience, accreditation, licenses or permits, and Consultant Personnel of the background, skills, qualifications and experience, which the Consultant has represented it has and will be deploying for this Agreement. The Consultant further undertakes and shall comply with the standards set out in Schedule 3.

3.3 The Consultant shall act in good faith while performing the Services and in conflict of interest with the Company or in breach of the duties that it owes to the Company under this Agreement and at law.

3.4 The Consultant shall comply with all reasonable and lawful instructions of the Company from time to time concerning the provision of the Services.

* 1. The Consultant represents and warrants to the Company that:
     1. none of the Consultant and its owners (direct or indirect) and controllers having the ability to direct decision-making of the Consultant, whether through voting rights or otherwise, or any Consultant Personnel are a Restricted Party;
     2. the Consultant has the full capacity, power and authority to enter into and to carry out the Services and obligations under this Agreement;
     3. the Consultant (if an individual) has the background, skills, qualifications and experience set out in the Consultant’s Qualifications, or (if an entity, association or other legal venture, whether or not having separate legal personality) has the relevant track record, experience, accreditation, licenses or permits, and Consultant Personnel of the background, skills, qualifications and experience, which the Consultant has represented it has and will be deploying for this Agreement.
     4. the Consultant has acquired and will maintain throughout the contractual period any and all approvals, rights, consents, authorizations, permissions or licenses as may be required to enter into, and carry out its obligations under this Agreement;
     5. in performing the terms of this Agreement, the Consultant will not infringe the rights of or breach any of its obligations to a third party; and
     6. the Consultant is not on the date hereof a party to any agreement, arrangement or understanding with any third party that in any manner prevents or hinders it from the performance of its obligations under the terms of this Agreement.

3.6 This Agreement does not create a relationship of employment, trust, agency or partnership between the Parties. The Consultant will not:

* + 1. hold itself out as having authority to bind the Company; nor
    2. have any authority to incur expenses in the name of or on behalf of the Company,

unless the Consultant has obtained the prior written authorisation of the Company.

* 1. The Consultant will provide the Services as an independent Consultant.
  2. The Consultant will provide personal instruments and/or equipment necessary for the provision of the Services and the Consultant will be liable, at its own cost, to keep any such personal instruments and/or equipment secure so as to protect Confidential Information pertaining to the Company and/or the Services and so as not to cause any material detriment to the Company’s instruments and/or equipment.
  3. The Consultant agrees that it will comply with, and procure all its Consultant Personnel (if applicable) deployed to perform the Services to comply with the following obligations and those set out in Schedule 3 (Standards of Service):
     1. all applicable laws of Singapore, Cambodia and the country in which the Consultant or any Consultant Personnel is performing Services from, in particular all anti-corruption laws such as the Prevention of Corruption Act of Singapore (Chapter 241), the UK Bribery Act 2010 and the Foreign Corrupt Practices Act of 1977;
     2. the Company’s codes, operating policies and procedures, as amended, supplemented, modified and/or revised from time and time; and
     3. provisions of the Private Infrastructure Development Group’s (“**PIDG**”) codes, operating policies and procedures applicable to the Consultant, as amended, supplemented, modified and/or revised from time and time.

1. **Intellectual Property Rights** 
   1. Where provided for in Schedule 1 (Services):
      1. For the duration of this Agreement (or such longer period as stipulated in Schedule 1 (Services), and to the extent required for the purposes of the Services only, the Consultant grants the Company and its related entities involved in or receiving the benefit of the Services, a limited royalty-free license to use and access such information, product, software, systems or material where Intellectual Property Rights in such property belong to the Consultant (“Consultant’s Background IP”).
      2. For the duration of this Agreement and to the extent required for the purposes of the Services only, the Company grants the Consultant a limited royalty-free license to use and access such information, product, software, systems or material where Intellectual Property Rights in such property belong to the Company (“Company’s Background IP”), in accordance with the Company’s instructions.
      3. All Consultant’s Background IP and Company’s Background IP continue to be owned by the Consultant and the Company respectively. The limited license to Consultant’s Background IP or Company’s Background IP granted in this Agreement shall not be assignable, sub-licensable or transferable.
      4. Any additional license terms or license agreement governing the use of Consultant’s Background IP shall only comprise part of this Agreement where agreed in writing and signed by an authorized representative of the Company.
      5. The Consultant shall, upon termination of this Agreement, return all Company’s Background IP to the Company as directed by the Company and within such deadline stipulated by the Company.
   2. The Consultant represents, warrants and undertakes that:
      1. All material provided to, or incorporated in a Deliverable or the Works, is the original work of the Consultant;
      2. The Consultant has full rights and capacity to grant, assign, transfer and perform the obligations in this clause 4.
      3. The Works or any Deliverable does not infringe the Intellectual Property Rights of any third party.
      4. Except as agreed in writing with the Company, the Works or any Deliverable do not contain any material subject to an open-source or third-party license.
   3. To the fullest extent permitted by law, all present and future Intellectual Property Rights, including without limitation, copyright, in and to all Works whether made or conceived:
      1. in whole or in part by it;
      2. alone or in conjunction with others; and/or
      3. in pursuance of specific instructions or not,

(referred to as “Foreground IP”)

shall vest automatically in the Company (or its nominee).

* 1. If and to the extent such Foreground IP does not vest automatically in the Company, the Consultant shall grant the Company an irrevocable, royalty-free, perpetual, exclusive, sub-licensable, transferable right and license, to use, further develop, modify, improve and make derivative works from the Works, without any obligation to obtain consent from the Consultant. For the purposes of this clause 4, “use” means all acts which an owner of Intellectual Property Rights is entitled to.
  2. The Consultant agrees to unconditionally and irrevocably waive all of its moral rights and rights in the nature of moral rights in and to all of the Works and consents to any act or omission that will otherwise infringe on its moral rights.

* 1. The Consultant agrees to cooperate with the Company and execute all such documents or waiver as may be requested by the Company to give full effect to this clause 4, or provide evidence or assistance at a reasonable cost to be borne by the Company, where the Company wishes to make any enforcement application or registration in respect of the Foreground IP. The Consultant shall use best endeavours to refrain from doing anything which may reasonably jeopardise or otherwise prejudice or affect the Company’s right to obtain such enforcement or registration.
  2. This clause 4 shall survive and continue after completion of the Services and the termination or expiry of this Agreement.

1. **Terms of Payment**
   1. The Company shall pay the Consultant the applicable Fees upon submission of an itemised invoice in accordance with the Fee Payment Particulars in consideration for Services performed by the Consultant for the applicable invoice period and to the extent not disputed by the Company (acting reasonably and absent bad faith).
   2. Each Party shall be responsible for its own taxes and duties of all kinds to be imposed in connection with the implementation of this Agreement (if any).

* 1. As an independent Consultant, the Consultant shall be responsible for all tax liabilities in respect of the Fees and the Services.
  2. Where the Fees expressly exclude any expenses, which are the responsibility of the Company, the Consultant shall not incur such expenses unless they are within any approved budget or threshold stipulated in Schedule 1 (Services) or the prior approval in writing of the Company has been obtained. Such expenses may be billed to the Company together with the Fees subject to provision of supporting documentation reasonably satisfactory to the Company.

1. **Protection of Confidential Information** 
   1. The Consultant agrees to maintain Confidential Information received from the Company in confidence and not to use or disclose such Confidential Information, without the prior written approval of the Company, except:
      1. (if applicable) to Consultant Personnel on a strictly need-to-know basis for the purposes of performing the Services, and provided that all Consultant Personnel shall, prior to receiving any Confidential Information, have entered into non-disclosure undertakings or be bound by confidentiality obligations no less strict than those set out in this Agreement;
      2. Subject to clause 6.2 below, as required to comply with any order of a competent court or governmental authority, or where required by law or the rules of any securities exchange to which the Consultant is subject, as certified in writing by a qualified legal practitioner.
   2. In the event that the Consultant is required to disclose Confidential Information of the Company in order to comply with any order of a competent court or government authority, the Consultant shall (i) promptly notify the Company and allow the Company a reasonable time to seek protective orders or object to such order for disclosure, and (ii) shall disclose only such part of the Confidential Information to the extent necessary to comply with such order for disclosure.
   3. The Consultant shall protect the Confidential Information of the Company by using the same degree of care, but not less than a reasonable degree of care, to prevent the unauthorized disclosure or use thereof that the Consultant uses to protect his own confidential information of like nature.
   4. Upon termination or expiration of this Agreement, the Consultant agrees to return to the Company all Confidential Information in its possession (or at the Company’s direction, destroy the Confidential Information where the same cannot be returned) save insofar as the Consultant needs such Confidential Information to fulfil its post-termination obligations to the Company.
   5. The Consultant acknowledges and agrees that the Company may for business and group reporting purposes share and transfer details of the Consultant, the terms of this Agreement (including copies of the same) and the nature of the Services with the members and affiliates of the Company, PIDG Limited, and the members of the Private Infrastructure Development Group.
   6. The Consultant hereby acknowledge that damages may not be an adequate remedy for any breach of any part of this clause 6 and that the Company will therefore be entitled to apply for injunctive relief from any court of competent jurisdictionto restrain any breach or threatened breach of any part of this clause 6, without any requirement to provide security for damages.
   7. This clause 6 shall survive and continue after completion of the Services and the termination or expiry of this Agreement.
2. **Disputes and Governing Law**
   1. Any doubt arising as to interpretation of this Agreement or any dispute arising out of or in connection with this Agreement (including any question regarding its existence, validity or termination) shall be first resolved by mutual discussion and negotiation between the Consultant and the Company based on the principles of faith and sincerity. In the eventuality of the failure of such negotiations within 30 calendar days of commencement of the negotiations, the Parties agree to refer and finally resolve the difference or dispute, as applicable, by arbitration in Singapore administered by the Singapore International Arbitration Centre (“**SIAC**”) in accordance with the Arbitration Rules of the Singapore International Arbitration Centre for the time being in force, which rules are deemed to be incorporated by reference in this clause. The seat of the arbitration shall be Singapore. The Tribunal shall consist of one arbitrator. The language and correspondence of and in connection with the arbitration shall be English.
   2. This Agreement shall be governed and construed in accordance with the laws of Singapore. A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act (Chapter 53B of Singapore) to enforce any term or condition of this Agreement.
3. **Term and Termination**
   1. The Consultant’s engagement under this Agreement will commence on the Effective Date and will end on the expiry date set out in the Fee Payment Particulars unless terminated earlier in accordance with the terms of this Agreement or extended by the Parties (“**Term**”). The Agreement may only be extended by mutual written agreement.
   2. Either Party may terminate this Agreement by giving to the other not less than **30 calendar days’** notice in writing to the other Party.
   3. The Company may, by written notice to the Consultant and at any time, terminate this Agreement with immediate effect with no further obligation to make any further payment to the Consultant (other than in respect of amounts duly payable for Services provided prior to the date of termination) if:
      1. the Consultant commits any serious or repeated breach, repudiation or non-observance of any of the terms or conditions of this Agreement; or
      2. the Company is reasonably of the view that the Consultant has breached clause 3.9, Schedule 3 (Standards of Service) or committed an act of fraud, dishonesty or gross misconduct in relation to any of the Company or the Services, or acts in any manner which brings the Company into disrepute; or
      3. (if the Consultant is an individual):
         1. a bankruptcy order is made against the Consultant such that, in the reasonable opinion of the **Company,** the Consultant is no longer able to provide the Services; or
         2. the Consultant is convicted of any criminal offence which materially affects the Consultant’s ability to perform the Services; or
         3. the Consultant is incapacitated by ill-health (physical or mental) or by accident from performing the Services.
      4. (if the Consultant is a corporate entity, unincorporated association or legal venture, whether or not having separate legal personality):
         1. An application for winding up, administration, judicial management, receivership, insolvency protection or restructuring, or other insolvency proceeding is made by or against the Consultant and is not discharged within 60 days;
         2. the Consultant proposes a composition or scheme of arrangement with its creditors as a whole; or
         3. any execution, seizure or freezing of assets or other moratorium is made in respect of the Consultant’s assets, and is not discharged within 60 days.
   4. Neither Party will be in breach of this Agreement if performance of the affected Party is prevented for reason of any act of God, fire, act of government or state, war, civil commotion, pandemic, and any other reason beyond the reasonable control of the affected Party, notwithstanding the exercise of reasonable diligence and care on the part of the affected Party and provided that: (a) the event is not the direct or indirect result of the failure of the affected Party to perform its obligations under this Agreement, and (b) the affected Party has undertaken reasonable efforts to avoid the effect of such event on the affected Party’s ability to perform its obligations and to avoid and mitigate the consequences thereof. The Company may, by giving **30 calendar days’** notice, terminate this Agreement where performance of the affected Party has been suspended for a period exceeding the number of days given in Schedule 1 (Services).
   5. Termination or expiration of this Agreement shall not relieve either Party of their obligations accrued prior to the date of termination or expiration.
   6. The Consultant shall not be relieved of obligations that survive termination or expiration of this Agreement.
   7. The Consultant will as soon as reasonably practicable upon the termination or expiration of this Agreement:
      1. return and surrender to the Company all Works and Confidential Information (including computer programs, reports, manuals, files, notes, accounts, documents, correspondence, books, materials, papers and information); and
      2. return and surrender to the Company all other materials (of whatsoever nature whether originals or copies) made or compiled by or delivered to the Consultant during the course of the provision of the Services or in connection with this Agreement.
4. **Conflict of Interest** 
   1. The Consultant represents and warrants that no conflict of interest exists or is likely to arise in the performance of his obligations under this Agreement.
   2. The Consultant shall not, during the course of this Agreement, engage in any activity likely to compromise the ability of the Consultant to perform his obligations under this Agreement fairly and independently. The Consultant shall immediately disclose in writing to the Company any activity which constitutes or may constitute or which may be perceived to constitute a conflict of interest.
5. **Limitation of Liability**

10.1 Without prejudice to or limitation of clause 10.2, the maximum aggregate liability of either Party under this Agreement, whether in contract, tort (including negligence) or otherwise, shall not exceed the total Fee payable under this Agreement, and neither party shall be liable to the other for any loss of profit, loss of opportunity, loss of contracts, loss of business, or any indirect, incidental or consequential loss or damage.

10.2 Notwithstanding the foregoing, nothing in this Agreement shall exclude or in any way limit the Consultant’s liability for:

* + 1. Fraud, misrepresentation, breach of warranty, dishonesty or misconduct;
    2. Death or personal injury caused by a Party’s negligence;
    3. Breach of clause 4 (Intellectual Property Rights), 6 (Protection of Confidential Information), 9 (Conflict of Interest), or Schedule 3 (Standards of Service);
    4. Non-contractual claims or liabilities such as liability arising out of breach of applicable laws, statutory duties, tortious acts or omissions; or
    5. Any other liability to the extent such liability may not be excluded or limited as a matter of law.

1. **Indemnity** 
   1. The Consultant agrees to indemnify and hold the Company harmless from and against any loss or liability arising out of its performance of the Services under this Agreement.
   2. The Consultant agrees to indemnify and hold the Company harmless in the event the Company must pay any tax in respect of the Fees or the provision of Services. Where the Company is required to pay any tax in respect of the Fees or the provision of Services, then the Company shall be entitled to set-off, apply and appropriate the same against any Fees or amounts that have been paid or that may become payable under this Agreement.
2. **Withholding Tax**
   1. Where the Consultant is liable for any withholding tax, the Company may deduct such amount required to be withheld without interest or liability for late payment. Such amount will be released to the Consultant upon satisfactory evidence that the Consultant has discharged its tax obligations. For avoidance of doubt, the Company shall not be required to gross-up or increase the amount payable such that the Consultant receives the amount it would have received without such withholding tax.
3. **Insurance**

12.1 The Consultant is responsible for its obtaining, paying and maintaining his own insurance, which shall also cover professional indemnity, third party insurance and any other insurance that is required by law and/or for carrying out the Services.

12.2 The Consultant is solely responsible for ensuring adequate and appropriate medical insurance cover before providing the Services and work contemplated by this Agreement. The Consultant’s fee shall be deemed to include an element to cover the cost of medical insurance on the Consultant’s self-insured basis.

12.3 It is not under any circumstances the responsibility of the Company to meet the cost of the Consultant’s medical care nor to make arrangements for evacuation of the Consultant or his personnel in any overseas medical emergency.

1. **Procurement and Equipment**
   1. No Equipment is required to be provided by the Company to the Consultant for purposes of the Services. The Consultant confirms it has included all costs for Equipment and software required or desirable for performance of the Services in the Fees payable to the Consultant.
2. **Miscellaneous**
   1. Any notice or communication in connection with this Agreement shall be in English, in writing and delivered by email to the following addresses:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **The Company** |  | Attention: |  | Cristina Traini  William Puyo |
|  |  | Email address: |  | [**cristina.traini@infracoasia.com**](mailto:cristina.traini@infracoasia.com)  [**PRO-0056-KHM-WWW@infracoasia.com**](mailto:PRO-0056-KHM-WWW@infracoasia.com)  [**william.puyo@kwsh.com.kh**](mailto:william.puyo@kwsh.com.kh) |
|  |  |  |  |  |
| **Consultant** |  | Email address: |  | **[•]** |

* 1. The Parties shall comply with the applicable Data Protection Legislation. Notwithstanding the foregoing, the Consultant will comply in all material respects with its obligations under the applicable Data Protection Legislation in relation to the management or protection of Personal Data which the Consultant processes (if any) in the provision of the Services under this Agreement. The Consultant shall also co-operate with all applicable persons for the satisfaction of, and comply in respect of, all requirements, codes, policies or procedures regarding Personal Data that the Company may implement or request from time to time.
  2. The Consultant shall not assign the benefit or delegate or sub-contract the burden of this Agreement whether in whole or in part without the prior written consent of the Company. Any purported assignment or delegation in breach of this clause will be invalid and deemed a breach of this Agreement by the Consultant.
  3. The Consultant shall not sub-contract any of its obligations under this Agreement without the prior written consent of the Company.
  4. If any provision of this Agreement is found invalid or unenforceable, the remaining provisions will be given effect as if the invalid or unenforceable provision were not a part of this Agreement.
  5. This Agreement may not be varied, replaced, rescinded or amended except in writing and signed by each Party.
  6. The failure or delay of either Party to enforce any provision of this Agreement or to exercise any right in connection to the Agreement shall not constitute or be construed as a waiver nor shall it prevent any exercise of the right.
  7. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.
  8. This Agreement and the Schedules set forth the entire agreement between the Parties with respect to the subject matter hereof and supersedes all previous agreements and understandings between the Parties, whether oral or written, relating to such subject matter. Neither Party has been induced to enter into this Agreement by a statement not contained in this Agreement, save that this clause shall not exclude any liability which one Party would otherwise have to the other Party in respect of any statement made fraudulently by that Party.

[*Remainder of page intentionally left blank; signature page to follow*]

**IN WITNESS WHEREOF**, the Parties have agreed to be bound by the terms and conditions of this Agreement.

|  |  |  |
| --- | --- | --- |
| For and on behalf of  **Infraco cambodia water pte ltd** |  | For and on behalf of  [insert name of Consultant] |
|  |  |  |
| Name: |  | Name: |
| Title: |  | Title: |
| Date: |  | Date: |

**SCHEDULE 1 – Services**

This section will be filled in following Tender conclusion.

**SCHEDULE 2 – FEE PAYMENT PARTICULARS**

|  |  |  |
| --- | --- | --- |
| **Item No:** | **Subject Matter** | **Particulars** |
|  | Expiry date: | [*to be inserted*] |
|  | Extension arrangements: | Not applicable, unless approved by the Company |
|  | Fee: | **[US$ …….]** |
|  | Payment Terms: | |  |  | | --- | --- | | **Milestone** | **Payment** | | Signing of Contract | [5]% of total Fees | | Approval of Interim Report | [35]% of total Fees | | Approval of Final Report | [45]% of total Fees | | Issuance of Opinion Letter | [15]% of total Fees | |
|  | Tax and charges (if any): | Fee is inclusive of all taxes, remittance fees, out of pocket expenses, and charges. |
|  | Invoicing arrangement: | Consultant to provide invoice to Company  [insert the timeline] |
|  | Bank account for payment: |  |
|  | Force Majeure period (following which Company may terminate Agreement): | [90 days] |

Where it is found by the Company that any overpayment has been made to the Consultant, the Consultant shall reimburse the Company such amount within 10 calendar days of the date of the Company’s written demand.

**SCHEDULE 3 - STANDARDS OF SERVICE**

1. The Consultant, shall, as a condition of its continued engagement with the Company for the provision of the Services, comply and act at all times in accordance with each of the standards set out in this Schedule 3, and acknowledge and agree that the Company shall have the right to terminate or suspend the engagement with immediate effect without liability if it reasonably believes that a non-compliance or infringement has occurred.
2. The Consultant represents and warrants that except as otherwise disclosed in writing to the Company, as at the date of execution of this Agreement and throughout the term of this Agreement:
3. itself and none of the Consultant Personnel, its directors, officers, employees or other service providers in connection with this Agreement is a Public Official; and
4. no Public Official will have a direct or indirect interest in this Agreement, the Consultant, the Consultant Personnel or other service provider in connection with this Agreement or have any legal or beneficial interest in any payments made by the Company under this Agreement; and
5. it will promptly notify the Company in writing of any change in the foregoing
6. In relation to this Agreement, the Consultant, shall keep full and accurate and systematic accounts, files and records (the “**Records**”). The Records shall accurately, fully and fairly reflect all transactions and payments made or received by, or at the behest of, the Consultant and the Consultants’ Personnel in connection with this Agreement, and clearly identify the basis upon which invoices have been calculated and the Consultant shall keep the Records throughout the duration of this Agreement and for seven years following the termination or expiry of this Agreement.
7. The Consultant shall upon the Company’s request provide, as applicable, the Company or their representative’s unrestricted access to the Records in order that the Records may be inspected and copied. The Consultant shall co-operate fully in providing to the Company or their representatives’ answers to such enquiries as may be made about the Records.
8. The Consultant represents and warrants that except as otherwise disclosed in writing to the Company, neither it nor its Consultant Personnel, its directors, officers, or key employees in connection with this Agreement have:
9. given, offered or agreed to give or accepted, or will, throughout the duration of this Agreement, give, offer or agree to give or accept, any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of any contract or for showing or forbearing to show favour or disfavour to any person or entity in relation to any contract; or
10. entered, or will, throughout the duration of this Agreement, enter, into any contract in connection with which commission has been paid or agreed to be paid by or to the Consultant or Consultant Personnel or on their behalf or to their knowledge unless, before such contract was made, particulars of any such commission and of the terms of any agreement for the payment of such commission were disclosed in writing to the Company, whose written consent was subsequently given to such payment.
11. been convicted of any offence involving bribery, corruption or money laundering; or
12. been or are the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence involving bribery, corruption or money laundering.
13. Neither of the Consultant or their respective Consultant Personnel shall accept for or on their own benefit any trade commission, discount or similar payment or benefit in connection with this Agreement.
14. Notwithstanding clause 3.9 of the Agreement, the Consultant, shall (and shall procure that all Consultant Personnel shall):
15. comply with all applicable laws, statutes, regulations, rules, codes and equivalent relating to money laundering, anti-bribery and anti-corruption that is applicable to either of them, the Company, shareholders or donors of any of the same or the members of the Private Infrastructure Development Group, including, but not limited to, the Bribery Act 2010 of the United Kingdom, the Foreign Corrupt Practices Act 1977 of the United States of America, and the OECD Convention on Combating Bribery of Foreign Public Officials, as may apply from time to time (“**Relevant Requirements**”);
16. not engage in any activity, practice or conduct which would constitute an offence under any of the Relevant Requirements;
17. acknowledge that the Company and the members of the Private Infrastructure Development Group has a zero tolerance policy towards bribery and corruption, and confirm and agree that it, all Consultant Personnel and its directors, officers, employees and service providers (including but not limited to its subConsultants, agents and other intermediaries) will not, offer, give, promise to give or authorise the giving to any person whosoever (including but not limited to private individuals, commercial organisations, Public Officials or any political party, official of a political party, or candidate for public office), or solicit, accept or agree to accept from any such person, either directly or indirectly, anything of value including, without limitation, gifts or entertainment or Facilitation Payments, in order to obtain, influence, induce or reward any improper advantage in connection with this Agreement, and otherwise comply at all times with the Code of Conduct of the Private Infrastructure Development Group and any operating policies and procedures of the Private Infrastructure Development Group and InfraCo Asia (or their equivalent) as may apply to them, including, but not limited to, all aspects of the Operating Policies and Procedures, as may be updated from time to time (“**Relevant Policies**”);
18. make clear, in its dealings connected to this Agreement, that it is required to act, and is acting, in accordance with the Relevant Requirements and the Relevant Policies; and
19. have and shall maintain in place throughout the term of this Agreement its own policies and procedures, including adequate procedures under the Relevant Requirements and the Relevant Policies, to ensure compliance with the Relevant Requirements, the Relevant Policies and this provision, and will enforce them where appropriate;
20. maintain at its normal place of business, throughout the term of this Agreement and for at least six (6) years following its expiration or termination, detailed books, records and accounts which accurately and fairly reflect all transactions and payments made by the Consultant, in connection with this Agreement;
21. promptly report to the Company any request or demand for any undue financial or other advantage of any kind received by the Consultant in connection with the performance of this Agreement;
22. immediately notify the Company in writing if a foreign public official becomes an officer or employee of the Consultant or acquires a direct or indirect interest in the Consultant, and the Consultant warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this Agreement
23. within 5 (five) working days of the date of this Agreement, the end of each calendar year during which the Agreement is in operation or Services were provided, and at the expiry of this Agreement, certify to the Company in writing duly signed by or on behalf of the Consultant, compliance with these provisions. The Consultant shall provide such additional supporting evidence of compliance as the Company may reasonably request.
24. Upon request, the Consultant, shall (and shall procure that all their Consultant Personnel shall) permit the Company or its duly appointed third party representatives to access, inspect and make copies of books, records and accounts, prepared in relation to this engagement, held by the Consultant, or on its behalf at in order to audit the Consultant, compliance with the Relevant Requirements and Relevant Policies. In addition, the Consultant shall (and shall procure that all their Consultant Personnel shall) cooperate and provide all reasonable assistance, including making its books, records, accounts and personnel available, prepared in relation to this engagement, to enable the Company to investigate any actual or potential breach of, or perform any activity required by any relevant government or agency in connection with ensuring or verifying compliance with, the Relevant Requirements and Relevant Policies. The rights set out in this Schedule 3 shall continue for six (6) years after termination or expiry of this Contract.
25. The Parties acknowledge and agree that the Company may prior to the commencement of any Services or otherwise at any other time at its discretion undertake background checks, KYC and due diligence on any of the Consultant, the Consultant Personnel, and the associated persons or connections of any of them as the Company may consider necessary, and the Consultant, shall provide the Company with all available information in connection with the same and shall not withhold any such information from the Company or its service providers. The Consultant, as applicable, acknowledges and agrees that:
26. where the Company’s background check, KYC or due diligence on the Consultant Personnel (other than a Key Personnel) are not satisfactory to the Company (acting reasonably) then the Company may request the Consultant, to replace such Consultant Personnel, and the Consultant, shall replace the Consultant Personnel, with no liability to the Company; and
27. where the Company’s background checks, KYC or due diligence on the Consultant or a Personnel determine that there is a material risk that the Consultant, the Consultant Personnel, their shareholders, affiliates or associated persons or connections of any of them have breached or infringed upon any of the Relevant Policies or the Relevant Requirements, then the Company shall have the right to suspend the Services and payments under and/or terminate this Contract, in whole or in part with immediate effect.
28. Without prejudice to clause 8, the Company shall have the right to unilaterally suspend the Services and payments under and/or terminate this Agreement, in whole or in part with immediate effect:
29. if the Company has evidence that the Consultant or any of the Consultant Personnel has failed to comply with or breached in any material respect any of the requirements set out in this Schedule 3; or
30. where the Contactor or its shareholders, owners, affiliates or a person associated with the Consultant become designated as a Restricted Party.
31. If the Company suspends and/or terminates this Agreement for breach of this Schedule 3, then the Consultant agrees and acknowledges that it shall not be entitled to claim any loss, damages, compensation or any further remuneration in respect of the suspension or termination (other than remuneration accrued for Services completed prior to the date of such suspension or termination), regardless of any activities or agreements with additional third parties entered into before termination.
32. The Consultant, shall ensure that any person associated with them who is performing services in connection with this Agreement does so only on the basis of a written contract which imposes on and secures from such person terms materially equivalent to those imposed on the Consultant in this Schedule 3 (“**Relevant Terms**”). The Consultant shall be responsible for, and accountable to the Company for, the observance and performance by such persons of the Relevant Terms, and shall be directly liable to the Company for any breach by such persons of any of the Relevant Terms.
33. The Consultant, shall ensure that none of their Consultant Personnel and the Consultant itself shall engage in any personal, business or professional activity which conflicts or could conflict with any of their obligations to the Company in relation to this Contract other than by written approval of the Company. The Consultant shall notify the Company immediately of becoming aware of any actual or potential conflict together with recommendations as to how the conflict can be avoided or managed.
34. Consultant Personnel
35. All members of the Consultant Personnel shall be appropriately qualified, experienced to ensure that the Consultant complies with all the Consultant’s obligations under this Contract.
36. No changes or substitutions may be made to the Key Personnel listed in clause 14(a) of this Schedule 3 without the Consultant’s prior written consent.
37. If the Company considers any member of the Consultant Personnel unsuitable, the Company shall substitute such member as quickly as reasonably possible without direct or indirect charge to the Company with a replacement acceptable to the Company.
38. The Consultant is responsible for all acts and omissions of the Consultant Personnel and for the health, safety and security of such persons and their property.

14A. The following Key Personnel shall perform the Services:

1. [insert name]
2. [insert name]
3. [insert name]
4. [insert name]

and/or such other individuals that the parties may agree in writing from time to time should be Key Personnel for the purposes of this Agreement.

1. The Consultant shall, and shall procure that the Consultant Personnel shall, take all necessary steps to ensure that all data or information belonging to the Company which comes into its possession or control in the course of providing the Services is protected in accordance with the Company’s information security policies, and in particular the Consultant shall:
2. take all necessary precautions to avoid the introduction of any malware that could affect the Services and consequently the Company’s systems and will take appropriate measures should it discover the existence of any malware of any kind;
3. conduct adequate IT security testing and install appropriate anti-virus systems;
4. take all necessary precautions to avoid the intrusion of any unauthorised persons or systems that could affect the Services and subsequently the Company’s systems;
5. take all the necessary security measures regarding the Consultant’s Personnel in order to avoid any unauthorised access to Confidential Information;
6. take appropriate measures should it note the existence of any viruses;
7. conduct adequate tests and ensure the level of traceability of access;
8. inform the Company immediately in the event of any third-party unauthorised access, of the introduction of malware, and any usage that does not comply with the scope of the Services;
9. take all necessary precautions at the infrastructure level in order to protect the integrity of the Confidential Information; and
10. implement, in the required timeframe, all necessary actions following the observation of a lack of security originating from an audit or permanent monitoring process.
11. For the purposes of this Schedule 3:
12. “Consultant Personnel” means any person instructed pursuant to this Agreement to perform the Services.
13. “[Key Personnel](https://www.lawinsider.com/dictionary/key-personnel)“ means those persons named in clause 14(a) above as being key personnel.
14. a person associated with the Consultant includes but is not limited to any subConsultant of the Consultant;
15. a Public Official shall include (i) any minister, civil servant, director, officer or employee or other official of any government or any department, agency or body; (ii) any person acting in any official, legislative, administrative or judicial capacity for or on behalf of any government department, agency, body, or public international organization, including without limitation any judges or other court officials, military personnel and customs, police, national security or other law enforcement personnel;;
16. Facilitation Payments shall include discretionary payments made to a Public Official to facilitate routine, non-discretionary governmental actions that the Public Official ordinarily performs; and
17. Restricted Party means any person who is identified from time to time by any government or legal authority under applicable trade sanctions, export controls, anti-money laundering, non-proliferation, anti-terrorism and similar laws as a person with whom trade or financial dealings and transactions are prohibited or restricted.