



# CONTRACT SPECIFICATION

FOR

**RE-BUILDING AND MAINTENANCE ON HAUL ROAD WITH PLACEMENT OF  
BITUMINOUS EMULSION FROM RAIL SIDING TO CHPP PALNT**



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## 1. DEFINITIONS

- 1.1. **“Commercial Production Date”** means the start date of transport of coal from the Benga mine to the designated stock yard at the Beira port, as communicated.
- 1.2. **“Commercial Production Period”** means period of 6 (six) months from the Commercial Production Date, extendable at the discretion of the Company.
- 1.3. **“Total Contract Value “or “Total Contract Price”** means the expected total as per the BOQ.
- 1.4. **“Delivery Point”** N/A
- 1.5. **“Leader of the Consortium”** shall mean a corporate entity (member) of the Consortium, if any, who is designated to represent the Consortium in all transactions and decisions before any third parties including the Company.
- 1.6. **“Mine”** shall mean the open cast coal mine of the Company (Benga mine) located at Benga locality, Moatize District, Tete Province, Mozambique.
- 1.7. **“Net Worth”** means net worth of the bidder calculated as below: -  
Net Worth = Fixed Assets + Current Assets – Current Liability – Long term loans
- 1.8. **“Performance Bank Guarantee”** shall mean a sum of 10 (Ten) percent of the contract value, in the form of a bank guarantee, valid One year (1) s from the date of signature of this Contract, towards performance security to be furnished by the Contractor as per Format 1.

## 2. RULES OF CONSTRUCTION

- 2.1 Words imparting singular shall also include plural and vice-versa and any word defined in the singular shall have the corresponding meaning when used in the plural and vice versa.



- 2.2 The titles or headings in the Contract are for convenience and easy reference only and shall not be taken into account for the purpose of construction or interpretation of the Contract.
- 2.3 A reference to any gender includes the other gender.
- 2.4 Unless otherwise specified, a reference to a Chapter, Clause, Annexure, Schedule, Attachment or paragraph is a reference to a Chapter, Clause, Annexure, and Schedule, Attachment or paragraph of the Contract.
- 2.5 The terms “include” and “including” shall be deemed to be suffixed with the words "without limitations", whether or not so followed.

### **3 CONDITION FOR CONSORTIUM**

- 3.1 In case the Contractor is a Consortium, each and all members of the Consortium shall furnish an undertaking jointly for the successful operation of the Transportation Services to the Company and shall be jointly and severally liable to the Company to perform all the contractual obligations.
- 3.2 The Leader of the Consortium shall be the only one who will be authorized to receive instructions for and on behalf of the Consortium, shall be primarily responsible for the total execution of the Agreement including all contractual obligations and receipt of payment due, in accordance with the provisions of the Contract.
- 3.3 All the members of the Consortium shall be liable jointly and severally for the execution of the Agreement in accordance with the terms and conditions of the Agreement and statement to this effect shall be included in the joint venture agreement, agreement of association, or any other similar agreement between the members of the Consortium.
- 3.4 During the Term of the Agreement, the members of the Consortium shall not be altered (both in terms of percentage held in the Consortium and members in the Consortium) without prior written approval of the Company.



#### 4 PERFORMANCE BANK GUARANTEE

The Contractor shall furnish a Performance Bank Guarantee equivalent **10(Ten) percent** of the contract value as per Format 1 at the Contract Execution Date, valid for twelve months (1 Year) from the date of signature of this Contract. The Performance Bank Guarantee submitted should be issued by a reputed commercial bank in Mozambique, acceptable to the Company.

Performance Bank Guarantee will not carry any interest.

The Performance Bank Guarantee shall be released only on completion of all contractual obligations.

#### 5 CONTRACTUAL PRICE BASIS

- 5.1 The Contractual Price basis for coal Road maintenance services from CHPP To rail siding is as follows:

(Values in Meticaís)

Description	(in MZN)	Taxes	Total Price per
As per the scope of work	MZN ..... (..... Meticaís)	*	MZN ..... (..... Meticaís)



## **6 CONTRACT QUALITY ASSURANCE**

- 6.1 The Contractor has included in this Contract a Quality Assurance Program containing the overall quality management and procedures which the Contractor proposes to follow in the performance of the Works under this Contract during various phases.
- 6.2 Schedule G contains a detailed Quality Assurance Program to be followed for the execution of the Agreement.

## **7 COMPLETENESS OF THE AGREEMENT**

- 7.1 All other works, which are additional and minor in nature, which may not have been specifically mentioned but which are absolutely essential or necessary for the efficient working of Transportation Services, shall be deemed to have been included in the Agreement and shall be performed by the Contractor without extra charge. Any additional obligations required for transportation of coal as per the Scope of Work, which obligations are minor in nature, shall be deemed to be included in all respects whether details are mentioned in the Specification/Scope of Works or not.
- 7.2 If any dozer of any specification is required for breaking of coal stockpile at the mine, to enable the transportation of coal or otherwise, the Contractor shall provide such service and this will be deemed to be included in the Contractual Price under this Contract.

## **8 FAILURE TO EXECUTE AGREEMENT**

- 8.1 The Contractor, failing to execute the Services placed on it to the satisfaction of the Company under the terms and conditions set forth therein, will be liable to make good the loss sustained by the Company, consequent to the hiring of Services elsewhere through another entity/contractor at higher rate.
- 8.2 In the event of such failure by the Contractor, the difference between the price agreed in this Agreement and the price at which Services by another entity/contractor



have to be hired at a later date and higher rate, consequent to the non-fulfillment of the Agreement, will be recovered from the Contractor.

## **9 EQUIPMENT SPECIFICATION**

All the equipment shall be of the best class, reliability and capable of satisfactory operation in tropics with humid atmospheric conditions, without distortion or deterioration.

## **10 SIGNING OF AGREEMENT**

10.1 The Contractor shall furnish, before signing of the Contract/Agreement, appropriate power of Attorney or other relevant documents.

10.2 This Agreement shall be signed in two (2) originals, duly bound. One will be handed over to the Contractor and the other original shall be retained by the Company.

10.3 Notwithstanding anything contained in this Agreement, unless the coal produced or in stockpile is uneconomical to sell, the Company shall continue the operation.

## **11 MONTHLY SCHEDULE**

The detailed monthly schedule of Road maintenance will be finalized by the Company in consultation with the Contractor one (1) week before the subsequent month.

## **12 PENALTIES**

12.1 The Contractor shall own and maintain a fleet of Trucks/Trailers and Front-End Loader (FEL), including any required ancillary equipment for Road maintenance, etc., commensurate with the targeted levels throughout the contract period.

12.2 In case of failure by the Contractor to mobilize the fleet of Trucks/Trailers, Front End Loaders, equipment and manpower within the stipulated mobilization period (as per the Mobilization detail provided by the Contractor or, in the absence of such



Mobilization detail provided by the Contractor, within 15 days from the Contract Execution Date), the Contractor shall be liable to pay the Company, as penalty, a sum corresponding to 0.5% (half percent) of the Total Contract Value for every week (7 days) of delay or part thereof provided always that the total amount of penalty for delay to be paid under this condition shall not exceed 5% (five percent) of the Total Contract Value.

- 12.3 Furthermore, the Company reserves the right to engage an outside entity/contractor/party to remedy the shortfall situation and the entire cost for such arrangement shall be recovered from the Contractor.
- 12.4 No idling charges or compensation of any kind will be payable to the Contractor.
- 12.5 Any stoppage or suspension of work for any reason, including but not limited to breakdown of any machinery or manpower issues (except Force Majeure), should not be the ground for non-fulfillment of the target. Contractor should maintain fleet level in such a way that the achievement of daily rates is not hampered due to breakdown of equipment.
- 12.6 The Company may, without prejudice to its any other method of recovery, deduct the amount of such penalty from any money in hands, due, or which may become due, to the Contractor under the Agreement or from any other contract between the Contractor and the Company. The deduction of such penalty shall not relieve the Contractor of his obligation to complete the works and demonstrate the performance of any of his other obligation and liabilities under the Contract.
- 12.7 The Company, if not satisfied with the progress of the mobilization, the transportation service, or the compliance with any of the terms of the Agreement and in the event of failure of the Contractor to recoup the delays in the mutually agreed time frame, shall be entitled to terminate the Agreement.





- 12.8 In the event of such termination of the Agreement, the Company shall be entitled to recover, through a penalty up to ten per cent (10%) of the Total Contract Value and forfeit the Performance Bank guarantee submitted by the Contractor besides getting the work completed by other means at the risk and cost of the Contractor.
- 12.9 The penalties above can be applied whether separately or cumulatively.

### **13 MEASUREMENT OF QUANTITIES FOR PAYMENT**

- 13.1 Measurement of quantities shall generally be in accordance with the prescribed standards or such other standard acceptable to both the parties. The volume of material (coal) moved shall be the difference in absolute volume from the original agreed starting surface, calculated on a month-by-month basis.
- 13.2 Payment for Road Maintenance from CHPP to the designated Rail Siding, during a month, shall be based supervision which shall form the basis for monthly invoicing. This is without prejudice of the final monthly invoice which shall be issued taking into account any penalty for shortage in the quantity of service.

### **14 NON-EXERCISE OF POWER NOT TO CONSTITUTE WAIVER**

It is agreed that in any case in which any of the powers conferred upon the Company by the provisions of the Agreement becomes exercisable, and the same is not exercised, the non-exercise thereof shall not constitute waiver of any of the conditions thereof, and such powers shall notwithstanding such non-exercise be exercisable in the event of any other case of default by the Contractor, for which by any clause or clauses thereof is declared liable to pay compensation and the liability of the Contractor for past and future compensation shall remain unaffected.



**15 COMPETENT AND STATUTORY PERSONS**

The Contractor shall appoint sufficient numbers of staff, fully competent to do their work. The staff so appointed must have proper qualification and status to work on behalf of the Contractor and must be accountable. The Contractor shall employ the key statutory personnel to supervise the work as per statute. The persons so appointed should have adequate qualification as per the extant provisions of Mozambican Law. Non-compliance of provisions regarding appointment of statutory persons deemed to be fundamental breach of Agreement by the Contractor, and in that case the Company may terminate the Agreement and will also have the right to execute the balance work through an alternate agency at the risk and cost of the Contractor.

**16 COMMENCEMENT OF WORK**

All the preliminary works such as deployment/mobilization of manpower, of machinery and equipment at site, etc. shall be completed within 15 (days) days from the Contract Execution Date and Maintenance should commence immediately thereafter to achieve the targets, unless the Contactor has provided for other Mobilization details.

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(Signature, Name, Designation and Seal)



\_\_\_\_\_  
(Signature, Name, Designation and Seal)

**FORMAT 1**

**PERFORMANCE BANK GUARANTEE**

..... (*Name of the Bank*)  
Address.....  
Guarantee No. ....  
A/c Messrs..... (*Name of Contractor*)  
Limit to liability (*Currency and Amount*) .....  
Agreement No. ....for Coal Transportation Services.

**SUBJECT: PERFORMANCE BANK GUARANTEE**

Date ..... 2023

To,  
Minas de Benga, Limitada  
Estrada Nacional no 7, Tete  
Mozambique

Dear Sirs,

We refer to the Agreement (hereinafter called the "Contract") Reference No. .... dated ..... between Minas de Benga, Lda. ("MBL") and ..... ("Bank") (*Name of Contractor for the Road Maintenance*).

Whereas the ..... (*Name of the Contractor*) has undertaken to produce a Bank Guarantee under the Contract including any amendment thereto, to secure its obligations to you for the performance of the Contract including the guarantees and warranty of MBL Facilities.

1. We ..... (*Name of the Bank*) do hereby expressly on first demand, irrevocably and unreservedly undertake to unconditionally pay to you merely on your written demand and without referring to ..... (*Name of the Contractor*) and the Contract and without referring to the merits of the request and without protest and demur



an amount not exceeding----- (Ten percent of the contract value). Any such demand made on us shall be conclusive as regards the amount due and payable by us under this Guarantee.

2. Notwithstanding anything to the contrary we agree that your decision as to whether -----  
..... (Name of the Contractor) has committed a breach of any terms and conditions of the Contract shall be final and binding on us and we shall not be entitled to ask you to establish your claim or claims under this Guarantee but shall pay the same forthwith without any objection or excuse.
3. We undertake to pay to you any money so demanded notwithstanding any dispute or disputes raised by the party in any suit or proceeding pending before any court or Tribunal or arbitration relating thereto, our liability under these presents being absolute and unequivocal.
4. The payment so made by us under this Guarantee shall be a valid discharge of our liability for payment thereunder.
5. This Guarantee shall come into force from the date of issue of this Guarantee and shall remain irrevocably valid and enforce initially up to .....
6. This Guarantee shall not in any way be affected by you taking any securities from the ..... or by the winding up, dissolution, insolvency or death as the case may be of the ..... We shall not be entitled to proceed against the assets of the ..... at your site.
7. In order to give full effect to the Guarantee herein contained, you shall be entitled to act as if we were your principal debtors in respect of all your claims against ....., hereby guaranteed by us as aforesaid and we hereby expressly waive all our surety ship and other rights, if any, which are in any way inconsistent with the above or any other provisions of this Guarantee.
8. The Bank undertakes to renew this Bank Guarantee from time to time and in case the Bank fails to extend the validity of the Bank Guarantee prior to its expiry, the same shall be deemed to be invoked by MBL.
9. This Guarantee is in addition to any other guarantee or guarantees given to you by us.
10. This Guarantee shall not be discharged by any change in the constitution of the ..... or us, nor shall it be affected by any change in your constitution or by any amalgamation or absorption thereof or therewith but will ensure for and be available to and effaceable by the absorbing or amalgamated company or concern.
11. Notwithstanding anything contained herein before our liability under this Guarantee is restricted up to a sum-----Ten(10) percent of the contract value and shall expire on ..... unless a claim or demand is made on us in writing within (6) months after the expiry date all your rights shall be forfeited and we shall stand relieved and discharged from our liabilities hereunder.
12. We have full power to sign this Guarantee under the delegations of powers and notification made under general regulation and resolutions in this regard.

Yours faithfully



Dated ..... day of ..... 2023  
For ..... (*Name of the Bank*)