

ELECTRIC POWER CORPORATION

RECRUITMENT OF AN ASSET VALUATION EXPERT FOR ELECTRIC POWER CORPORATION

The Electric Power Corporation is seeking to engage the services of an Asset Valuation Expert to conduct a full Asset Valuation to identify and cost the true and fair value of all EPC assets to allow recording in EPC's books at the end of the financial year 30th June 2018. This study is part of the corporation's Asset Management Project in an effort to ensure that all assets are accurately recorded and are routinely repaired and maintained.

Quotations are invited from suitably qualified consultants to undertake this assignment. Experts may apply individually or as a team through a company.

Detailed Terms of Reference and information on the application procedure are available on the following website: www.epc.ws

The deadline for submission is Monday 9th July 2018 at 10 am local time.

Applications must be deposited in the Tender Board Box located on 4th Floor Central Bank Building and addressed as follows:

The Secretary Tenders Board
Ministry of Finance
4th Floor, Central Bank Building
Beach Road
Private Bag
Apia, Samoa

For any clarifications please contact Palelēmafuta Sofia Silipa, on +685 65527 or email silipas@epc.ws

Tologatā Galumalemana Lupematasila Togia Tile
GENERAL MANAGER

ELECTRIC POWER CORPORATION

**RECRUITMENT OF AN ASSET VALUATION EXPERT FOR ELECTRIC POWER
CORPORATION**

REQUEST FOR QUOTATION

SAMEPC44/2017

JULY 2018

Letter of Invitation

1. Request for Quotations

The Electric Power Corporation, hereinafter the Procuring Entity, intends to apply funds received from New Zealand Aid for the recruitment of an Asset Valuation Expert (20 working days) to assist the Electric Power Corporation in reviewing and providing recommendations to strengthen the financial management and reporting of the Electric Power Corporation.

2. General Eligibility of Consultants

The individual consultant must meet the following General Eligibility Requirements:

- a. Possess a valid business license (in case of firms);
- b. Be free from insolvency, bankruptcy, or similar status;
- c. Have legal capacity to enter into contract;
- d. Have an adequate record of business integrity and ethics;
- e. Not be excluded pursuant to Part IX of the Tender Board Guidelines for Procurement; and
- f. Has not been convicted within the last year of, or currently under indictment for, a criminal offense involving corruption or other misconduct reflecting a lack of suitability to participate in procurement.

You will need to complete the enclosed statement confirming the absence of any actual or potential conflict of interest or how any existing actual or potential conflict of interest will be satisfactorily resolved.

3. Terms of Reference

The Procuring Entity hereby invites submission of Quotations (Cover letter + CV + Cost Estimate) for the services described in Annex 1 of this RFQ.

4. Curriculum Vitae

You are hereby invited to submit your Curriculum Vitae (CV) with a covering letter highlighting relevant areas of expertise and contact details for two references. Please find below in Annex 2 a sample form of a CV to be utilized when submitting your quotation. You must ensure that your CV provides sufficient and relevant detail to enable assessment against the General Eligibility of Consultants and the requirements of the TOR.

5. Cost Estimate of Services

You should also provide a Financial Quotation. Please find below in Annex 3 a sample form “Cost Estimate of Services and Schedule of Rates”. In preparing your Financial Quotation, please note that an estimate of 20 working days will be required to carry out the assignment. However, you are free to prepare your own estimates of working days required to carry out the assignment and to offer the corresponding cost in your quotation. **Financial offers for international experts may be quoted in New Zealand Dollars, Australian Dollars or US Dollars. The exchange rates that will be used for the financial evaluation is 1NZD = 1.84SAT, 1AUD = 1.99SAT and 1USD=2.61SAT**

6. Preparation and Submission of Quotations

The Closing Time and Date for Submission of Quotations is Monday 9th July 2018 at 10am.

The CV and Financial Quotation must each be placed into two separately sealed envelopes and clearly marked as follows:

- i. For the CV(s): **“Curriculum Vitae: Recruitment of Experts to Undertake the Valuation of EPC Assets (SAMEPC44/2017)”** and
- ii. For the Financial Quotation: **“Financial Quotation: Recruitment of Experts to Undertake the Valuation of EPC Assets (SAMEPC44/2017)”**. The envelope containing the Financial Quotation must also contain the name of the bidder and a warning **“Do Not Open with the Curriculum Vitae”**.

The two envelopes, respectively containing the CV and the Financial Quotation shall then be placed into an outer envelope and sealed. This outer envelope shall bear the submission address (detailed below) as well as the RFQ reference number, name of the assignment, submission deadline and offer validity, and be clearly marked **“Do Not Open – except during the proposal opening session”**.

The address for submission is as follows:

The Secretary Tenders Board
Ministry of Finance
4th Floor, Central Bank Building
Beach Road
Private Bag
Apia, Samoa

Submission must be deposited in the Tender Box located on 4th floor Central Bank Building by the due date. Quotations submitted by email or fax will not be accepted.

Quotations delivered after closing time will be deemed to be late and will be returned unopened.

The Procuring Entity shall not be responsible for misplacement, loss or premature opening if the outer envelope is not sealed and/or marked as stipulated. This may result in the rejection of the quotation. If the Financial Quotation is not submitted in a separate sealed envelope duly marked as indicated above, this will constitute grounds for rejecting the Proposal. **The CV shall not include any financial information which may totally or partially disclose the quoted price.** A CV containing such financial information shall be rejected.

7. Information on tax in Samoa

This Contract is subject to taxation in Samoa, namely VAGST and withholding tax. The Consultant is responsible for informing him/herself on tax requirements in Samoa. The Principal is responsible for remitting the value of the tax charged by the Consultant on the Consultancy Fee direct to the Ministry of Revenue. This means that the value of the tax charged by the Consultant on the Consultancy Fee will not be included in payments made to the Consultant under the Contract. The Consultant must quote fee rates including any taxes payable in Samoa as set out in Annex 3.

8. Evaluation Procedure

This is a competitive process and the selection of a Consultant will be the responsibility of an Evaluation Committee, convened by the Procuring Entity, with final approval from the Government of Samoa Tenders Board. The Evaluation Committee will assess each proposal based on “Quality and Cost-Based Selection”, which is further explained as follows.

Evaluation of CVs

The Evaluation Committee shall evaluate the CVs on the basis of their compliance with the requirements of the TOR, experience, skills and qualifications of the Consultant, suitability to the assignment, language and knowledge of local conditions. Each acceptable CV will be given a technical score (St). Contact persons provided for reference may be contacted for further information. A CV shall be rejected at this stage if it fails to achieve the minimum technical score of 70 points.

CVs will be evaluated in accordance with the following criteria – **Criteria for the Electric Power Corporation (EPC) Asset Valuation Expert:**

	Maximum Score
Qualifications	10
Experience in Valuation of assets of power utilities in developing countries	25

preferably including small island and Pacific region countries	
Experience and vast knowledge of Fixed Asset computerized accounting system, and Asset Management in the energy sector, Experience in Financial Management, Procurement and Project Accounting in the energy sector, Experience in developing of an Asset Valuation Module for EPC that includes: <ul style="list-style-type: none"> - Valuation Year/Valuation period (year/#years) - Replacement/Market Value of the Asset (\$) - Itemize Assets by Category - Residual Value of the Asset (\$) - Life of an Asset (years) - Depreciation rate based on asset category (%) 	40
Experience in financial and economic performance assessment	15
Experience in cross-cultural environment and developing countries preferably including small island and Pacific region countries	10
TOTAL	100

Evaluation of the Financial Quotation

The lowest quote will be noted 100 points. The formula for determining the financial score Sf is the following:

$S_f = 100 \times P_i/P_m$, where

- Sf is the point given to the quotation
- Pi is the lowest quote (fees component only)
- Pm is the price of the evaluated quotation (fees component only)

Global evaluation of the Quotation

The CV is given a weight of 70% and the financial quotation 30%. The global score is determined as follows:

$S = 70\% S_t + 30\% S_f$, where:

- S is the global score
- St is score of the technical proposal

Sf is the score of the financial proposal

The quotation achieving the highest combined technical and financial score will be selected.

9. Date for Submission

You are requested to provide your quotation at the latest by 10am on 9th July 2018

10. Validity of Quotation

The quotation shall remain valid for a period not less than 60 days after the deadline date specified for submission.

11. Please note that the cost of preparing a quotation and of negotiating a contract is not reimbursable as a direct cost of the assignment.

12. The following documents are attached to this Letter of Invitation:

Terms of Reference	Annex 1
Sample Format of Curriculum Vitae	Annex 2
Sample Cost Estimate of Services and Schedule of Rates	Annex 3
Declaration of Eligibility	Annex 4
Draft Contract	Annex 5

13. If you require further information on the assignment and the local conditions, you may contact Ms Palelēmafuta Sofia Silipa on +685 65527 or on email silipas@epc.ws

14. The Client is not bound to accept any of the quotations submitted.

ANNEX 1

TERMS OF REFERENCE

1. PURPOSE/OBJECTIVE OF THIS STUDY

The purpose of this TA which will be funded by the Government of Samoa and New Zealand Aid is to conduct a full Asset Valuation study to identify and cost the true and fair value of all Electric Power Corporation assets to allow recording in its books at the end of the financial year to 30 June 2018.

Secondly, as part of this Valuation, the study should also assess and determine the appropriate life spans/useful lives of all EPC assets including correct depreciation rates to charge to each category of assets on its books.

The objectives and the scope of the TA's work is to conduct an Optimized Depreciated Replacement Cost (ODRC) valuation of all of EPC assets in order to comply with Generation/Transmission and Distribution standards applied in Samoa as well as all relevant International Accounting Standard and Practices.

The EPC Management and its Asset Management team will accept time responsibility for providing all relevant information to assist the TA with the execution of their work in a fully professional manner. (e.g. Fixed Asset Register, Location, Asset Type, Asset Specification; historical cost accounting information etc.)

2. BACKGROUND

This is the third EPC Asset Valuation project which is scheduled to be executed in the financial year ending June 2018. The last Asset Valuation of the Corporation's assets was conducted in the year 2013, when the Corporation engaged the services of Rodney Hyman Asset Services Pty Ltd of Australia. The methodology adopted for that Valuation was on the basis of Optimized Depreciated Replacement Cost (ODRC).

The Corporation classes/categories of assets for the Valuation study are as follows:

- Land & Buildings
- Power plants and distribution assets
 - Diesel stations
 - Hydro stations
 - Wind Farm
 - Solar Farms
 - Distribution lines
 - Power plant access infrastructure
 - Tools and radio equipment

Because, EPC has encountered many natural disasters such as cyclones, earthquakes, and tsunami over the past 10 year period, it has found it difficult to perform this Asset Valuation and Useful Life Assessment on a regular basis.

The Net book value of all EPC Fixed Assets stands at \$379.4 million at the end of the financial year 30 June 2017.

Electric Power Corporation (EPC) has a very comprehensive/compatible Daffron computerized accounting software system which records a large volume of all data and information regarding the corporation's financial and non financial data. And EPC is still maintaining its close relationship with friendly stakeholders such as: MOF and Governments Ministries and Corporations, Local and Overseas Suppliers, Local Financial Services Provides (Banks), Employees, Customers, Overseas Donors ADB, JBIC, ADF, AUSAID, NZAID etc and also the local communities. The Corporation continues to make its Annual Report and Corporate Plan available on a timely manner to its stakeholders to inform them of its completed projects and future developments as well as financial results for the year. During the preparation of these reports EPC adopts all relevant standards as guideline to promote compliance, accountability and transparency within its operation.

3. SCOPE OF WORK

The scope of the TA's work is to conduct an Optimized Depreciated Replacement Cost (ODRC) valuation of all EPC assets in order to comply with Generation, Transmission and Distribution standards, including Land and Buildings, and also comply with all relevant International Accounting Practices and Standards.

- I. To identify, document and record all EPC Assets; Diesel and Hydro stations, Wind Farm and Solar Farms (Upolu/Savaii), Distribution Assets (Upolu/Savaii), Buildings and Tools and Radio Equipment.
- II. To identify, analyze and assess the Replacement and current market value of EPC Assets such as Generation, Transmission and Distribution, including Land and Buildings;
- III. To analyse and assess the appropriate useful life of EPC Assets including the correct depreciation rate charged as in 3(II) above;
- IV. To identify appropriate measures to avoid, remedy or mitigate, where practical, any adverse effects on the EPC and its assets from cultural/political influence/values.
- V. To document and assess the cultural/political/customary significance/value of the location or area which EPC assets are installed, whereby these values that may have a potential effect/impact (favorable and adverse) on EPC and its assets. (monetary value and useful life/etc).
- VI. To document/submit an Asset Valuation Program for the future to the Management and the Board for approval.

4. METHODOLOGY

The following methods will be used to prepare the Asset Valuation and Useful Life Assessment Project:

- Review of background information provided by the EPC.
- A review of the provisions of the current EPC Act and other statutes that is relevant to the protection of EPC values and interests.
- A review of the Corporation Fixed Asset Register, planning documents (e.g. Corporate Plan, Policies; accounting records etc) and/or other documents that are deemed relevant to this assessment.
- Site visit to all material EPC assets locations.
- Interviews of EPC management and responsible staff that have most knowledge and experience of all EPC assets and values.
- Distribution of draft report to EPC representatives and incorporation of feedback from those parties into the final version.
- Presentation of the final assessment to EPC Management for the purposes of obtaining official endorsement of its contents.
- Forwarding of the EPC Management and the committee and, prior to any future meeting, consideration and response to any requests to provide further clarity and/or greater effect to the terms of reference.

The TA are also required to establish, in association with EPC, appropriate asset class lives which represent the typical or average, economic life expectancy of these assets in the Samoan situation and environment. Asset class lives should reflect the “average” economic service life that may be expected from each set of assets.

The economic service life is considered to be at an end when the capitalized value of future operating maintenance and failure costs exceeds the replacement cost of the asset. The assessment of asset class lives should take account of a range of overall asset management policies and procedures on acquisitions and disposals, including:

- Design standards;
- Construction standards;
- Loading criteria;
- Maintenance policies, procedures & practices;
- Operating practices; and
- The general environment in which the assets are operated.

5. DELIVERABLES

DELIVERABLES

- Inception Report which will include methodologies.
- Presentation to EPC Board of Directors and management on the progress of the study.

- Final report to be submitted to the EPC Board of Directors and the management for endorsement/approval.
- Electronic model of the Asset Valuation and Useful Life Assessment to be kept by EPC.
- Full Asset Register which will be integrated into EPC's financial system.

OUTCOMES

- EPC shall achieve an improved understanding of its Assets and its replaceable and current market value.
- EPC shall achieve a clear understanding of cultural/political influences/values held toward these assets and the effects that the study identifies with regard to these values, and they should provide us with appropriate resolutions and findings at the end of the study.
- All parties (EPC/Board/Stakeholders) shall develop from the study findings a high level of confidence and understanding of future maintenance needs and planning requirements and how best to economically utilize its resources after completion of this Asset Valuation study.
- The Valuer shall prepare a more comprehensive Assessment Report of Asset Valuation and Useful Life in accordance with all relevant standards as required.
- The Valuer shall perform this Project in accordance with timeframe, work specifications as provided in this project document and shall be within the budget forecast as approved.

6. QUALIFICATIONS

In conducting the Valuation of the EPC assets, the TA must have a degree on Asset Valuation or similar with 10-15 years of relevant experience. The TA must have the required knowledge and vast experience with Power Utility assets and have conducted the same or similar work with other Power Utilities especially around the Pacific region.

7. REPORTING

The Valuation TA must provide progress reports to the appointed Management Sub Committee on a weekly basis in which the committee has to submit this progress report to the General Manager and the management for their information. This report shall highlight the status of the work done and the remaining work load, and whether the Valuer requires further assistance from EPC.

The full and the final report of the project shall be presented by the Valuer to the General Manager and the Management before submission to the Board for formal and final approval.

ANNEX 2

SAMPLE FORMAT OF CURRICULUM VITAE (CV)

Name: _____ (insert as appropriate)

Profession: _____ (insert as appropriate)

Date of Birth: _____ (dd/mm/yyyy) (insert as appropriate)

Nationality: _____ (insert as appropriate)

Membership in Professional Societies: _____ (insert as appropriate)

Key Qualifications:

(Give an outline of experience and training most pertinent to tasks on assignment. Describe degree of responsibility held on relevant previous assignments and give dates and locations. Use about half a page.)

Education:

(Summarize college/university and other specialized education, giving names of institution, dates attended, and degrees obtained. Use about one quarter of a page.)

Employment Record:

(Starting with present position, list in reverse order every employment held. List all positions held since graduation, giving dates, names of employing organizations, titles of positions held, and locations of assignments. For experience in last ten years, also give types of activities performed and client references, where appropriate. Use about two pages.)

Languages:

For each language indicate proficiency: excellent, good, fair, or poor in speaking, reading, and writing.)

References:

Contact details for two references must be provided

Certification:

I, the undersigned, certify that to the best of my knowledge and belief, these data correctly describe me, my qualifications, and my experience.

Signed: _____

Date: _____ (dd/mm/yyyy) (insert as appropriate)

Note: Alternative CV formats which include all the above information will be accepted.

ANNEX 3

FINANCIAL QUOTATION

Cost Estimate of Services and Schedule of Rates

1. REMUNERATION

Name	Rate (Samoan Tala, NZD, USD or AUD as applicable)* (per working day)	Time spent (number of working days)	Total (Samoan Tala, USD or AUD applicable)*
_____ (insert as appropriate)	_____ (insert no.)		_____ (insert no.)
Taxes (including VAGST)			
Sub-Total (1)			

*Currency applicable must be clearly indicated.

NOTE: The daily fee rate must be inclusive of all costs, medical insurance, professional indemnity insurance, etc, per diem and return airfares for the expert for each mission foreseen within the contract. The fee rates will be based on 5 working days per week. A separate per diem will be paid for each night spent in Samoa. No fees or per diems will be paid for travel days. The expert will be expected to provide his own laptop computer. Separate funds will be available for training events. Fees and per diem must be quoted in Samoan Tala, New Zealand dollars, US Dollars or Australian dollars. **The exchange rates that will be used for the financial evaluation is 1NZD = 1.84SAT, 1AUD = 1.99SAT and 1USD=2.61SAT**

2. REIMBURSABLES

	Rate (Samoan Tala, NZD, USD or AUD as applicable) for return flight	Number	Total (Samoan Tala, NZD, USD or AUD as applicable)
(a) International Travel (economy class only will be reimbursed) – where required for International Consultants	_____ (insert no.)		_____ (insert no.)

(b) Per diem* (payable for each night spent in Samoa)	Samoan Tala		SAT
b-total (2)			

* The per diem rate per day must be consistent with the approved rate by the Government of Samoa and only payable for international experts not resident in Samoa.

3. TOTAL COST (Samoan Tala, NZD, USD or AUD as applicable)

* _____ (insert amount)

Signed: _____

Date: _____ (dd/mm/yyyy) (insert as appropriate)

ANNEX 4

DECLARATION OF ELIGIBILITY

I, the undersigned, (being the authorized signatory of the tenderer in case of a company), offer to provide the services requested on the basis of the documents making up the RFQ along with my/our offer of services to the best of my/our ability. I declare that I am/we are fully eligible to undertake this contract as per the requirements set out in Article 2 of the RFQ.

- I recognize that my/our offer will be excluded if we propose expert(s) who have been involved in preparing this project or engage such personnel as advisers in the preparation of my/our offer and that I/we may also be subject to exclusion from other tender procedures and contracts funded by the Government of Samoa.
- We have a valid business license (in case of firms applying)
- I/we are free from insolvency, bankruptcy, or similar status.
- I/we have legal capacity to enter into contract.
- I/we have an adequate record of business integrity and ethics.
- I/we have not been excluded pursuant to Part IX of the Tender Board Guidelines for Procurement (available on the Ministry of Finance website: <http://www.mof.gov.ws/Services/Procurement/tabid/5587/language/en-US/Default.aspx>)
- I/we have not been convicted within the last year of, or currently under indictment for, a criminal offence involving corruption or other misconduct reflecting a lack of suitability to participate in procurement.
- I/we have no actual or potential conflict of interest. Should a conflict of interest arise during the course of contract implementation I/we will immediately inform the contracting authority and will take whatever course of action is recommended.

Yours faithfully,

Signed:

Date:

Name:

Annex 5

“THIS DRAFT IS SUBJECT TO ANY CHANGE OR CHANGES BY THE ELECTRIC POWER CORPORATION AT ANY TIME”

CONSULTANCY CONTRACT

Between

THE ELECTRIC POWER CORPORATION OF SAMOA

(“The Principal”)

And

[“INSERT NAME OF CONSULTANT”]

(“the Consultant”)

THIS CONTRACT is made on the day of 2018

PARTIES: **THE ELECTRIC POWER CORPORATION OF SAMOA** acting by and through the **["INSERT NAME AND DESIGNATION OF PRINCIPAL"]** (hereinafter referred to in this Contract as "the Principal")

AND **["INSERT NAME OF CONSULTANCY"]** (hereinafter referred to as "the Consultant")

PURPOSE: **A.** The Principal has engaged the Consultant to perform the services set out in Item A of the Schedule ("Consultancy Services")

B. The Principal and the Consultant (collectively "the Parties") have agreed for the Consultant to perform the Consultancy Services in accordance with the terms and conditions of this Contract.

NOW THEREFORE, the Parties agree as follows:

CONDITIONS OF CONTRACT

1. INTERPRETATION

1.1 In this Contract, unless the contrary intention appears:

Contract means this document and all Schedules attached to it and is the Contract under which the Consultancy Services are to be provided to the Principal by the Consultant;

Consultancy Services means the services set out in Item A of the Schedule;

Confidential Information means information that:

- (a) Is by its nature confidential;
- (b) Is designated by the Principal as confidential; or
- (c) the Consultant knows or ought to know is confidential;

and includes information concerning the processes and policies, commercial operations, financial arrangements or affairs of the Principal, the terms of this Contract, information which identifies or relates to customers of the Principal, records, but excludes information that is publicly known other than as a result of the Consultant's breach of this Contract and excludes information lawfully in the possession of the Consultant through a source other than the Principal.

Contract Material means any material forming part of or constituting a deliverable or output that is created, written or otherwise brought into existence by or on behalf of the Consultant in the course of performing the Consultancy Services (New Contract Material); and

any material that exists at the Commencement Date and is incorporated into a deliverable or output (Existing Contract Material);

Consultancy Fee means the total amount payable to the Consultant for the provisions of the Consultancy Services and is set out in Item D of the Schedule;

Consultant means the person or body party to this Contract engaged to perform the Consultancy Services and includes officers, employees, agents and authorized subcontractors (and their employees and agents) utilized by the Consultant

Delegate means the Principal's representative for the purposes of the Contract and is Item E of the Schedule;

Deliverable means any document, piece of equipment, data or other creation required to be delivered to the Principal in order to complete the performance of the Consultancy Services;

Document includes:

- (a) any paper or other material on which there is writing;
- (b) any paper or other material on which there are maps, figures, symbols or perforations to interpret them; and
- (c) any article or material from which sounds, images or writings are capable of being reproduced with or without the aid of any other article or device;

Intellectual Property is the complete range of intangible property rights including all copyright (including rights in relation to phonograms and broadcasts), all rights in relation to inventions (including patent rights), plant varieties, registered and unregistered trademarks (including Project marks), registered designs, and circuit layouts, and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields whether created before, on or after the commencement of the Contract;

Parties Means the Principal and the Consultant;

Persons Includes a body corporate;

Time Frame means the period within which the Consultancy Services must be provided and is set out in Item C of the Schedule;

Writing means any representation of words, figures or symbols capable of being rendered in a visible form.

1.2 In this Contract, unless the contrary intention appears:

- (a) Words importing a gender include any other gender;
- (b) Words in the singular include the plural and words in the plural include the singular;
- (c) Clause headings are inserted for convenient reference only and have no effect in limiting or extending the language of provisions to which they refer;
- (d) Words importing persons include a body whether corporate or otherwise;
- (e) All monetary references are to Australian Dollars (AUD\$) unless another currency is specified;
- (f) a reference to any legislation includes any subordinate legislation made under it and any legislation amending, consolidating or replacing it;
- (g) a reference to "consent" or "approval" means prior written consent or prior written approval;
- (h) if any expression is defined, other grammatical forms of that expression will have corresponding meanings.

1.3 This Contract records the entire Contract and understanding between the Parties in relation to its subject matter and supersedes all previous contracts and undertakings with respect thereto.

1.4 If the Consultant comprises two or more persons, this Contract will bind them jointly and severally.

1.5 No variation of this Contract is binding unless it is agreed in writing between the Parties.

1.6 Any reading down or severance of a particular provision does not affect the other provisions of this Contract.

2. EVIDENCE OF CONTRACT AND PRECEDENCE

2.1 The Terms of the Contract between the Principal and the Consultant are those appearing in:

- (a) The Conditions of the Contract; and
- (b) The Schedule to the Contract.

2.2 In the event of any inconsistency between the conditions of Contract and the Schedule to the Contract, the Conditions of Contract shall prevail.

2.3 The Contract:

- (a) Constitutes the entire contract between the Parties in this matter; and
- (b) Supersedes all prior representations, contracts, statements and understandings, whether verbal or in writing.

3. PROVISION OF CONSULTANCY SERVICES

3.1 The Consultant agrees to:

- (a) Perform the Consultancy Services with all skill, care and diligence and in an efficient and professional manner in accordance with the terms of the Contract;
- (b) Provide the Contract Material as part of the Consultancy Services;
- (c) Deliver the Deliverables as part of the Consultancy Services;
- (d) Comply with the Time Frames for the performance of the Consultancy Services specified in Item C of the Schedule; and
- (e) Liaise with the Delegate and provide any information the Delegate or the Principal through the Delegate may reasonably require and comply with any reasonable request made by the Delegate related to the Consultancy Services.

4. PAYMENT FOR CONSULTANCY SERVICES

4.1 The Principal agrees to pay to the Consultant the Consultancy Fee set out in Item D of the Schedule. The Principal shall make payment to the Consultant in accordance with the terms set out in Item D of the Schedule.

4.2 The Contract is subject to taxation in Samoa, namely value added goods and services tax (VAGST) and withholding tax. The Consultant is responsible for checking with the Ministry of Revenue as to requirements. The Principal reserves the right to exclude the value of the tax(es) charged by the Consultant on the Consultancy Fee from any payments made under this Contract and pay these direct to the Ministry of Revenue.

- 4.3 The Consultant acknowledges that the Consultancy Services must be wholly completed in accordance with the Contract before the Consultant becomes entitled to any payment under the Contract.
- 4.4 The Principal shall make payment to the Consultant within 14 days after receipt of a correctly rendered invoice.
- 4.4.1 An invoice is correctly rendered if:
- (a) The amount claimed and specified in the invoice is due for payment and is correctly calculated in accordance with the Contract;
 - (b) It correctly identifies the Consultancy Services provided and for which payment is claimed;
 - (c) It includes sufficient detail to allow the Principal to assess progress against any milestones set out in Items C and D of the Schedule;
 - (d) It is correctly addressed to the Principal;
- 4.4.2 any approved reimbursable expenses claimed must be separately itemized.
- 4.4.3 The Delegate will notify the Consultant within seven (7) days after the receipt of an invoice found not to be correctly rendered.
- 4.4.4 If an invoice is found, after the Principal has paid the invoiced amount to the Consultant, not to have been correctly rendered, the Principal will, as the case requires:
- (a) Pay any amount owed to the Consultant within 30 days of receipt of a correctly rendered invoice; or
 - (b) Deduct any amount owed to the Principal from the next invoiced payment or, if no other payment is due to the Consultant pursuant to this Contract, recover the amount from the Consultant as a debt due to the Principal.
- 4.5 Without derogating from any other right the Principal may have, the Principal may be entitled to defer payment of the Consultancy Fee or any part thereof until the Consultant has completed the Consultancy Services to the satisfaction of the Principal. In such event, the Consultant will promptly provide (or provide again) without any additional cost to the Principal, any part of the Consultancy Services that are certified by the Delegate as not having been completed or performed to his/her satisfaction and the Principal may, without limiting any other rights it may have, defer payment for that part of the Consultancy Services until the Delegate is satisfied that the Consultancy Services have been provided (or provided again) in accordance with the Contract.
- 4.6 Payment of any amount to the Consultant will not constitute an admission by the Principal that the Consultancy Services have been properly provided in accordance with the Contract.

5. PERSONNEL AND SUBCONTRACTORS

- 5.1 The Consultant agrees not to subcontract to, or employ any other person the performance of any part of the Consultancy Services without prior written approval

of the Principal. The Consultant further agrees not to recruit or attempt to recruit staff, employees from amongst the Principal's personnel.

- 5.2 The Consultant will not allow its key personnel to delegate any part of the Consultancy Services for which they have been engaged. Nor will the Consultant allocate tasks not connected with the Consultancy Services to any of its key personnel who are engaged on the Consultancy Services, until the Consultancy Services allocated to that person have been completed to the satisfaction of the Principal.
- 5.3 The Consultant shall not make any changes in the personnel agreed under the terms of the Contract without notifying the Principal, which may oppose such a change on the basis of the Contract. The Consultant on its own initiative must propose a replacement if it becomes necessary to replace a member of the Consultant's personnel for reasons outside the Consultant's control. Where a member of the Consultant's personnel must be replaced, the replacement must possess at least equivalent qualifications and experience, and remuneration to be paid to the replacement cannot exceed that received by the member who has been replaced. Additional costs incurred by the replacement of the member are the responsibility of the Consultant.
- 5.4 The Consultant shall, in all dealings with its labour and labour of its subcontractors (if any) connected to the Contract, pay due regard to all relevant labour laws applicable to the Consultant's personnel (and subcontractors personnel) including laws relating to their health, safety and welfare. The Consultant shall also pay due regard to official public holidays and locally recognized days of rest in Samoa. If and when the Consultant considers it necessary to carry out services during these days so as to meet Due Dates and requests the Principal's consent thereto, the Principal shall not unreasonably withhold such consent.

6. RESPONSIBILITY OF CONSULTANT

- 6.1 The Consultant agrees to be fully responsible for the performance of the Consultancy Services and for ensuring compliance with the requirements of this Contract, and will not be relieved of that responsibility because of any:
 - (a) Involvement by the Principal and/or Delegate in the performance of the Consultancy Services;
 - (b) Payment made to the Consultant on account of the Consultancy Services;
 - (c) Subcontracting or employing of any other person to perform the Consultancy Services.

7. RESPONSIBILITY OF THE PRINCIPAL

- 7.1 Employees and staff of the Principal shall make themselves available to the Consultant during work hours to be interviewed in relation to the Consultancy Services.

- 7.2 The Principal shall grant access to the Consultant to view any data or information reasonably required by the Consultant in relation to the Consultancy Services.
- 7.3 The Principal shall assist the Consultant with arranging for consultation meetings with stakeholders for the purposes of the Consultancy Services.

8. INTELLECTUAL PROPERTY IN CONTRACT MATERIAL

- 8.1 Intellectual Property in all New Contract Material vests or will vest in the Principal in accordance with the Contract and the requirements set out in Items F and G of the Schedule. The Consultant agrees to be liable should there be a time lapse between commencement of the Consultancy Services and the date of the Contract to ensure that Material produced in that period is not pre-existing Material, in respect of which the Intellectual Property does not vest in the Principal. Intellectual property rights in records supplied to the Consultant by the Principal for reproduction or guidance remains vested in the Principal.
- 8.2 Title to and intellectual property rights in all New Contract Material, including each and every stage of design and production of it, will upon its creation be transferred to the Principal without need for further assurance. Otherwise, the Consultant agrees to bring into existence, sign, execute or otherwise deal with any document, which may be necessary or desirable to give effect to Clause 8.
- 8.3 This Contract does not affect intellectual property rights in Existing Contract Material but the Consultant grants, and will ensure that relevant third parties grant, to the Principal a paid up non-exclusive, non-transferrable license:
- (a) To use, reproduce and adapt for its own use; and
 - (b) To perform any other act with respect to copyright; and
 - (c) To manufacture, sell, hire or otherwise exploit a product or process or to provide a service or to license a third party to do any of those things in respect of,

The Existing Contract Material but not only as part of the Contract Material (and any further development of that material). The Consultant warrants that the Contract Material, excluding existing contract material, will not infringe any Intellectual Property rights including those of any third party.

- 8.4 Any Deliverable, studies, reports or other material, prepared by the Consultant for the Principal under this Contract shall remain the property of the Principal. The Consultant may retain a copy of such Material. Any disclosure or use of the Contract Material for purposes outside the scope of the Terms of Reference is subject to approval from the Principal.
- 8.5 Upon the expiration or earlier termination of this Contract, the Consultant will deliver to the Principal all records, contract material and all copies of it, and if necessary, transfer or have transferred any intellectual property rights to the Principal.
- 8.6 This Clause 8 shall survive termination or expiration of the Contract.

9. DISCLOSURE OF INFORMATION

- 9.1 The Consultant agrees not to disclose to any person, other than its employees, officers, subcontractors and agents (to the extent necessary for the performance of the Consultancy Services) and the Principal, any Confidential Information relating to this Contract or the Consultancy Services without prior approval from the Principal.
- 9.2 The Principal may impose any conditions or restrictions it considers appropriate when giving its approval under Clause 9.1.
- 9.3 The Principal may at any time require the Consultant to give, and to arrange for his officers, employees, agents and subcontractors engaged in the performance of the Consultancy Services to give, prompt undertakings in writing in a form required by the Principal, relating to the non-disclosure of Confidential Information.
- 9.4 The obligations on the Consultant under Clause 9 will not be taken to have been breached where the information referred to is legally required to be disclosed.
- 9.5 The Consultant shall immediately notify the Principal if it becomes aware of a breach of this Clause 9 or if a disclosure of Confidential Information is required by law.
- 9.6 The obligations under Clause 9 shall survive the expiration or termination of this Contract.

10. COMPLIANCE WITH LAW

- 10.1 The Consultant agrees, in carrying out this Contract, to comply with all relevant laws of Samoa.

11. CONFLICT OF INTEREST

- 11.1 The Consultant warrants that, to the best of its knowledge after making diligent inquiry, at the date of commencement of the Consultancy Services that no conflict with the interests of the Principal exists or is likely to arise in the performance of the Consultancy Services.
- 11.2 If, during the performance of the Consultancy Services, a conflict of interest arises, or appears likely to arise, the Consultant agrees to:
 - (a) Notify the Principal immediately in writing;
 - (b) Make full disclosure of all relevant information relating to the conflict or apparent or likely conflict;
and
 - (c) Take such steps as the Principal may reasonably require to resolve or otherwise deal with the conflict.
- 11.3 If the Consultant does not notify the Principal or is unable or unwilling to resolve or deal with the conflict as required under this Clause, the Principal may terminate this Contract in accordance with the provisions of this Clause or Clause 15.

12. INDEMNITY

- 12.1 The Consultant agrees to indemnify the Principal from and against any:

- (a) Liability incurred by the Consultant in the performance of the Consultancy Services;
- (b) Loss of or damage to property of the Principal caused by the Consultant, his officers, employees, agents or subcontractors;
- (c) Loss or expense incurred by the Principal in dealing with any claim against it including legal costs and expenses resulting from any act or omission by the Consultant, his officers, employees, agents or subcontractors in connection with this Contract;
- (d) Any breach by the Consultant of his obligations under this Contract, including any loss or damage attributable to any such breach; and
- (e) Any use or disclosure by the Consultant, his officers, employees, agents or subcontractors of Confidential Information held by him or them or controlled by him or them in connection with this Contract.

12.2 The Consultant's liability to indemnify the Principal under sub-clause 12.1 will be reduced proportionately to the extent that any negligent act or omission of the Principal contributed to the relevant liability, loss or damage.

12.3 The obligations under Clause 12 shall survive the expiration or termination of this Contract.

13. INSURANCE

13.1 The Consultant agrees, for so long as any obligations remain in connection with this Contract, to take out and maintain in effect the insurance specified in Item H of the Schedule for all the Consultant's obligations under this Contract, including those which survive the expiration or termination of the Contract.

13.2 The indemnity of the insurers and the form of the policies shall be subject to the approval of the Principal, such as approval not to be unreasonably withheld.

14. DISPUTE RESOLUTION

14.1 The Parties agree that any dispute arising during the course of this Contract will be dealt with as follows:

- (a) First, the Party claiming that there is a dispute will send to the other a notice setting out the nature of the dispute;
- (b) Secondly, the Parties will try to resolve the dispute by direct negotiation, including by referring the matter to persons who may have authority to intervene and direct some form of resolution;
- (c) Thirdly, the Parties have 30 working days from the sending of the notice under (a) to reach a resolution or to agree that the dispute will be submitted to mediation or some other form of alternative dispute resolution procedure; and
- (d) Lastly, either party may commence legal proceedings if:
 - (i) There is no resolution or contract; or

(ii) there is a submission to mediation or some other form of alternative dispute resolution procedure, but there is no resolution within 30 working days of the submission, or such extended time as the parties may agree in writing before the expiration of the 30 working days.

14.2 Where a matter becomes a dispute in accordance with Clause 14, either party may, within 48 hours notice to the other party, suspend the performance of the Consultancy Services until such time as the dispute is resolved. The Parties, however, may agree to waive suspension and may continue, to the extent possible, to implement those parts of the Contract unrelated to the dispute.

14.3 Clause 14 does not apply to either party commencing legal proceedings for urgent interlocutory relief.

15. TERMINATION OF CONTRACT

15.1 The Principal may, at any time by notice, terminate or reduce the scope of this Contract immediately.

15.2 Upon receipt of a notice of termination or reduction under subclause 15.1 the Consultant agrees to:

- (a) Stop work as specified in the notice;
- (b) Take all available steps to minimize loss resulting from the termination or reduction and to protect Contract Material; and
- (c) Continue work on any part of the Consultancy Services not affected by the notice.

15.3 Where there has been a termination under subclause 15.1, the Principal shall be liable only for:

- (a) Payments under Item A and D of the Schedule for services rendered before the effective date of termination; and
- (b) Reasonable costs incurred by the Consultant which are directly attributable to the termination.

15.4 In relation to any payment under subclause 15.3(b), the Principal shall not be liable to pay an amount which would, in addition to any amounts paid or due, or becoming due, to the Consultant under this Contract, together exceed the costs set out in Item D of the Schedule.

15.5 The Consultant shall not be entitled to any compensation for termination or reduction under this Clause, including any compensation for loss of prospective profits.

15.6 Upon termination of this Contract, all monies which has been paid and all money to be paid for work and services done prior to the date of termination will be in full and final satisfaction of claims by the Consultant under this Contract.

16. TERMINATION FOR DEFAULT

16.1 Where a party fails to satisfy any of its obligations under this Contract, the other party may give notice requiring that the failure be remedied within a period of fourteen (14) days and if not remedied within that time, may terminate the Contract immediately.

17. FORCE MAJEURE

17.1 "Force Majeure" refers to any event, including, but not limited to, wars, strikes, epidemics, civil disturbances, natural disasters or inclement weather, that is unforeseeable and beyond the reasonably control of either Party, the occurrence and effect of which is unavoidable and insurmountable.

17.2 Should a Party, due to the occurrence of Force Majeure, fail to perform this Contract in full or in part, such Party shall, in light of the effect of the Force Majeure, be exempted from all or some of its responsibilities hereunder.

17.3 Should a Party fail to perform on time its duties under this Contract and subsequently Force Majeure were to occur, such Party shall not be exempted from any of its liabilities hereunder as a result of its failure to perform said duties.

17.4 Should a Party be unable to perform this Contract as a result of Force Majeure, it shall inform the other Party, as soon as quickly as possible following the occurrence of such Force Majeure, of the situation and the reason(s) for the nonperformance, so as to minimize any losses incurred by the other Party as a consequence thereof.

17.5 The Party affected by Force Majeure may suspend the performance of its obligations under this Contract until any disruption resulting from the Force Majeure has been resolved. However, such Party shall make every effort to eliminate any obstacles resulting from the Force Majeure, thereby minimizing to the greatest extent possible its adverse effects, as well as any resulting losses.

17.6 If the performance of the Contract is substantially prevented, hindered or delayed for a single period of more than thirty (30) days or an aggregate period of more than sixty (60) days on account of one or more events of Force Majeure during the currency of the Contract, the parties will attempt to develop a mutually satisfactory solution, failing which either party may terminate the Contract by giving a notice to the other.

18. NEGATION OF EMPLOYMENT, PARTNERSHIP AND AGENCY

18.1 The relationship of the Consultant to the Principal is that of independent contractor and nothing contained herein shall be construed as creating any other relationship. The Consultant agrees not to represent himself, and to use his best endeavours to ensure that his officers, employees, agents and subcontractors do not represent themselves, as being an officer, employee, partner or agent of the Principal, or as otherwise able to bind or represent the Principal.

18.2 The Consultant is not by virtue of this Contract an officer, employee, partner or agent of the Principal, nor does the Consultant have any power or authority to bind or present the Principal.

19. WAIVER

19.1 If a party does not exercise (or delays in exercising) any of its rights, that failure or delay does not operate as a waiver of those rights.

19.2 A single or partial exercise by a party of any of its rights does not prevent the further exercise of any right.

19.3 In Clause 19, 'rights' means rights or remedies provided by this Contract or at law.

20. ASSIGNMENT AND NOVATION

20.1 The Consultant cannot assign its obligations, and agrees not to assign its rights, under this Contract without, in either case, prior written approval from the Principal. Any attempted assignment without such approval shall be null and void.

20.2 The Consultant agrees not to consult with any other person for the purposes of entering into an arrangement that would or could require novation of the Contract without first consulting with and obtaining the written approval of the Principal.

20.3 This Contract shall inure to the benefit of and be binding on the respective successors, representatives and assigns of the Consultant.

21. APPLICABLE LAW

21.1 The Contract shall be governed by and construed in accordance with the laws in force in Samoa.

22. NOTICES

22.1 Any notice, request or other communication to be given under this Contract is to be in writing and dealt with as follows:

(a) If given by the Consultant to the Principal – marked for the attention of the Delegate at the address indicated in Item I of the Schedule; or

(b) If given by the principal to the Consultant – signed by the Delegate and marked with the address indicated in Item J of the Schedule.

22.2 Any notice, request or other communication is to be delivered by hand or sent by pre-paid post or transmitted electronically, and if it is sent or transmitted electronically a copy is to be sent to the addressee by pre-paid post.

22.3 A notice, request or other communication shall deem to be received:

(a) If delivered by hand, upon delivery;

(b) If sent by pre-paid post, upon the expiration of 2 working days after the date on which it was sent; and

- (c) If transmitted electronically, upon receipt by the sender of an acknowledgement that the communication has been properly transmitted to the recipient.

23. SKILLS TRANSFER

23.1 The Consultant shall use its best endeavours to impart skills and to instruct the Principal's employees with whom the Consultant has contact in the performance of the Consultancy Services, with a view to increasing and consolidating the skills base within the Principal's Accounts Division. These skills must be practical and applicable here in Samoa.

24. SECURITY AND ACCESS

24.1 The Consultant will, when using the Principal's premises or facilities, comply with all rules, directions and procedures including those relating to security and to workplace health and safety in effect at the premises or in regard to the facilities notified to the Consultant by the Principal.

24.2 The Consultant will give the Delegate, and any other persons authorized in writing by the Principal, reasonable access to premises occupied by the Consultant where the Consultancy Services are being undertaken and will permit them to inspect any Contract Material or other Material related to the Consultancy Services.

24.3 The Delegate and any other person authorized by the Principal, when at the Consultant's premises will comply with all rules, directions and procedures including those relating to security and to workplace healthy and safety in effect at the premises or in regard to the facilities as notified by the Consultant to the Principal.

25. COUNTERPARTS

25.1 The parties may execute this Contract in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one contract. The signatures of all of the parties need not appear on the same counterpart, and delivery of an executed counterpart signature page by facsimile is as effective as executing and delivering this Contract in the presence of the other parties to this Contract. This Contract is effective upon delivery of one executed counterpart from each party to the other parties. This clause shall not apply if counterparts not required.

THE SCHEDULE

A. ITEM A – THE SERVICES (SEE CLAUSES 1.1 AND 3.1)

A1. The services to be provided by the Consultant are as follows

B. Required Contract Material (see clauses 1.1 and 3.1)

3.1

The Consultant shall provide to the Principal the following materials if not already stated in the Terms of Reference above:

C. Time-frame (see clauses 1.1 and 3.1)

The Consultancy Services are expected to commence on _____ and must be completed by _____

D. Payment of Consultancy Fee (see clauses 1.1 and 4.1)

D1. Consultancy Fee

Consultancy Fee	(SAT\$)

The total Consultancy Fee shall be \$ _____ inclusive of VAGST. The Consultancy Fee shall be paid in accordance with the following Milestone chart:

Activity	Outcomes and due dates	Payment Conditions

Each payment shall be made within fourteen (14) working days of the submission by the Consultant of an invoice correctly identifying the Principal and indicating the outcome to which the payment relates as approved by the Principal. Payment to be made to Samoa domiciled bank account the details which the Consultant will provide to the Principal prior to execution of the Contract.

E. Delegate (see clause 1.1 and 3.1)

The Delegate has responsibility under the Contract for general liaison with the Consultant, supervising the Consultant's performance, approving payment of the Consultant's costs (if applicable), and accepting and issuing any written notification under the Contract. The Principal reserves the right to cancel or modify, within the terms and conditions of this Contract, any approach or activity of the Consultant in relation to this consultancy that the Principal requires to ensure that such approach or activity is in line with the objectives of the Contract.

The Delegate is:

F. Use of Contract Material (see clause 8)

The Consultant shall ensure that New Contract Material used, including title to and ownership of intellectual property, shall vest upon its creation in the Principal. On the completion or earlier termination of the Contract, the Consultant shall deliver to the Principal all Contract Material. The Consultant shall ensure that the Contract Material is used, copied, supplied and reproduced only for the purposes of the Contract.

G. Existing Material (see clause 8)

The Consultant shall inform the Principal of any pre-existing Contract Material for which Intellectual Property is not to vest in the Principal. This would arise typically in relation to material owned by the Consultant, although it may also arise in relation to Material owned by a third party. The Consultant must grant or procure the grant to the Principal of a license to use the Material in the terms set out in Clause 8.

H. Insurance (see clause 13.1)

In accordance with the provisions of Clause 13.1 the Consultant shall at its expense take out and maintain in effect, during the performance of the Contract and while the Contract remains valid, the insurances set forth below in the sums and with the conditions specified.

H1. Professional indemnity insurance – covering any damage or loss suffered by the Principal as a result of the Consultant's negligence in the performance of the Consultancy Services. The Consultant shall ensure that run-off coverage is added to the policy. The Consultant shall inform the Principal if it switches insurers, cancels the policy or allows the policy to lapse.

- Coverage amount – Value of the Consultancy Fee plus 30%
- Deductible Limit – 10% of the coverage amount

H2. Third Party liability insurance – Covering bodily injury or death suffered by third parties (including the Principal’s personnel), and loss of or damage to property (including the Principal’s property) occurring in connection with the provision of the Consultancy Services.

- Coverage amount – SAT\$500,000
- Deductible Limit – SAT\$25,000

I. Principal’s Address for Notices (see clause 22.1)

General Manager
Electric Power Corporation
Level 5, TATTE Building
Sogi
Apia
SAMOA

J. Consultant’s Address for Notices (see clause 22.1)

The Consultant’s address for notices is:

IN WITNESSTH THEREOF:

SIGNED by [insert name of the Principal])

.....

Of the **ELECTRIC POWER CORPORATION**)

)

For and on behalf of the Principal)

In the presence of:

.....

(Signature)

AND

AFFIXED HERETO IS THE COMMON)

.....

SEAL of [insert name of the Consultant]

In the presence of:

.....

Signature

.....

Full Name and Occupation

.....

Address