

# Government of Montserrat

## Invitation to Tender for Ferry Services



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# **Background**

## **1.1.Montserrat**

The Government of Montserrat is an internally self-governing overseas territory of the United Kingdom.

Government is executed through a Governor appointed by the Queen, and is led by the Premier as the Head of Government along with three (3) Ministers.

Montserrat is a mountainous little gem in the Lesser Antilles chain of islands nestled between Antigua and Barbuda, St Kitts and Nevis and Guadeloupe. Montserrat has a population of 4,600 (2018 estimate) with a land area 16 km long and 11km wide. It has a rich mixture of African, North American, and European influences. The official language of Montserrat is English. Montserrat was very well integrated in the 1990's with a population peaking at around 14,000; with a regional airport and cruise ship terminal with a capacity for handling 45,000 tourists per year.

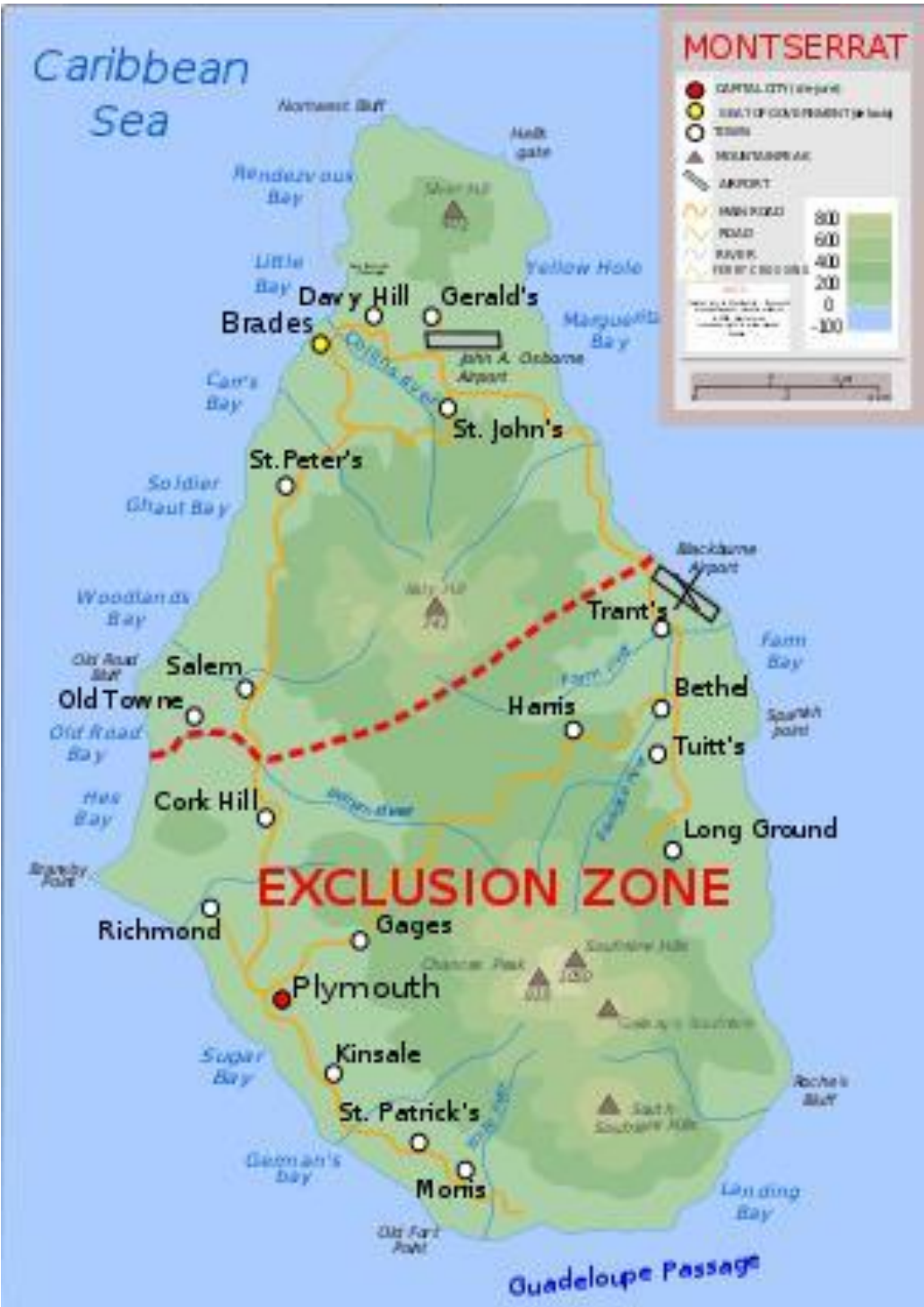
In 1989 Hurricane Hugo devastated the Island. During the following years. Montserrat embarked on a rigorous rebuilding programme. However, this recovery was interrupted by the eruption of the Soufriere Hills Volcano in 1995 and subsequent eruptions that destroyed Plymouth (capital city), the airport and seaport. The capital city Plymouth has remained abandoned since 1997 due to ongoing volcanic activity.

This led to a period of sustained economic decline and rising dependence on budgetary aid from the United Kingdom (UK) Government. In particular, the lack of suitable long-term access was and remains a binding constraint on private sector development and economic growth.

## **1.2.Government Business**

Further information about the Government's business can be found on our Internet site: [www.gov.ms](http://www.gov.ms)

Figure 1 – General Map of Montserrat



## 2. The Invitation to Tender (ITT)

ITEM	CONTRACT DETAILS
Contract Title	<b>Invitation to Tender for Montserrat Ferry Services</b>
Period of Contract:	<b>12 months</b>
Contract commencement date:	<b>1<sup>st</sup> October 2019</b>
Tender Queries	Any clarifications or queries relating to the tender should be submitted via the Mytenders Portal <a href="http://www.mytenders.org">http://www.mytenders.org</a> or in writing to Ms Harjinder Jutle at <a href="mailto:Jutleh@gov.ms">Jutleh@gov.ms</a> no later than 12.00 midday on Monday 15th July 2019.  When submitting a query please quote the specific <b>section</b> and <b>question number</b> for which you require information or clarification. Please note it is GoM's policy to publish responses to all queries. Any questions deemed to be commercially confidential should therefore be clearly marked.
Submission instructions:	There are 2 options for submitting a tender 1. Through the e-sourcing portal myTenders 2. Hard copy submission -see section on submitting a tender section 2.2 below

### 2.1.Tender for Montserrat Ferry Services (OP/MOFEM/0618)

Potential bidders are invited to tender for the Montserrat ferry service to operate between Montserrat and Antigua. The tender is for the charter of a fully crewed vessel to be available 6 days per week, to work to the timetable set out by the Government, and any other journeys that may be determined by the Government. Fuel and Lubes (engine oil) costs will be met by the Government and do not form part of this tender, other than through the requirement to be transparent about fuel usage.

Tender submissions are to be received no later than **12:00 midday Eastern Caribbean Time on Wednesday 24<sup>th</sup> July 2019.**

Any clarifications or queries relating to the tender should be submitted via the myTenders Portal <http://www.mytenders.org> or in writing to Ms Harjinder Jutle, [Jutleh@gov.ms](mailto:Jutleh@gov.ms) no later than **12.00 midday on Monday 15th July 2019.**

## Guidelines for Submitting a Tender

- 2.1.1. Bidders must provide a detailed proposal for operating the Passenger Ferry Services in their Tender Submission. Bidders should note that the operational details, service standards and other statements on service provision and legislative compliance made by the Bidder as part of their proposals will form a binding part of the final Contract for the operation of the Services.
- 2.1.2. There are two options for submitting a tender
- i. Electronic tender submissions can be downloaded and submitted via the myTenders Portal at <https://www.mytenders.co.uk/>. If you are intending to make an electronic submission to this tender, please register your interest on myTenders at the earliest opportunity. Please ensure that you allow sufficient time to upload your documents.
  - ii. Hard Copies (paper copy) can also be downloaded from the Government of Montserrat website at <http://www.gov.ms/tenders>. Tender submissions can be submitted by hand – Please follow the instructions set out below;
- 2.1.3. Submitting a hard copy (paper copy) of your tender
- You will need two plain envelopes for the Tender submission
  - You must follow these instructions, failure to do so may result in the bid being non-compliant and not considered any further.

### Envelope 1.



Follow the steps written below:

1. Write the name of the bidder (Bidder, Supplier) on this envelope
2. Write the name of the project and the address on the envelope as written below;

**Supplier Name (Your Company Name)  
Tender for Montserrat Ferry Services  
Chairperson, Public Procurement Board  
Ministry of Finance and Economic Management  
P.O. Box 292  
Brades,  
Montserrat, MSR1110**

3. Now put this envelope into another plain envelope

Envelope 2. ✗

Continue following the steps below:

4. Envelope 1 should now be inside this envelope (Envelope 2), seal the envelope and then write the Project Title and address for Tender return.

**Tender for Montserrat Ferry Services  
Chairperson, Public Procurement Board  
Ministry of Finance and Economic  
Management P.O. Box 292,  
Brades,  
Montserrat,  
MSR1110**

**\*NB: Envelope 2 must not have the Bidders name on it or any other markings.  
Failure to comply with this requirement will lead to your  
submission being deemed non-compliant and not considered  
any further.**

Tenders are to be delivered to the address above and Bidders will be given a receipt

## **2.2.Tender Timetable**

This timetable is indicative only. The GoM reserves the right to change it at its discretion.

<b>Stage</b>	<b>Date(s)/time</b>
Issue of Invitation to Tender	Sunday 23rd June 2019
Deadline for Clarification questions	Monday 15 <sup>th</sup> July 2019
Latest date for Issuing Clarifications	Wednesday 17 <sup>th</sup> July 2019
Tender Submission Deadline	Wednesday 24 <sup>th</sup> July 2019 <b>by 12:00 hrs NOON</b> Tenders received after the due time will not be considered.
Evaluation of Tenders	29 <sup>th</sup> July – Friday 10 <sup>th</sup> August 2019.

Stage	Date(s)/time
Expected date to award tender	Friday 16 <sup>th</sup> August 2019
Indicative Mobilisation period	Monday 19 <sup>th</sup> August to Monday 30 <sup>th</sup> September 2019
Contract commencement	1 <sup>st</sup> October 2019.

### 3. Tender Requirements

#### 3.1. Conditions of bidding

- i. A Tender shall only be accepted as compliant if all the information included in the Check List in APPENDIX 5 is included.
- ii. All charges shown on the form of tender will remain valid from the date of receipt of tender submission until this tender process has been completed. The submission should not be qualified in anyway. The GoM shall not be liable for any cost incurred by any of the Bidders.
- iii. The GoM reserves the right not to accept any tender and to end the competition without awarding a Contract. Bidders should be aware that it is unlikely that the GoM will be in a position to go forward with any tender that fails to meet the minimum standards required. The GoM also reserves the right to issue supplementary documentation at any time during the tender process to clarify an issue or amend any aspect of this ITT. Any additional documentation issued by the GoM during the tender process shall be deemed to form part of this ITT and shall supersede any part of the ITT where indicated. The GoM may also exercise the option to extend the tendering period and/or postpone the Tender Submission Deadline in the event that subsequent documentation is issued. If this occurs the GoM will publish an Addendum on GoM website and myTenders. It is the sole responsibility of bidders to regularly check the GoM website during the tender process for updates.
- iv. Section 7 Standard Terms and Conditions for Service. If you wish to raise any issues you must raise these during the clarification period. You are required to accept these Standard Terms and Conditions for Service as part of your ITT submission. The successful bidder will be required to sign the contract based on the Standard Terms and Conditions issued as part of the procurement process.



- v. Bidders must obtain for themselves at their own expense all information necessary for the preparation of their Tenders.
- vi. Under the Contract the GoM will require compliance with legislative requirements and service standards. Bidders are advised to satisfy themselves that they understand all the requirements of the Contract before submitting their Tender.
- vii. The Tender must be received in accordance with the relevant instructions no later than the time and date indicated in the instructions.
- viii. Tenders must be completed in the English language or a full English translation provided at no cost to the GoM.
- ix. In completing Tender submissions and/or requesting clarification, Bidders must refer back to the numbering format as set out in the Technical Specification or quote the relevant section in the ITT.
- x. Only one Tender is permitted from each Bidder. In the event that more than one is submitted by a Bidder the one with the latest time of submission will be evaluated and the other(s) disregarded.
- xi. The submission will be checked for completeness and compliance before responses are evaluated.
- xii. Any signatures must be made by a person who is authorised to commit the Bidder to the Contract.
- xiii. This ITT is made available in good faith. No warranty is given as to the accuracy or completeness of the information contained in it and any liability or any inaccuracy or incompleteness is therefore expressly disclaimed by the GoM and its advisers
- xiv. The GoM reserves the right to cancel the tender process at any point. The GoM is not liable for any costs resulting from any cancellation of this tender process or for any other costs incurred by those tendering for this Contract.
- xv. All information supplied by the Contracting Authority in connection with this Invitation to tender shall be regarded as confidential except that such information may be disclosed for the purpose of obtaining sureties and quotations necessary for the preparation of responses to this Invitation to Tender.
- xvi. Bidders are deemed to understand fully the processes that the GoM is required to follow under Public Finance (Management and Accountability) Procurement Regulations 2012

- xvii. In the event that Bidders believe that they are unable to submit a Tender through the electronic e-sourcing portal or require assistance or further information to be able to use the e-tendering process, they must contact the procurement department by phone or email at [Jutleh@gov.ms](mailto:Jutleh@gov.ms) no later than 5 calendar days before the Tender submission due date, to enable any technical queries to be investigated and resolved.

### **3.2. Contract Requirements**

- 3.2.1. The Technical Specification details the required Service Level Agreements, Key Performance Indicators and overall GoM requirement. The Bidder shall be required to confirm their ability to meet the Technical Specification that is contained within APPENDIX 5
- 3.2.2. The Bidder will be expected to agree to the Contract Terms and Conditions contained within this ITT. The Contract Terms and Conditions must be signed prior to Contract commencement.
- 3.2.3. The Bidder's terms of business will not be accepted in lieu of or in addition to the Contract Conditions forming part of this ITT.

### **3.3. Commercial Requirements**

- 3.3.1. Bidders must complete a Pricing Schedule to provide all of the obligations under the Contract.
- 3.3.2. All Prices shall be stated in Eastern Caribbean dollars.
- 3.3.3. Except in cases where there is an exemption from tax, of which proof must be provided; residents of Montserrat for tax purposes are subject to tax on the profits from this project while non-residents are liable to a 20% withholding Tax deduction from the gross amount. When bidding please take into consideration your tax obligations and liabilities to the GoM. For further information please contact Montserrat Customs & Revenue Service (MCRS) for further information via email at [irev@gov.ms](mailto:irev@gov.ms)
- 3.3.4. The successful Bidder will be responsible for all its costs relating to mobilisation of the Services, the operation of the Services as described in this ITT including crewing and other staff costs, upkeep and maintenance of vessels, the provision of any replacement vessel when required and obligations relating to the handover of the Services at the end of the Contract Period if the operator is not appointed to provide the same or similar services thereafter pursuant to a subsequent procurement process. Such costs are to be included in the breakdown of cost.
- 3.3.5. The GoM may wish to undertake a sea trial and site visit to your premises, in order to clarify any aspect of your tender submission. Following the site visit, the GoM reserves the right to re-moderate the scores given to your submission.

### **3.4. Financial Structure**

- 3.4.1. Bidders are required to make full disclosure to the GoM of any relationships with other companies. Any Bidder meeting the Minimum Standard, but sharing the cost of assets involved in the provision of other services, will be required to satisfy the GoM that adequate systems would be put in place – and if a Contract is placed the successful Bidder will have to satisfy the GoM that such adequate systems have been put in place to ensure no cross-subsidisation occurs between the services which are subject to this Contract and any other ferry route or any other activities.

3.4.2. Changes in Circumstances

Bidders are required to inform the GoM immediately if any of the following occurs:

- i. Changes to the corporate structure or membership set out in their tender submitted; and
- ii. any other changes to their circumstances or their Tender Submission which might affect the GoM's decisions as to the suitability of their Tender Submission.

### **3.5.Contract and Compliance Legal Jurisdiction**

- 3.5.1. The Successful Bidder will be required to ensure compliance with all applicable International Conventions and Regulations including any National Regulations and to ensure that relevant industry codes, guidance and standards are fully taken into account at all times and, in particular, with the requirements of the International Safety Management (ISM) Code.
- 3.5.2. The successful Bidder will be required to comply with all relevant rules and regulations including Health and Safety at Work Regulations enforced by the Health and Safety Executive and the Port Marine Safety Code as applicable.
- 3.5.3. The Successful Bidder will be required to have regard to any International or legislative framework and obligations in relation to disabled people.

### **3.6.Contract Duration and Variations**

- 3.6.1. The Contract Period under this passenger ferry service Contract will be for twelve (12) months and is expected to commence on 1st October 2019 and terminate on 30th September 2020, subject to the GoM's right of earlier termination on default under the Contract.  
Consideration maybe given to an extension for up to 12 months this is entirely dependent on funding availability and strategic objectives of GoM and DFID.

- 3.6.2. Bidders should note that although the Contracted Services represent the primary route between Montserrat and Antigua for the Contract Period, the Contract allows for variations to cater for unforeseen and/or changing needs during the Contract Period. The Operator will be required to operate any changed services proposed by the GoM throughout the Contract Period should the GoM consider that the Services under this Contract have or are to become inadequate or inappropriate for any reason.
- 3.6.3. The Operator may not transfer or assign the Contract or any part thereof without the written approval of the GoM.

### **3.7.Constraints, Risks and other Key Points to note**

- 3.7.1. Bidders must be aware that safety is of paramount importance for service provided under this Contract. The Operator is required to meet all applicable safety requirements both onshore and afloat for vessels, passengers and crew in operating the Services. While specific safety requirements are set out in this ITT, it is for the Operator to ensure that it complies with all relevant national and international legislation, Conventions, Directives, as well as Industry Codes and Standards.

### **3.8. Anti-Collusion Statement and Declaration of Interests**

- 3.8.1. All Bidders must ensure that the enclosed anti-collusion statement form and declaration of interests is duly signed and returned with the tender. Failure to submit the signed anti-collusion and declaration of interest declaration will invalidate your tender.
- 3.8.2. Direct or indirect canvassing of any GoM, public service employee or agent by any Bidder concerning this requirement, or any attempt to procure information from any GoM or, public service employee or agent concerning this ITT may result in the disqualification of the Bidder from consideration for this requirement.
- 3.8.3. No information contained in this ITT or in any communication made between the GoM and any Bidder in connection with this ITT shall be relied upon as constituting a Contract, agreement or representation that any Contract shall be offered in accordance with this ITT. The GoM reserves the right, subject to the appropriate procurement regulations, to change without notice the basis of, or the procedures for, the competitive tendering process or to terminate the process at any time. Under no circumstances shall the GoM incur any liability in respect of this ITT or any supporting documentation.

### **3.9.Sub-Contracting and Consortia Arrangements**

- 3.9.1. Where a sub-Contracting approach is proposed, all information requested should be given in respect of the prime Contractor.

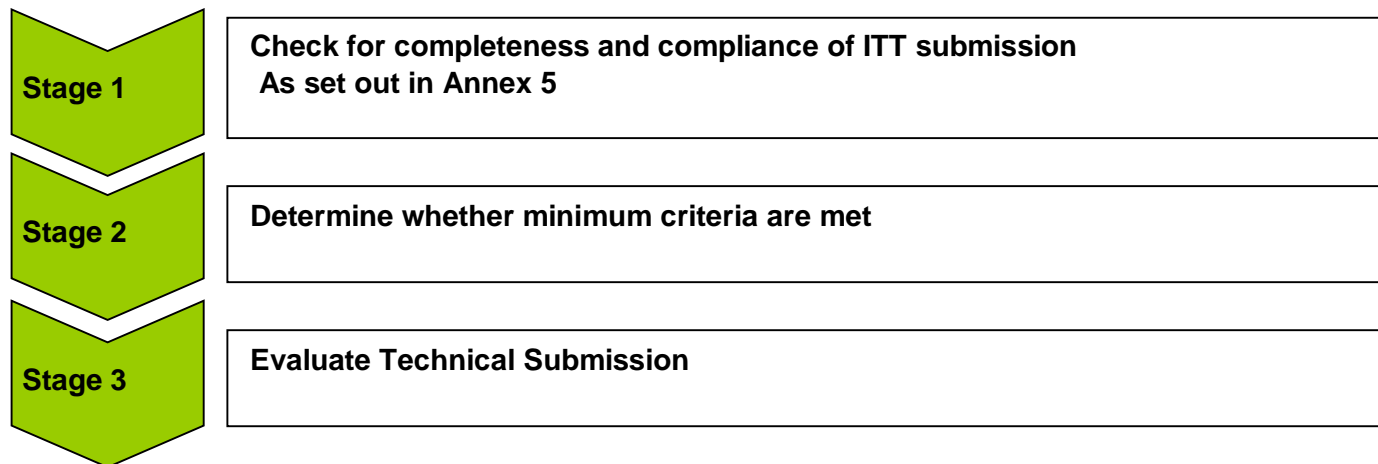
- 3.9.2. Where sub-Contractors will play a significant role in the delivery of the services or products under any ensuing Contract, please indicate in a separate APPENDIX (by inserting the relevant company/organisation name) the composition of the supply chain, indicating which member of the supply chain will be responsible for the elements of the requirement.
- 3.9.3. It is recognised that arrangements in relation to sub-Contracting may be subject to future change. However, Bidders should be aware that where sub-Contractors are to play a significant role, any changes to those sub-Contracting arrangements may constitute a material change and therefore may affect the ability of the Potential Provider to proceed with the procurement process or to provide the goods and/or services.
- 3.9.4. If the Potential bidder bidding for a requirement is a consortium, the following information must be provided:
- i. full details of the consortium;
  - ii. and the information sought in respect of each of the consortium's constituent members as part of a single composite response.
- 3.9.5. Bidders should provide details of the actual or proposed percentage shareholding of the constituent members within the consortium in a separate APPENDIX. If a consortium is not proposing to form a corporate entity, full details of alternative proposed arrangements should be provided in the APPENDIX. However, please note GoM reserves the right to require a successful consortium to form a single legal entity.
- 3.9.6. The GoM recognises that arrangements in relation to consortia may (within limits) be subject to future change. Bidders should therefore respond in the light of the arrangements as currently envisaged. Bidders are reminded that any future proposed change in relation to consortia must be notified to the GoM so that it can make a further assessment by applying the selection criteria to the new information provided.

### **3.10. Freedom of Information**

- 3.10.1. If Bidders, consider that any of the information provided in their Tender is commercially sensitive (meaning it could reasonably cause prejudice to the organisation if disclosed to a third party) then it should be clearly marked as "Not for disclosure to third parties" together with valid reasons in support of the information being exempt from disclosure.

## 4. Evaluation Process

### 4.1. Tender submissions will be evaluated based on the following ITT Evaluation stages:



#### Stage 1

When evaluating ITT submissions received, we will check them to ensure that:

- they comply with all instructions
- they do not contain any qualifications or conditions,
- they are clear and comprehensive, and
- they are valid and complete

Submissions that are not complete will be eliminated and not considered further.

#### Stage 2

Evaluation that the submission meets the minimum criteria for the Vessel. Submissions that do not meet the minimum criteria will be eliminated and not considered further.

#### Stage 3

The submissions who meet all the requirements assessed under stages 1-2 will now have their submissions evaluated in accordance with the tables below.

If the GoM needs to clarify any points, questions will be submitted in writing to the Bidder via the e-Sourcing portal or via email. The response will be required in writing through myTenders or email to [Jutleh@gov.ms](mailto:Jutleh@gov.ms).

#### Stage 4

Bidders' submissions will be assessed and ranked according to their prices submitted and the total points achieved following the evaluation and final moderation of scores. The GoM may also seek further clarification from Bidders to confirm price and cost assumptions.

## **4.2. Technical Evaluation**

- 4.2.1. The Contracting Authority will award a Contract based on the optimum solution(s) that best meets its needs. Bidders will wish to be aware that the evaluation will be based on both the price evaluation (60%) which will be scored relative to each other; and the content of the Technical Submission (40%). Please be aware that evaluators will not be able to assume knowledge on the part of the Bidder. Bidders should therefore consider the level of detail and completeness in the Submission as regards how they would intend to operate the Services.

## **4.3. Minimum Criteria**

Submissions must meet the following criteria to be awarded the Contract:

- i. At least 25 meters in length
- ii. Closed cabin
- iii. Service speed of no less than 25 knots
- iv. Equipped with state of the art Radar, GPS Plotters Sounders / Sonar, radios and Marine Sat phone system and auto pilot.
- v. Equipped with Offshore Survival Life Rafts, Offshore Life Jackets, EPIRB's, flares and Fire Fighting equipment to comply with MSA standards. Capable of operating in seas with Beaufort swells and wave conditions of up to two meters.
- vi. All open deck areas are guarded with a minimum 1m high safety rail.
- vii. Independent steering, propulsion, electrical and fire-fighting systems
- viii. Able to provide a loose freight and parcels service for the transportation of loose items such as small to medium sized packages, mail freight, frozen and perishable goods.
- ix. Capable of carrying ten pallets of dry cargo, and large luggage space.
- x. At least two working toilets

#### 4.4. Weighting of qualitative scores

Should these criteria be met then 40% of the marks will be allocated on the following criteria:

Evaluation Criteria – 40% overall weighting		
1	<b>Operational Management Plan.</b> This should include a detailed explanation of how the operator intends to manage operational requirements.	10%
2	<b>Service Continuity (contingency) plan</b> for a back-up service in the event the main vessel is unable to perform the services under the Contract.	5%
3	<b>Safety Plan.</b> The plan should address all major issues concerned with the prevention of accidents and the minimizing of their effect, and contingency arrangements in the event of a major incident.	5%
4	<b>Mobilisation Plan.</b> This should include a timetable with key milestones.	5%
5	Journey time for the scheduled service to and from Antigua	5%
6	Please refer to section 5. Current Access Status to ensure that you fully understand service patterns and trends.  Please explain how you will meet fluctuating passenger demand for the service.	5%
7	What arrangements will you make to meet the needs of individuals with sensory/physical or special needs.	2%



8	How will you ensure the provision of performance-related information required under the Contract and how will you ensure the quality of the information.	3%
9	Please indicate capacity for carrying passengers and cargo	This is for information only and will not be scored as part of the evaluation.

- 4.4.1.** The evaluation criteria will be scored on merit, by evaluation team members, independently of each other. Initial results will then be discussed by the evaluation team members to arrive at a final consensus score.

#### 4.5. Scoring

- 4.5.1. For criteria 5 the bidder with the shortest journey time will receive the maximum score. Other bidders scores will be proportionate to this.
- 4.5.2. For other criteria quality will be measured by evaluation of the information submitted by the bidder and scored out of 10 according to the following criteria

Scoring - Quality & Sustainability Criteria	
Rating of Response	Score
Very Good or Fully Compliant Submission which meets all requirements and is fully explained in comprehensive detail. Clearly includes all the information requested and instils full confidence that the Bidder has the ability to fully meet the requirements of the Contract.	9 – 10
Good or Fully Compliant Submission which meets all the requirements and is explained in reasonable detail. Includes all the information requested and instils reasonable confidence that the Bidder has the ability to fully meet the requirements of the Contract.	7 – 8
Satisfactory or Compliant Submission which meets the essential requirements and is explained in adequate detail. Although brief or lacking some detail, all the information requested has been supplied and the GoM is relatively confident that the Bidder has the ability to meet the requirements of the Contract.	5 – 6

Weak or Partially Compliant (Minor issues) Submission which in some areas falls short of requirements and is poorly explained. Not all of the information requested has been supplied and The GoM has minor concerns regarding the Bidders ability to meet the requirements of the Contract.	3 – 4
Unacceptable or Non-Compliant (Major issues) Submission which clearly fails to meet requirements and is not explained. Key information requested has not been supplied and the GoM has major concerns regarding the Bidders ability to meet the requirements of the Contract.	1 – 2
An answer to the question has not been provided or the Bidder has not understood the requirements of the question and therefore the answer provided does not address the question. Note that in some instances, not responding to a question may result in your Tender being rejected and a fail mark awarded. Such questions will be identified within the Tender documents.	0

- 4.5.3. Weighted quality scores will be calculated by multiplying the average score for each submission by its individual weighting. The weighted scores will be totalled for each bid.
- 4.5.4. Any Bidder who achieves an 'Unacceptable' score of '0' for any of the questions will be deemed to have failed to meet the GoM's minimum acceptable standards and therefore will not be evaluated further and will not be considered for Contract award.
- 4.5.5. Any Bidder who does not achieve any declared minimum quality score will be deemed to have failed to meet the GoM's minimum acceptable standards and therefore will not be evaluated further and will not be considered for Contract award.
- 4.5.6. The GoM also needs to be confident that the successful Bidder has a clearly identifiable organizational and financial structure to allow any remuneration on behalf of the service outlined in the Contract to be transparent, ring-fenced and auditable as part of the financial and monitoring arrangements.

#### **4.6.Contract Pricing**

- 4.6.1. The Bidder shall include in their submission a completed and signed Price Schedule and include table showing a breakdown of the annual cost. The breakdown must include hiring charter rate from and to Antigua, rotation journey cost based on 6 days per week.  
In addition, the breakdown must include an indicative cost of fuel and lubes (engine oil).
- 4.6.2 The GoM shall pay the operator a hiring charter rate. This will be for 6 days per week. This may vary dependent on needs of GoM

- 4.6.3. The Charges tendered shall remain valid from the date of the receipt of the proposal until the tender process is complete & the contract awarded.
- 4.6.4. The Contract price shall be fixed for the first 12 (twelve) months. If any extensions are agreed this will be based on price negotiation to achieve efficiencies.
- 4.6.5 The cost of fuel and lubes shall be the responsibility of the Government of Montserrat. Bidders must provide an indicative fuel and lube consumption per return journey to Antigua.
- 4.6.6 The successful Bidder will be required to justify the daily use of fuel on the contracted route in a transparent and auditable fashion so that it is able to demonstrate that there is no cross-subsidisation with other business activities.

#### **4.7.Mandatory Returns**

Please ensure that all the information set out in APPENDIX 5 is included as part of your tender submission. Failure to do so will result in your bid being deemed non-compliant and not considered any further.

## **5. Current Access Status**

### **5.1.Access for Montserrat**

- 5.1.1. Montserrat currently has a sea transport service providing access for people travelling to and from the island of Montserrat. The current service started in October 2018 after a competitive tendering process with the resultant Contract expiring on 30th September 2019.
- 5.1.2. In terms of support infrastructure, there are docking and customs facilities operational at Little Bay. The docking and customs facilities at Little Bay are fully operational with regular boarding and disembarking between three to six days a week

### **5.2.Historic Passenger Numbers**

- 5.2.1. The number of passengers that travelled by sea to and from Montserrat during 2014 – 2015, 2015 – 2016, 2016 – 2017, 2017 – 2018 and 2018 – 2019 are represented in Tables A, B, C, D and E.

Table A - Sea Travelling Passenger Numbers – Montserrat 2014 to 2015

2014/2015 – Period		Passenger Numbers
1	October to December 2014	5,593
2	January to March 2015	4,329
3	April to June 2015	2,698
4	July to September 2015	3,539
OVERALL TOTAL		16,359

Table B - Sea Travelling Passenger Numbers – Montserrat 2015 to 2016

2015/2016 – Period		Passenger Numbers
1	October to December 2015	3653
2	January to March 2016	3952
3	April to June 2016	396
4	July to September 2016	No ferry
OVERALL TOTAL		8001

Table C - Sea Travelling Passenger Numbers – Montserrat 2016 to 2017

2016/2017 – Period		Passenger Numbers
1	October to December 2016	2108
2	January to March 2017	6359
3	April to June 2017	3757
4	July to September	4778
OVERALL TOTAL		12224

Table D - Sea Travelling Passenger Numbers – Montserrat 2017 to 2018

2017/2018 – Period		Passenger Numbers
1	October to December 2017	5322
2	January to March 2018	6867
3	April to June 2018	4774
4	July to September 2018	5723
OVERALL TOTAL		17956

Table E - Sea Travelling Passenger Numbers – Montserrat 2018 to 2019

2018/2019 – Period		Passenger Numbers
1	October to December 2018	5241
2	January to March 2019	8130
3	April to June 2019	3496
4	July to September 2019	Not Available
OVERALL TOTAL		16857

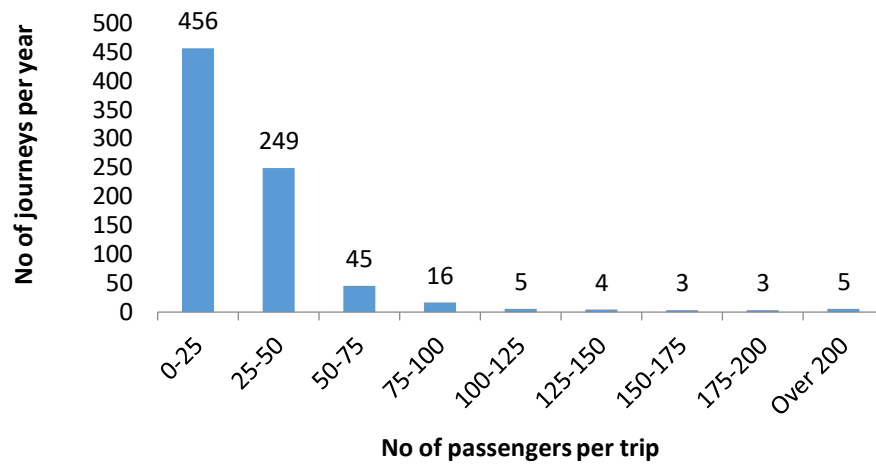
### 5.3. Summary of Ferry Utilisation

#### 5.3.1. Ferry passenger numbers

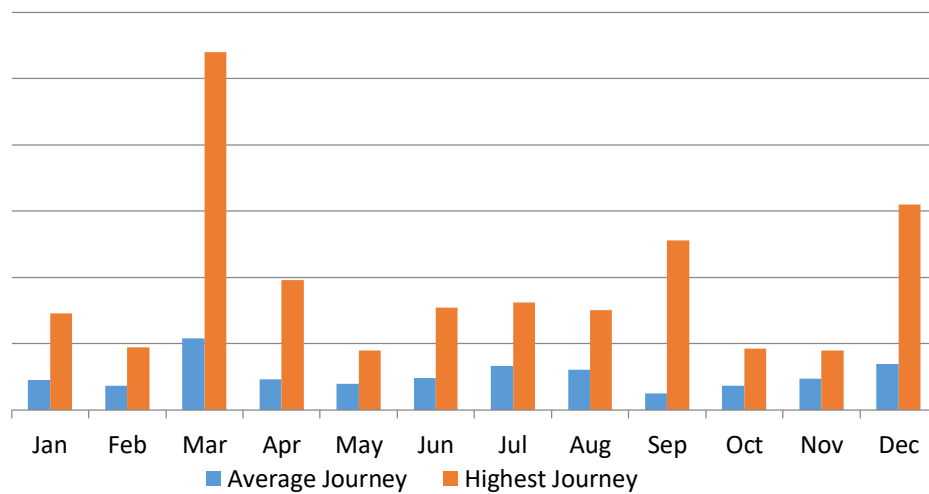
- i. From April 2017 to March 2018, 786 journeys were scheduled, of which 74 were cancelled.
- ii. Out of 786 journeys, there were 81 journeys over 50 passengers, 20 journeys over 100 passengers and 5 over 200.
- iii. There are two peak seasons, in December for Christmas and in March for the St Patricks Festival. Of the 20 journeys over 100 passengers, 1 took place during the Christmas season, and 19 took place during St Patricks. During 9 months, passenger numbers did not reach more than 100.

**\*Nb\* Please refer to the charts below:**

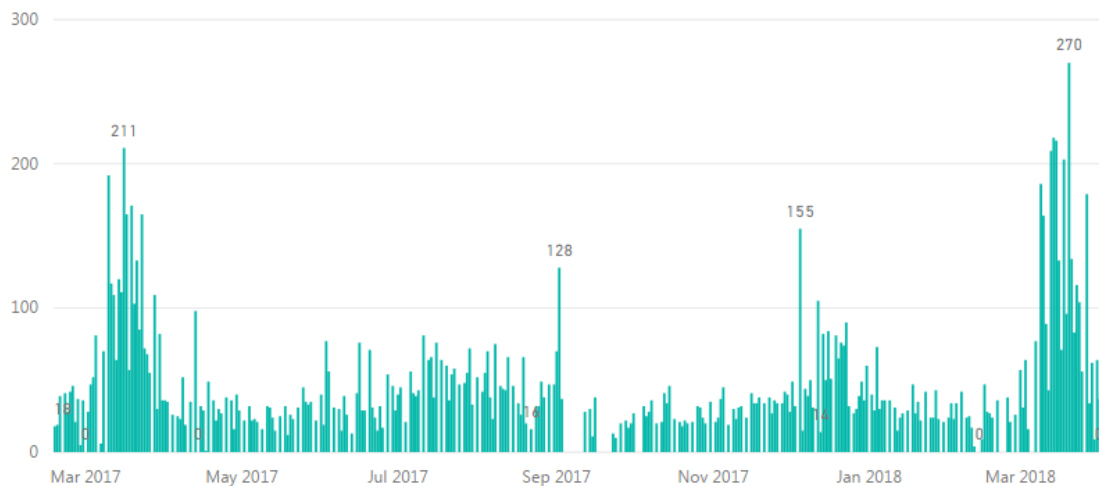
Number of journeys by passenger numbers



Passenger numbers by month



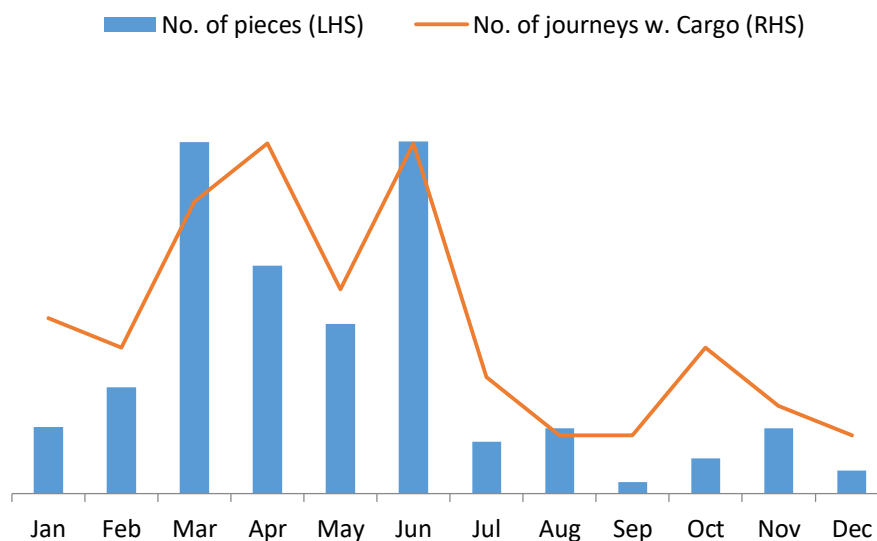
Highest number of passengers per journey each day



### 5.3.2. Ferry cargo handling

- i. Cargo transportation could vary significantly depending on the time of year. Regular cargo arrives from Antigua to Montserrat on a daily basis with minimal amounts being transported from Montserrat to Antigua. On an average, the ferry will transport daily two pallets of cargo with peak season being up to six to seven pallets.
- ii. This does not include baggage carried by passengers who are taking the ferry.

Number of cargo items and number of journeys on which cargo is transported each month in 2017



## 6. Technical Specification

### 6.1.The Requirement

The requirement is for the provision of sea transport services for people traveling to and from Montserrat. Submissions should set out how the Tenderer intends to provide the Services to satisfy the requirements of the Government of Montserrat.

The Operator will be responsible for ensuring that the service specification requirements are achieved in full. The overall objectives and outcomes for this Contract include:

- i. Flexible, fast, consistent and frequent travel options/choice.
- ii. Passengers/travellers to have the best possible experience whilst travelling to and from Montserrat.
- iii. Accommodating changing passenger needs/demands, in a way that optimizes the cost of the service. (refer to section 5.)
- iv. Safe and comfortable travel, where health and safety is not compromised in any circumstance.
- v. Collaborative and coordinated working with all key stakeholders. This will include the way information is shared, day to day communications, monthly Contract meetings.
- vi. Efficient fuel consumption;
- vii. Vessel reliability

### 6.2.Vessel to be used, Deployment, Maintenance.

1. Sufficient detail must be provided in the submission about the Vessel to enable the evaluation team to assess their suitability. Minimum requirements are:

- i. Ferry should be at least 25 meters in length
- ii. Closed cabin
- iii. Service speed of no less than 25 knots
- iv. Capability to respond to fluctuating passenger demands for service and cargo.

2. The following information is also required:

- i. name and previous names;
- ii. when and where built;
- iii. flag, port of registry;
- iv. general arrangement drawing;



- v. service speed and consumption, carrying capacity and class;
  - vi. copy of tax certificate (if appropriate);
  - vii. copy of load line certificate;
  - viii. copy of Harbour state inspection record covering previous 2 years of operation;
- 3. The Operator will be responsible for the operational management of the Vessels, including staffing, repairs, cleaning, running maintenance (including annual overhauls), insurance, etc., for the Contract period.
- 4. A vessel will only be approved if it is suitable for the operation of the Service and must be available for the duration of the Contract period (unless other acceptable arrangements are made). In the latter case, for example, it would be acceptable for the Tenderer to propose the replacement of a vessel during the course of the Contract. The proposed replacement vessel will also have to satisfy the requirements set out by the Government of Montserrat.
- 5. Tenderers will wish to note that all proposed vessels will be subject to physical inspection before being approved. Details of where this can be undertaken should be provided.
- 6. The contingency plans should consider arrangements in the event of harbours being closed due to adverse weather conditions and/or vessels prove unserviceable for a period of 2 or more days.
- 7. The Operator will also be responsible for the operational management of all other vessels which it introduces and deploys in relation to the Services, including staffing, repairs, running maintenance (including annual overhauls), insurance, etc., for the Contract period. Standard maintenance requirements in respect of each Vessel will be required. In respect of all Vessels utilized under this Contract, a vessel condition monitoring programme (VCMP) will be implemented and complied with;

### **6.3.Navigation and Safety Equipment**

- i. Equipped with state of the art Radar, GPS Plotters Sounders/ Sonar, radios and Marine Sat phone system and auto pilot.
- ii. The vessel must be equipped with Offshore Survival Life Rafts, Offshore Life Jackets, EPIRB's, flares and Fire Fighting equipment to comply with MSA standards. Capable of operating in seas with Beaufort swells and wave conditions of up to two meters.
- iii. All open deck areas are guarded with 1m high safety rail enclosures
- iv. Independent steering, propulsion, electrical and fire-fighting systems

#### **6.4.Fleet Relief**

- i. The Operator will be required to provide for relief capacity to cover scheduled maintenance, dry dockings, unforeseen breakdowns and ensure continuity of service. It is the Operator's responsibility to provide all fleet relief for the duration of the Contract.
- ii. These arrangements should cover both periods of planned overhauls and periods during which vessels are unable to provide the service and unforeseen circumstances such as breakdowns or damage.
- iii. The fleet relief arrangements must be sufficient to ensure that the performance requirements of the Contract are met, should take account of both planned and unplanned events necessary to comply with all Class and international legal requirements in force at all times. Tenderers must make commitments to response time and detail any constraints/service restrictions.
- iv. Tenderers are required to outline their Service Continuity (contingency) plan for a back-up service in the event the main vessel is unable to perform the services under the Contract. Any vessel used by the Operator as a relief vessel must be approved by the Government of Montserrat and will only operate after all the necessary requirements are satisfied. Backup vessels will be required to meet the mandatory checklist and any standard requirements. These must be made explicit in the service continuity and contingency plans

#### **6.5.Harbour Services**

- i. The Government of Montserrat operates a docking, ticket & tax collection, border control and customs service, at Little Bay, Montserrat. In addition to this the Government also operates a docking, ticket & tax collection service and passenger waiting area at St John's in Antigua
- ii. The Contractor will need to work closely with these operations, when delivering its service. In advance of the service starting the Contractor and the Contracting Authority will agree the practical day to day use of these facilities. This will include the support services available, the practicalities of accessing the facilities, the availability of space and equipment
- iii. The successful tenderer will be supported throughout the Contract by shore infrastructure and personnel adequate to deal with the vessel operations, passenger handling, ticketing and the loading, carriage and discharge of bulk cargo, loose freight and parcels. The Government of Montserrat is responsible and will bear the cost of all Port charges and the operation of passenger facilities and other such buildings. The Operator will not be responsible for the payment of harbour access fees (covering berthing and traffic dues) as this will be borne by the Government of Montserrat. Overall responsibility for the ownership of Harbours and Harbour Facilities, including capital expenditure, will rest with the Government of Montserrat.

## 6.6.Cargo

- i. The Operator is required to provide a loose freight and parcels service which will permit the transportation of loose items such as small to medium sized packages, mail freight, frozen and perishable goods.
- ii. The vessel must be capable of carrying at least ten pallets of dry cargo, plus large luggage space.

## 6.7.Reliability & Timetable

- i. Emphasis is placed on the ability to deliver consistently the required level of service; hence reliability is a fundamental principle. The frequency and timing of timetables for the Passenger Ferry Service has evolved gradually and been shaped by historical operational conditions and ferry users' preferences.
- ii. The contract is for the charter of the ferry. The ferry is to be available for 6 days per week. Service delivery may be increased or reduced by the Government of Montserrat. The current timetable is outlined below: This varies according to the season.

### **Indicative timetable – This is subject to change by GoM**

Tuesday----- 4 sailings

Wednesday ----- 2 sailings

Thursdays ----- 2 sailings

Fridays -----4 sailings

Saturdays ----- 2 sailings

Sundays ----- 2 sailings

- i. The Ferry Services include lifeline support to the emergency services as required and the Operator will be expected to provide the emergency services with out of hours contact details for the purpose of providing this support.
- ii. In addition to the sailings specified in the relevant timetables, the Operator will be required to respond to special events which temporarily create higher levels of travel requirements between the islands. These include for a range of well-known situations including Regular Travel Options, Lifeline Support required by the Emergency Services, Special Events, including Christmas.
- iii. The scheduling and service proposed must consider how it would manage and provide ferry services during Festivals, St Patrick's Festival, Easter Celebrations and Calabash Festival, Day Tours to Montserrat, which have historically run to and from Antigua, St Kitts/Nevis, Guadeloupe and St Maarten, Special Charter Services, sporting and ceremonial events.

## **6.8. Persons with Disabilities**

- i. The Submission should include the Tenderer's proposals for dealing with accessibility issues. Consideration must be given to meeting the needs of individuals with sensory/physical or special needs for example ramps, lift or wheel chair access.

## **6.9. Aesthetics and Comfort**

- i. At least two working toilets are essential.

## **6.10. Environmental Protection**

- i. In order to protect the environment, the Successful tenderer will be expected to develop the objectives of their Safety Management Systems, as required under the IHR 2005 and the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78), in consideration of the unique and special environmental factors that exist in and around the Service route. Drainage of biological waste or oil is strictly prohibited in the waters traversed by the vessel.

## **6.11. Arrangements for Staff**

1. The Operational Management Plan should include:
  - i. structure diagram showing lines of responsibility within the structure;
  - ii. details of the Tenderer's approach to crewing in relation to the Services;
  - iii. details of training policy for the development of seagoing staff on the Services
  - iv. Tenderers should note that proposals will be required to adequately provide for the continuing and long-term requirements of the Services;
2. Where individuals are identified for particular roles, their names and CVs should be included. Where the Tenderer intends to recruit new staff to fill key roles if their Tender is successful this should be made clear. For all roles a detailed job description and person specification (including experience and qualifications) should be provided. Tenderers will wish to note that the job descriptions and detailed person specifications for each role will be part of the Contract requirements. Failure to appoint suitable individuals to key roles may result in termination of the Contract. Key roles for which person specifications must be provided are:
  - i. Captain of the Vessel;
  - ii. Chief Mechanic;
  - iii. First Mate;
  - iv. Second Mate;
  - v. Sailor;

3. The Operator shall ensure that the crews are able to communicate with the passengers and each other in English to meet the requirements of the International Safety Management (ISM) code. All staff on Board must wear a uniform identifying them as a member of the crew at all times.

#### **6.12. Management and Operation of Harbours, Ports and Shore Facilities**

- i. Submission should set out how the Tenderer will carry out responsibilities in relation to all activities associated with the day to day vessel/Harbour/Port interface including mooring, ship securement, unmooring, marshalling, loading and unloading of passengers, vehicles, loose freight and parcels.
- ii. Tenderers must submit detailed explanation of how they intend to manage operational requirements. This will include compliance with legislative and regulatory Requirements (in particular Health and Safety legislation, applicable regulations and Codes of Practice and the Port Marine Safety Code).

#### **6.13. Safety Plan**

- i. Submission must include a comprehensive safety plan covering all aspects of the operations. The plan should address all major issues concerned with the prevention of accidents and the minimizing of their effect, and contingency arrangements in the event of a major incident.
- ii. A job description and person specification (including experience and qualifications) must be provided for the key officer responsible for Health and Safety on board every voyage. Tenderers may also wish to name individuals who will take up these roles. Tenderers will wish to note that the job descriptions and detailed person specifications for each role will be a part of the Contract requirements. Failure to appoint suitable individuals to key roles may result in termination of the Contract.

#### **6.14. Quality**

- i. The Government of Montserrat will need to be satisfied that appropriate quality accreditation measures will be in place. Tenderers are to provide in their proposals copies of any accreditation documents or certificates.
- ii. The successful bidder must designate a Quality Assurance Manager who will be responsible for Quality Assurance. This role may be filled by the Captain of the vessel if appropriately trained.
- iii. The Government will conduct whatever audits and spot checks it feels are required. Tenderers should also note that, if successful, they will also be required to comply with any other legislative requirements for information or ad hoc requests from the Government of Montserrat.

- iv. The Operator will; be responsible for monitoring and assessing satisfaction, for compliance with the Customer Charter and for managing the complaints procedure.

#### **6.15.Collaborative Working**

- i. The Contractor will need to facilitate close collaborative working, across a range of teams that will be critical to the success of this Contract. In this regard the smooth operation of sea passenger services to and from Montserrat is reliant on the involvement of several key stakeholders. These include Tourism; Customs; Ferry Booking Agents in Montserrat and Antigua; Docking and Harbour Services, on Montserrat & Antigua. Working closely with all key stakeholders, will therefore be one of the most critical success factor for this Contract. It will involve determining the best way for information to be shared and communicated; the degree and levels that collaboration can take place, including sharing of resources; the sharing of management and performance information; and, the way monthly Contract meetings are supported.

#### **6.16.Operations Management & Performance**

- i. It is considered essential that in order to maintain a high standard of quality and performance that the Contractor and Contracting Authority take lead roles in holding regular 'coordinated' monthly operations management meetings.
- ii. To maintain a high quality of service the successful Contractor must facilitate a coordinated and integrated approach to all aspects of the service. This will require the Contractor to develop and manage collaborative arrangements with all relevant key stakeholders, e.g. through supporting regular performance and quality working groups.
- iii. For the Government of Montserrat, the Permanent Secretary to the Office of the Premier will be taking on the responsibility for the overall performance and Contract management aspects of this Contract whilst ably supported by the Access Coordinator.
- iv. The Government of Montserrat will monitor the Operator's performance against the requirements of the Contract. The focus of the monthly reporting will be to help maintain and improve quality and performance. The Contractor shall provide monthly management information reports directly to the Permanent Secretary in the Office of the Premier.
- v. The Contract will contain the performance regime for the operation of the Passenger Ferry Services and deductions from the daily chartered rate will be made if the standards set out in the performance regime are not met. These arrangements will be discussed and agreed with the successful bidder.
- vi. The Submission should set out Tenderers' proposals for the collation and provision of performance-related information required in terms of the Contract. The proposals should include detail about how the quality of information will be audited by the Tenderer.

## 6.17.Mobilisation

1. Bidders must submit a comprehensive mobilisation plan. The plan must include a clear statement of how the operator will provide mobilisation commencing prior to the service commencement on the 1<sup>st</sup> October 2018, (based on the current planned activities). Submission should include detailed proposals setting out how the Bidder would approach Contract handover.
2. The GoM will maintain the right to monitor successful Bidder's progress on service mobilisation against the agreed Mobilisation Plan. The successful Bidder will be required to provide weekly reports to the GoM and attend progress meetings as required during the period between Contract award and commencement of the Contract Services. Where progress on mobilisation falls behind the requirements of the plan the Successful Bidder will be required to produce proposals for rectifying this and to immediately such action as may be required to address the problem. Bidders will wish to note that the GoM will cooperate fully with all reasonable requests during the handover/mobilisation period.
3. The mobilisation plan must demonstrate how the initial commencement of the Contract would be managed, from the Contract award date of week commencing 20<sup>th</sup> August 2018. The plan should include, but not exclusively:
  - i. The resources that will be used for the mobilisation and full operation of the services. This should include staff and non-staff resources.
  - ii. An overview of how you will work with all key stakeholders to help minimize disruption during the first day and immediate weeks of the service starting;
  - iii. a timetable with key milestones.
  - iv. Bidders should note that the agreed Mobilisation Plan will form part of the Contract and that failure to complete mobilisation to a satisfactory standard may result in a breach of Contract.
  - v. The Operator will be required to cooperate fully with all reasonable requests if and when another operator is appointed (at the end of the proposed Contract) post a procurement process to take over the Services or to provide services broadly similar. The Operator will be required to work closely and co-operate fully with the GoM and the new operator during the handover period in accordance with the Handover Assistance Plan.

## **7. Standard Terms and Conditions of Contract for Services**

The Standard Terms and Conditions are non-negotiable post contract award these terms and conditions will apply in their entirety. If you wish to raise any matters you must raise them during the clarification process.

### **7.1 Definitions**

In these Conditions:

- 7.1.1 “the Condition(s)” mean the standard terms and conditions of Contract for services as set out in this document;
- 7.1.2 “Charging Rates” shall be construed as those excluding any applicable Tax;
- 7.1.3 “Confidential Information” means information, data and material of any nature which either party to the Contract may receive or obtain in connection with the operation of the Contract and, which comprises Personal Data or Sensitive Personal Data (as both terms are defined by Montserrat Law, or in its absence defined by the UK Data Protection Act 1998); which is listed in the Schedule to the Contract; the release of which is likely to prejudice the commercial interests of the Contracting Authority or the Contractor respectively; or which is a trade secret;
- 7.1.4 “the Contract” means the agreement concluded between the Contracting Authority and the Contractor for the supply of Services, including all specifications, plans, drawings and other documents which are relevant to the Contract and also such of these Conditions as are included (with or without modification) expressly or by reference in the terms and conditions of the Contract;
- 7.1.5 “the Contract Price” means the price exclusive of any applicable Value Added Tax, payable to the Contractor by the Contracting Authority under the Contract for the full and proper performance by the Contractor for the Contract;
- 7.1.6 “the Contracting Authority” means the Government of Montserrat;
- 7.1.7 “the Contractor” means the person who undertakes to supply the Services under and in accordance with the Contract and, where the Contractor assigns the rights and obligations under the Contract to another person with the prior written consent of the Contracting Authority, that other person;
- 7.1.8 “Government Property” means anything issued or otherwise furnished in connection with the Contract by or on behalf of the Contracting Authority or its authorised representative;
- 7.1.9 “Loss” includes destruction;
- 7.1.10 “Month” means calendar month;
- 7.1.11 “Person” includes a corporation, partnership, individual.
- 7.1.12 “the Services” means the services to be supplied under the Contract.



## **7.2 Contract Duration**

- 7.2.1 The Contract Period under this passenger ferry service contract will be for twelve (12) months commencing on 1st October 2019 and terminating on 30th September 2020 unless it is earlier terminated or renewed in accordance with the terms of this Contract.

## **7.3 Engagement and Provision of Service**

- 7.3.1 The Contractor having represented to the Contracting Authority that it has the required professional skills, qualifications, competencies and experience to provide the services to the agreed standards; the Contracting Authority hereby engages the Contractor and the Contractor hereby agrees and undertakes to provide the ferry services under this Contract in compliance with the ITT and the methodology outlined in the Contractor's Tender Submission.
- 7.3.2 The Vessel shall be based in Montserrat but may originate services at any Port of Call or any other port as may be required by the Contracting Authority. The Parties agree and acknowledge that a specific docking location at the Port of Call or the Routes to be served could include those identified at Annex 1 of the ITT and may be changed on instruction from the Contracting Authority or on written instruction from the relevant authority in the destination country.
- 7.3.3 The Vessel will operate up to ..... (.....) days weekly, in accordance with the service schedule as agreed with the Contracting Authority and outlined in Schedule ..... and as may be varied from time to time.
- 7.3.4 The Vessel's normal scheduled times of operation, where it originates and departs, and any special changes which may become necessary will be determined by the Contracting Authority. The Contracting Authority will give the Contractor reasonable notice of the schedule, the ports where the service will originate and depart and any changes or intended variation. The Parties will collaborate in good faith to ensure that the services are provided in keeping with the schedule and any changes to it.
- 7.3.5 The Contractor shall use all means necessary not to have down time due to mechanical or other abnormalities and in the event of any such down time the Contractor shall enact the backup plan as outlined the Contractor's tender submission.

## **7.4 Contract Price**

- 7.4.1 In consideration for the services provided under this contract, The Contracting Authority shall pay to the Contractor a sums of ..... dollars, (XCD \$.....). The sum payable shall be subject to a 20% withholding Tax in accordance with Income and Corporation Tax Act.

## **7.5 Payment**

- 7.5.1 On presentation of a correct invoice quoting the Contracting Authority purchase order or Contract number and confirming that the Contract has been performed, the Contracting Authority shall pay the Contract Price to the Contractor. Payment will normally be made within 30 days of receipt by the Contracting Authority of the invoice.

- 7.5.2 Invoices will show the period and the amount of the Services for which the payment is claimed together with the agreed Charging Rates.
- 7.5.3 Invoices for the Contract performed shall be rendered at the time and in the manner specified by the Contracting Authority.
- 7.5.4 Notwithstanding paragraph 7.5.1, the Contracting Authority may give the Contractor notice in writing of its intention not to pay such sums or a portion of such sum in instances where the Contractor has:
- (a) Failed to carry out services to the agreed standards, or has inadequately or defectively carried out the services required by this Contract;
  - (b) By act or omission caused damage to personnel or Government property or any third party;
  - (c) Breached any other provision of this Contract; or
  - (d) Failed to deliver to the Contracting Authority valid reasons for such breach or breaches;
- and upon giving such notice the Contracting Authority may withhold payment accordingly
- 7.5.5 If, for the purpose of performing the Contract, the Contractor enters into a Contract for the supply of goods or services to the Contractor by a third party, the Contractor shall include in that Contract a provision which requires the Contractor to pay for those goods or services within 30 days of the Contractor receiving a correct invoice from the third party.
- 7.5.6 If the Contractor believes that payment for a correctly submitted invoice is overdue, he should, in the first instance, speak to the named contact on the face of the Contract. In the event that the problem is not resolved to his satisfaction, he should write to the Head of Procurement at the Contracting Authority setting out his case. The Head of Procurement will ensure that the complaint is dealt with by an official who is independent of the Contract and that the Contractor is not treated adversely in future for having made a complaint.

## **7.6 Accounts**

- 7.6.1 The Contractor shall keep proper accounts and proper records and vouchers for all expenditure referable to the Contract.
- 7.6.2 The Contractor shall permit the Contracting Authority by its officers, agents or independent auditor on request and at all reasonable times to examine all accounts at the offices of the Contractor or at such other places as the Contracting Authority shall direct and to take copies and shall provide the Contracting Authority or its independent auditor with such explanations relating to that expenditure as it may request.
- 7.6.3 The Contractor shall ensure that the said accounts, records and vouchers are available for a period of two years after the termination or expiry date of the Contract.

## **7.7 Recovery of Sums Due**

- 7.7.1 Whenever under the Contract any sum of money shall be recoverable from or payable by the Contractor to the Contracting Authority, the same may be deducted from any sum then due, or which at any time thereafter may become due to the Contractor under this or any other Contract with the Contracting Authority.

## **7.8 Captain and Crew**

- 7.8.1 The Contractor agrees to provide a qualified Captain and crew in accordance with the Vessel 's certificates and as outlined in the Contractors Tender submission.
- 7.8.2 The Contracting Authority is in command of the movements and destinations of the Vessel under the terms of the Contract, but the Captain has authority over the safe navigation of the Vessel, including issues of wind, weather, routes, anchorages, and the like. The Captain shall likewise have authority over the safe use of the equipment, furnishings and appurtenances of the vessel, and may prohibit unsafe activities or use of the same.

## **7.9 Representations**

- 7.9.1 The Contractor hereby warrants that the Vessel is duly registered and otherwise licensed according to the specification supplied by the Contractor, and that the Vessel is fit for the purpose for which they are contracted.
- 7.9.2 The Contractor hereby warrants that the Captain of the Vessel is properly qualified and certified as such, and are competent and has the necessary skill and experience to navigate the journey between the Ports of Call and to perform the duties they are required to perform in accordance with this Contract and the Vessel's certificates.
- 7.9.3 The Contractor warrants that they will not permit the Vessel to be manned by any person or persons not qualified and certified to do so at any time.
- 7.9.4 The Contractor hereby warrants that the Crew is competent and has the qualifications, skill and experience necessary to perform the duties to be provided in accordance with this Contract.
- 7.9.5 The Contractor warrants that it has appropriate equipment in place and available to enable it to fully perform its obligations under this contract and the Contractor warrants that all safety certificates for the Vessel are in place and current.

## **7.10 Obligations of The Contractor**

- 7.10.1 The Contractor shall maintain the Vessel, her machinery, appurtenances and spare parts in a good state of repair, in efficient operating condition and in accordance with good commercial maintenance practice, and shall keep the Vessel in compliance with insurance survey requirements or as required by such SOLAS Convention provisions which may apply, and shall maintain all certificates in force at all times.
- 7.10.2 The Contractor will take immediate steps to have the necessary repairs done within a reasonable time failing which the Contracting Authority shall have the right of terminating this contract upon reasonable notice and opportunity to cure.
- 7.10.3 The Contractor is required to establish and maintain financial security or responsibility in respect of oil, other pollution, or environmental damage as required

by any government, including Federal, State or Municipal or other division or authority thereof, to enable the vessel, without penalty or charge, lawfully to enter, remain at, or leave any port, place, territorial or contiguous waters of any country, state or municipality in performance of this contract without any delay.

- 7.10.4 The Contractor shall make and maintain all arrangements by bond or otherwise as may be necessary to satisfy such requirements at the Contractor's sole expense and the Contractor shall indemnify the Contracting Authority against all consequences whatsoever for any failure or inability to do so.
- 7.10.5 The Contractor shall from time to time during the contract period replace such items of equipment as shall be so damaged or worn as to be unfit for use.
- 7.10.6 The Contractor shall ensure compliance with all applicable International Conventions and Regulations including any National Regulations and to ensure that relevant industry codes, guidance and standards are fully taken into account at all times and, in particular, with the requirements of the International Safety Management (ISM) Code.
- 7.10.7 The Contractor will comply with all relevant rules and regulations including Health and Safety at Work Regulations enforced by the Health and Safety Executive and the Port Marine Safety Code as applicable.
- 7.10.8 The Contractor shall have regard to any International or legislative framework and obligations in relation to disabled people and to consider and provide for the needs of disabled travellers in the manner outlined in the Contractors tender submission.
- 7.10.9 The Contractor shall, at its own expense, obtain and maintain full insurance for the Vessel as provided in this contract. The Vessel shall be insured for Hull and Machinery, as well as Protection and Indemnity to cover legal liability for loss, damage or expense arising out of, or incidental to, the ownership, operating maintenance or use of The Vessel pursuant to this contract, including liability of the Contractor for personal injury, illness or death, or loss or damage to the property of a third party.
- 7.10.10 The Contractor shall at its own expense, obtain and maintain full insurance on the Vessel at all times in hull & machinery in the amount no less than 1 Million U.S. dollars and a minimum of 1 Million U.S. dollars per incident in P & I., or whatever is required within the cruising area and/or cruise ship companies shore excursion departments whichever is greater (hereinafter referred to as the "Financial Limit". The Contracting Authority shall not have right to collect any monies on any insurance claim directly associated with the Vessel.
- 7.10.11 Except in the case of an emergency, the Contractor shall give the Contracting Authority 30 days advance notice prior to implementation of its Fleet Relief arrangements. The Fleet relief arrangements and the back –up vessel must be as outlined in the Contractors ITT. Any mobilization and demobilization costs incurred for use of the substitute vessel shall be borne by the Contractor.
- 7.10.12 The Contractor is required to ensure that any back up vessel that provides the Services are fully insured to the appropriate commercial value as outlined in this Contract.

- 7.10.13 The Contractor is also required to carry and to ensure that any back up vessel carries the necessary insurance sufficient to cover for all and any third party claims which may occur as a result of providing the Services.
- 7.10.14 The Contractor shall submit to the Contracting Authority, a copy of its Certificate of Insurance, prior to commencement of the contract and within 20 days of each renewal, a Certificate of Insurance, by the Contractor's underwriter, as proof that the Hull and Machinery and Protection & Indemnity policies have been renewed.
- 7.10.15 The Contractor is responsible for the safety of all passengers, luggage and cargo and shall ensure that the Vessel is equipped with adequate safety equipment, including but not limited to life vests, dinghies and/or life rafts and that the Master and at least one (1) crew member is trained to administer Cardiopulmonary resuscitation (CPR) and that a crew member so trained is available on board each journey provided as part of the ferry service under this Contract.
- 7.10.16 The Contractor is responsible for the remuneration, accommodation and meals of the Captain and crew of the Vessel to include crew change air transportation costs.
- 7.10.17 The Contractor shall ensure that the Captain and Crew comply with the local laws and regulations and the laws and regulations of any country into the territorial waters the Vessel shall enter pursuant to this Contract.
- 7.10.18 The Contractor shall ensure that there is no unauthorized activity or movement of the Vessel while under Charter. Where it is necessary to move the vessel due to an act of God such as weather or emergency such movement must not be made without the prior knowledge of the Contracting Authority.
- 7.10.19 The Contractor shall comply with its quality service delivery plan, and the other plans as outlined in the Contractor's Tender Submission.
- 7.10.20 The Contractor shall provide detailed data information as requested by the Access Coordinator to cover the following; arrival and departure times of the vessel, number of people travelling on the vessel, details of operational instances (safety, reports, sea conditions impacting on service) and any other reasonable data requests submitted by the Access Coordinator in a timely manner. The information is to be provided by the 10th day of the following month.

## **7.11 Obligations of The Contracting Authority**

- 7.11.1 The Contracting Authority shall be responsible for administering and providing port services which shall include upland facilities, ticket sales, revenue and tax collection, quayside transfer of passengers and cargo, and public information or announcements concerning the Vessel service.
- 7.11.2 The Contracting Authority shall bear the cost of fuel, lubes / oils for the operation of the ferry service on the designated route during the contract period.
- 7.11.3 The Contracting Authority shall pay all port charges associated with docking the vessel, incurred at any Port of Call as a result of the provision of the ferry services under this Agreement.
- 7.11.4 The Contracting Authority shall not be responsible for the Vessel's engine room filters, stores, supplies, and other victuals, wash down water excepted.

**7.12 Acts by the Contracting Authority**

- 7.12.1 Any decision, act or thing which the Contracting Authority is required or authorised to take or do under the Contract may be taken or done by any person authorised, either generally or specifically, by The Contracting Authority to take or do that decision, act or thing.

**7.13 Services of Notice**

- 7.13.1 Any notice or document required to be given/served under this Contract shall be in writing and shall be deemed to be sufficiently given or served if sent by electronic mail to the correct email address, facsimile transmission to the correct number, post or hand delivery to the last known business address of the party upon whom it is being served. Notice shall be deemed to have been effected within 24 hours of the date of sending of the notice when sent by electronic mail or facsimile transmission, within 72 hours of the date of posting of the notice when sent by post and upon delivery when hand delivered.

- 7.13.2 A notice shall be delivered as follows:  
a. If to the Contracting Authority to

B if to the Contractor, to:

**7.14 Assignment and Sub Contracting**

- 7.14.1 The Contractor shall not use the services of self-employed individuals in connection with the Contract without the previous agreement in writing of the Contracting Authority.
- 7.14.2 Contractor shall not give, bargain, sell, assign, sub-Contract or otherwise dispose of the Contract or any part thereof without the previous consent in writing of the Contracting Authority.

**7.15 Government Property**

- 7.15.1 All Government Property issued in connection with the Contract shall remain the property of the Contracting Authority and shall be used in the execution of the Contract and for no other purpose whatsoever save with the prior approval in writing of the Contracting Authority.
- 7.15.2 All Government Property shall be deemed to be in good condition when received by or on behalf of the Contractor unless he notifies the Contracting Authority to the contrary within 14 days or such other time as is specified in the Contract.
- 7.15.3 The Contractor undertakes to return all Government Property so issued and will be responsible for all loss thereof or damage thereto from whatever cause to the full amount of such loss or damage.

- 7.15.4 Without prejudice to the above provisions, the Contractor shall, except as Otherwise provided for in the Contract, make good or, at the option of the Contracting Authority, pay compensation for all damages occurring to any Government Property occasioned by the Contractor, or by his servants, agents or sub-Contractors whether arising from his or their performance of the Contract and whether on any Contracting Authority establishment or premises or elsewhere in connection with the Contract, provided that this Condition shall not apply to the extent that the Contractor is able to show that any such damage was not caused or contributed by his negligence or default or the neglect or default of his servants, agents, or sub-Contractors or by any circumstances within his or their control.

## **7.16 Waiver**

- 7.16.1 The failure of either party at any time to enforce any provision of the Contract shall in no way affect its right thereafter to acquire complete performance by the other party, nor shall the waiver of any breach of any provision be taken or held to be a waiver of any subsequent breach of any such provision or be a waiver of the provision itself.
- 7.16.2 The rights, powers and remedies provided in this Contract are cumulative and not exclusive of any rights, powers and remedies provided by law.

## **7.17 Severability**

- 7.17.1 If any condition, clause or provision of the Contract not being of a fundamental nature be held to be unlawful or unenforceable by a court in any proceedings relating to the Contract the validity or enforceability of the remainder of the Contract shall not be affected thereby.
- 7.17.2 In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of the Contract, the Contractor and the Contracting Authority shall immediately commence good faith negotiations to remedy such invalidity.

## **7.18 Use and Safeguarding of Documents**

- 7.18.1 Any document or thing bearing a Security Classification of "Confidential", "Secret" or "Top Secret" shall be examined or handled in a Contracting Authority establishment only and shall not be removed from such establishment unless the Contracting Authority 's consents in writing to examination or handling or removal of that document or thing elsewhere.
- 7.18.2 The Contractor shall use all best endeavours to safeguard from loss or damage every document or thing supplied by or obtained from the Contracting Authority or for the purposes of the Contract and to protect every such document or thing from unauthorised use, disclosure or copying and shall forthwith upon termination or expiry of the Contract or earlier if the Contracting Authority shall request return to the Contracting Authority in good and usable condition every such document and thing.
- 7.18.3 Subject to any rights of third parties, nothing in this Condition shall prevent the use for any purpose by the Contractor of any specifications, plans, drawings and other

documents, the rights of which vested in him otherwise than as a result of work carried out under this Contract.

- 7.18.4 Any samples or patterns or any specifications, plans, drawings, or other documents issued by or on behalf of the Contracting Authority for the purposes of the Contract remain the property of the Contracting Authority and must be returned on completion or earlier termination of the Contract.

## **7.19 Confidentiality**

- 7.19.1 In respect of any Confidential Information it may receive from the other party ("the Discloser") and subject always to the remainder of this Condition, each party ("the Recipient") undertakes to keep secret and strictly confidential and shall not disclose any such Confidential Information to any third party without the Discloser's prior written consent.
- 7.19.2 The Recipient shall not be prevented from using any general knowledge, patience or skills which were in its possession prior to the commencement of the Contract;
- 7.19.3 The provisions of this Condition shall not apply to any Confidential Information which:
- i. is in or enters into the public domain other than by breach of the Contract or other act or omissions of the Recipient;
  - ii. is obtained by a third party who is lawfully authorised to disclose it
  - iii. is authorised for release by the prior written consent of the discloser.
- 7.19.4 Nothing in this condition shall prevent the recipient from disclosing confidential information where it is required to do so by judicial, administrative, governmental or regulatory process in connection with any action, suit, proceedings or claim or otherwise by applicable law or, where the Contractor is the recipient, to the Contractor's immediate or ultimate holding company provided that the Contractor procures that such holding company complies with this condition as if any reference to the Contract in this condition were a reference to such holding company.
- 7.19.5 The Contractor agrees that subject to this Condition, the decision on whether any exemption applies to a request for disclosure of recorded information is a decision solely for the Contracting Authority;
- 7.19.6 The Contractor agrees that where the Contracting Authority is managing a request as referred to in this condition, the Contractor shall co-operate with the Contracting Authority and shall respond within five (5) working days of any request by it for assistance in determining how to respond to a request for disclosure.
- 7.19.7 The Contracting Authority will consult the Contractor in relation to any request for disclosure of the Contractor's confidential Information in accordance with all applicable guidance.
- 7.19.8 This condition shall remain in force without limit in time in respect of Confidential Information, which comprises personal data. Save as aforesaid and unless otherwise expressly set out in this Contract or the schedule to this Contract, this condition shall remain in force for a period of 3 years after the termination or expiry of this Contract."



## **7.20 Performance**

- 7.20.1 The Services shall be provided in accordance with the Contract to the satisfaction of the Contracting Authority, or its authorised representatives. During the course of the Contract, the Contracting Authority or its authorised representative shall have the power to inspect and examine the work being performed either at the Contracting Authority's premises at any reasonable time or, where any part of the work is being performed on premises other than the Contracting Authority's premises, at those premises and reasonable notice shall be given to the Contractor.
- 7.20.2 If any part of the Services is found to be inadequate or in any way differing from the Contract, other than as a result of default or negligence on the part of the Contracting Authority or its authorised representative, the Contractor shall at his own expense re- schedule and perform the work correctly within such reasonable time as may be specified by the Contracting Authority.
- 7.20.3 If the provision of the Services or any part thereof is suspended by the Contracting Authority or its authorised representative (otherwise than in consequence of default or negligence on the part of the Contractor) or if the Contractor is delayed in proceeding with the provision of the Services by the Contracting Authority or its authorised representative, the Contracting Authority shall be responsible for any loss incurred by the Contractor as a result of such suspension or delay.
- 7.20.4 If the performance of the Contract by the Contractor is delayed by causes mentioned in paragraph 7.20.3 of this condition or by reason of any act on the part of the Contracting Authority, or by industrial dispute or any other cause which the Contractor could not have prevented and for which he was not responsible then the Contractor shall be allowed a reasonable extension of time for completion.
- 7.20.5 The time of performance shall be of the essence and failure to commence the provision of the Services within the time promised or specified shall entitle the Contracting Authority (at its option) to be released from any obligation to accept and pay for the Services or to cancel all or part of the Services, in either case without prejudice to the other rights and remedies of the Contracting Authority.

## **7.21 Progress Report**

- 7.21.1 The Contractor shall provide to the Contracting Authority representative monthly electronic reports and in such form as may be specified or as otherwise agreed between the Contractor and the Contracting Authority or its authorised representative.
- 7.21.2 The submission and acceptance of the Progress Reports shall not prejudice the rights of the Contracting Authority under any of the condition on the Contract.

## **7.22 Contractor's Personnel**

- 7.22.1 The Contracting Authority reserves the right to refuse to admit to premises occupied by or on behalf of the Contracting Authority any person employed by the Contractor, or by a sub-Contractor, whose admission would be undesirable in the opinion of the Contracting Authority.

- 7.22.2 If and when directed by the Contracting Authority the Contractor shall provide a list of the names and addresses of all persons who may at any time require admission in connection with the performance of the Contract to any premises occupied by or on behalf of the Contracting Authority, specifying the capacity in which they are concerned with the Contractor and giving such other particulars as the Contracting Authority may require.
- 7.22.3 If the Contractor shall fail to comply with paragraph 7.22.2 of this condition and if the Contracting Authority decides that such failure is prejudicial to its interests, then the Contracting Authority may summarily determine the Contract by notice in writing to the Contractor always providing that such determination shall not prejudice or affect any right of action or remedy which shall have accrued, or shall accrue thereafter, to the Contracting Authority.
- 7.22.4 The decision of the Contracting Authority as to whether any person is to be refused admission to official premises and as to whether the Contractor has failed to comply with clauses 7.16(2) or 7.16(3) of this Condition shall be final and conclusive.

## **7.23 Indemnities and Insurance**

- 7.23.1 Except as stated in Clause 7.23, where there has been misconduct, gross negligence, dishonesty by the Contractor or the Contractor's Personnel, the Contractor's liability under this Contract shall be limited to the maximum amount that the insurance policy is capable of providing over the life of the policy, before any claims or pay outs have been made.
- 7.23.2 The Contractor and Contracting Authority do not limit their liability for:
- i. death or personal injury caused by its negligence, or that of its employees, agents or sub-Contractors (as applicable);
  - ii. fraud or fraudulent misrepresentation by it or its employees;
  - iii. breach of any obligation as to title implied by any consumer laws. In the absence of consumer laws there will be a reliance on section 12 of the UK Sale of Goods Act 1979 or section 2 of the UK Supply of Goods and Services Act 1982; or
  - iv. any liability to the extent it cannot be limited or excluded by Law.
- 7.23.3 Subject always to Clauses 7.23.2; in no event shall the Contractor or Contracting Authority be liable to the other for any:
- i. loss of profits, business, revenue or goodwill; and/or
  - ii. indirect or consequential loss or damage of any nature and howsoever caused, even if the losses were reasonably foreseeable or the Party has been advised of the possibility of such losses occurring.
- 7.23.4 The Contractor shall not exclude liability for additional operational, administrative costs and/or expenses or wasted expenditure resulting from the direct Default of the Contractor

- 7.23.5 Subject to Clauses 7.23.1 to 7.23.4 inclusive, the Contractor shall indemnify the Contracting Authority in respect of any loss, damage or claim howsoever arising out of or in consequence of negligent acts or omissions by the Contractor or the Contractor's personnel or any claims made against the Contracting Authority by third parties in respect thereof and in relation to this Contract.
- 7.23.6 The Contractor shall not be responsible for any injury, loss, damage, cost or expense if and to the extent that it is caused by the negligence or wilful misconduct of the Contracting Authority or the Contracting Authority's employees, or by breach by the Contracting Authority of its obligations under the Contract.
- 7.23.7 The Contractor shall effect and maintain, and shall procure that their sub-Contractors effect and maintain, with a reputable insurance company a policy or policies of insurance providing a level of cover not less than the financial limit in respect of all risks which may be incurred by the Contractor, arising out of the Contractor's and/or their sub-Contractors performance of their obligations under the Contract, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Contractor. Such insurance shall be maintained for the duration of the Contract period and for a minimum of 6 (six) years following the expiration or earlier termination of the Contract.
- 7.23.8 Without limitation to Clause 7.23.4 the Contractor shall effect and maintain and shall procure that all agents, professional consultants and sub-Contractors effect and maintain, employer's liability insurance in respect of the Contractor's personnel in accordance with any legal requirement from time to time in force. The Contractor shall also effect and maintain, and shall ensure that all agents, professional consultants and sub-Contractors involved in the Contract effect and maintain, appropriate professional indemnity insurance cover during the Contract period and for a minimum of 6 (six) years following the expiration or earlier termination of the Contract.
- 7.23.9 The Contractor shall give the Contracting Authority, immediately on request, copies of all insurance policies referred to in this Clause 7.23.7 to 7.23.8 inclusive, or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies. With regard to any breach of any obligations implied by Section 2 of the Supply of Goods and Services Act 1982, the Supplier shall maintain professional indemnity insurance cover of an amount not less than the maximum amount that the insurance policy is capable of providing over the life of the policy, before any claims or pay outs have been made.

## **7.24 Dispute Resolution**

- 7.24.1 The parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract.
- 7.24.2 If the dispute cannot be resolved by the parties pursuant to paragraph 7.24.1 of this condition, the dispute may, by agreement between the parties, be referred to mediation pursuant to paragraph 7.24.4 of this condition.

- 7.24.3 The performance of the Contract shall not cease or be delayed by the reference of a dispute to mediation pursuant to paragraph 7.24.2 of this Condition.
- 7.24.4 The procedure for mediation and consequential provisions relating to mediation are as follows:
- i. a neutral adviser or mediator (“the Mediator”) shall be chosen by agreement between the parties or, if they are unable to agree upon the identity of the Mediator within 14 days after a request by one Party to the other (provided that there remains agreement for mediation), or if the Mediator agreed upon is unable or unwilling to act, either party shall within 14 days from the date of the proposal to appoint a Mediator or within 14 days of notice to either party that he is unable or unwilling to act, request a neutral body to appoint a Mediator;
  - ii. the parties shall within 14 days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the parties may at any stage seek assistance from a neutral body to provide guidance on a suitable procedure;
  - iii. unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the parties in any future proceedings;
  - iv. if the parties reach agreement on the resolution of the dispute, the agreement shall be reduced to writing and shall be binding on the parties once it is signed by both the Contracting Authority and the Contractor;
  - v. failing agreement, either of the parties may invite a Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both parties;
  - vi. if the parties fail to reach agreement in the structured negotiations within 60 days of the Mediator being appointed or such longer period as may be agreed by the parties, then any dispute or difference between them may be referred to the courts.

## **7.25 Termination**

- 7.25.1. Subject to any other provisions in this Contract, the Contracting Authority may terminate this Contract in any of the circumstances set out below by giving to the Contractor notice in writing where the Contractor: -
- i. Commits a material breach of any of its obligations under this Contract and despite notice of such breach in writing by the Contracting Authority to the Contractor, the Contractor fails to remedy such breach within 14 days of the notice then the Contracting Authority may terminate the Contract forthwith.
  - ii. Becomes bankrupt or makes a composition or arrangement with its creditors or has a proposal in respect of its company or partnership for the voluntary arrangement for the composition of debts or scheme or arrangement approved in accordance with the Companies Act or the Bankruptcy Act;

- iii. Has a winding-up order made or (except for the purposes of amalgamation or Reconstruction) a resolution for voluntary winding-up passed;
- iv. Has a provisional liquidator, receiver or manager of its business or undertaking duly appointed;
- v. Is in circumstances which entitle a court or creditor to appoint or have appointed a receiver, a manager or administrative receiver or which entitle a court to make a winding-up order; then in any such circumstances the Contracting Authority may without prejudice to any accrued rights or remedies under this Contract, terminate the Contract by giving notice in writing.

7.25.2 If the Contract is terminated as provided in this condition, then the Contracting Authority shall: -

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

## **7.26 Corrupt Gifts and Payments of Commission**

7.26.1 The Contractor shall not:

- i. Offer or give, or agree to give, to any person employed by or on behalf of the Contracting Authority any gift or consideration of any kind as an inducement or reward for doing or having done or not doing any act in relation to the obtaining or execution of this or any other Contract with the Contracting Authority or for showing or for not showing favour or dis-favour to any person in relation to this or any other Contract with the Contracting Authority;
- ii. Enter into the Contract or any other Contract with the Contracting Authority in connection with which commission has been paid or agreed to be paid by him or on his behalf, or to his knowledge, unless before the Contract is made particulars of any such commission and of the terms and conditions of any agreement for the payment thereof have been disclosed in writing to any person duly authorised by the Contracting Authority to act as its representative for the purpose of this condition.

7.26.2 Any breach of this condition by the Contractor or by anyone employed by him or acting on his behalf (whether with or without his knowledge) or the commission of any offence by the Contractor or by anyone employed by him or acting on his behalf under Montserrat Law in relation to this or any other Contract with the Contracting Authority shall entitle the Contracting Authority to determine the

Contract and recover from the Contractor the amount of any loss resulting from such determination and the amount of the value of any such gift, consideration or commission as the Contracting Authority shall think fit.

- 7.26.3 Where the Contract has been determined under paragraph 7.26.2 of this condition, the powers given by paragraph 7.20. 5 of Condition 7.20 shall apply as if there had been a failure to commence the work.
- i. In any dispute, difference or question arising in respect of:
  - ii. the interpretation of this Condition (except so far as the same may relate to the amount recoverable from the Contractor under paragraph 7.26.2 of this Condition in respect of any loss resulting from such determination of the Contract); or
  - iii. the right of the Contracting Authority to determine the Contract; or
  - iv. the amount or value of any gift, consideration or commission;
  - v. the decision of the Contracting Authority shall be final and conclusive.

## **7.27 Special Provisions**

In the case of any conflict or inconsistency between these general conditions and any conditions contained within the Contract, the latter conditions shall prevail.

## **7.28 Conflict of Interest**

- 7.28.1 The Contractor shall ensure that there is no conflict of interest as to be likely to prejudice his independence and objectivity in performing the Contract and undertakes that upon becoming aware of any such conflict of interest during the performance of the Contract (whether the conflict existed before the award of the Contract or arises during its performance) he shall immediately notify the Contracting Authority in writing of the same, giving particulars of its nature and the circumstances in which it exists or arises and shall furnish such further information as the Contracting Authority may reasonably require.
- 7.28.2 Where the Contracting Authority is of the opinion that the conflict of interest notified to it under paragraph 7.28.1 above is capable of being avoided or removed, the Contracting Authority may require the Contractor to take such steps as will, in its opinion, avoid, or as the case may be, remove the conflict and:
- i. If the Contractor fails to comply with the Contracting Authority requirements in this respect; or
  - ii. if, in the opinion of the Contracting Authority, compliance does not avoid or remove the conflict,
- the Contracting Authority may immediately determine the Contract and recover from the Contractor the amount of any loss resulting from such determination.
- 7.28.3 Where the Contracting Authority is of the opinion that the conflict of interest which existed at the time of the award of the Contract could have been discovered with the application by the Contractor of due diligence and ought to have been disclosed as required by the tender documents pertaining to it, the Contracting Authority may determine the Contract immediately for breach of a fundamental condition and, without prejudice to any other rights, recover from the Contractor the amount of any loss resulting from such determination.

## **7.29 Copyright and Property Information and Equipment**

- 7.29.1 Subject to any prior rights and to the rights of third parties, copyright and every other property right in all reports, documents and things produced under the Contract shall be vested as to copyright in the Contracting Authority and as to every other property right in the Contracting Authority, and the Contractor warrants to the Contracting Authority that all staff are and will be engaged in relation to the Contract on terms which do not entitle any of them to copyright or any other such right in any such report, document and thing. The Contractor hereby assigns copyright in every such report, document and thing to the Contracting Authority for the full period of copyright therein and all renewals and extensions and agrees to each shall carry a copyright legend in the following form: "(C) Copyright 20..." "Applications for reproduction should be made to the Contracting Authority ". All moral rights relating to the work under the Contract are hereby waived by the Contractor.
- 7.29.2 Any information collected pursuant to the Contract (excluding any information which in the opinion of the Contracting Authority is confidential to the Contractor or which has been communicated to the Contractor under a condition that it shall be confidential to the Contractor) shall be the property of the Contracting Authority, and all original documents in whatever form which contain that information, including any computer tape or disk, any voice recording and any special computer program written to give access to the information, shall on request be deposited with the Contracting Authority.
- 7.29.3 Nothing in the Contract or done under the Contract shall be taken to diminish y copyright or rights to any other intellectual or industrial property which would apart from this Contract vest in the Contracting Authority.
- 7.29.4 Without prejudice to the generality of the foregoing, there shall be vested in the Contracting Authority all copyright, patent rights and rights to other intellectual or industrial property in or over any information, specification, plan, drawing, pattern, sample or other thing supplied by the Contracting Authority, or any Government Department, to the Contractor in relation to the Contract or in and over anything made or derived form or arising out of any such information, specification, plan, drawing, sample or other thing.
- 7.29.5 Any right of use in or over property (including any copyright or licence to use copyright material and also including intellectual property rights of all kinds) which is acquired by the Contractor or by his staff pursuant to or for the purposes of the Contract, and whether acquired by transfer, assignment, license, sub-license, grant or by any other means whatsoever, and the costs of acquisition of which are to be reimbursed to the Contractor by the Contracting Authority shall be acquired by the Contractor upon terms which will enable it upon request by the Contracting Authority to perform at the Contractor's expense all acts and to execute all documents necessary to vest such rights of use in the Contracting Authority to the full extent enjoyed by the Contractor without need for any or other permission, authorisation or consent.
- 7.29.6 If the cost of any equipment is reimbursed to the Contractor such equipment shall be the property of the Contracting Authority and shall on request be delivered to the Contracting Authority. The Contractor will keep a proper inventory of such equipment and will deliver that inventory to the Contracting Authority on request and on completion of all work under the Contract.

### **7.30 Drugs and Other Illegal Activities**

7.30.1 The use, transport, possession or participation of The Vessel or its passengers or guests in any activity involving illegal drugs or narcotics, including marijuana, contraband, illegal aliens or other unlawful activity, is strictly prohibited.

### **7.31 Force Majeure**

7.31.1 For the purposes of the Contract "Force Majeure" shall include but not be limited to the following:

- i. war, civil war, riots, revolution;
- ii. natural disasters such as earthquakes, tidal waves and floods;
- iii. explosions and fires not caused by neglect of duty by the Contractor

7.31.2 Neither the Contractor nor the Contracting Authority shall in any circumstances be liable to the other for any loss of any kind whatsoever by reason of any failure or delay in the performance of its obligations hereunder to the extent resulting from a Force Majeure event. Notwithstanding the foregoing, each party shall use all reasonable endeavours to continue to perform, or resume performance of, such obligations here under for the duration of such Force Majeure event.

7.31.3 If any of the parties shall become aware of circumstances of Force Majeure which give rise to or which are likely to give rise to any such failure or delay on its part, it shall forthwith notify the others by the most expeditious method then available and shall inform the others of the period which it is estimated that such failure or delay shall continue.

### **7.32 No Partnership**

7.32.1 Nothing in the Contract and no action taken by the parties under the Contract shall constitute a partnership, association, joint venture or other co-operative entity between the parties or constitute any party a partner, agent or legal representative of the other.

### **7.33 Rights of Third Parties**

7.32.2 The Contract does not in any way whatsoever entitle a person who is not a party to the Contract (including, without any limitation, any employee, officer, agent, representative, or sub-Contractor of either the Contracting Authority or the Contractor) to enforce any term of the Contract, which expressly, or by implication, confers a benefit on him pursuant to any Montserrat Rights of Third Parties Legislation or in its absence, consideration to the United Kingdom Contract (Rights of Third Parties) Act 1999, without prior agreement in writing of both parties.



### **7.33 Amendments and Variation**

- 7.33.2 No amendment or variation in the terms of the Contract will be valid unless previously agreed in writing between the Contracting Authority and the Contractor and no payment will be made for unauthorised services.

### **7.34 Language**

- 7.34.1 This Contract shall be signed in English, which shall bind the parties and be an official language of the Contract for all matters relating to the meaning or interpretation of this Contract.

### **7.35 Law**

- 7.35.1. The Contract shall be considered as a Contract made in Montserrat and shall be governed by and construed in accordance with the provisions of the Laws of Montserrat.

# FORM OF TENDER

## FOR THE PROCUREMENT OF PASSENGER FERRY SERVICE BETWEEN MONTSERRAT AND ANTIGUA

\*I/We the undersigned do hereby Contract and agree on the acceptance of the Tender by the Government of Montserrat, to provide the services as outlined in the Service Specification in accordance with this ITT, at the prices entered in the Financial Proposal.

\*I/We the undersigned undertake to submit a Tender in accordance with the following documents:

- i. Notices and Instructions
- ii. Service Specification
- iii. Content of the Technical Submissions
- iv. Content of the Financial Proposal
- v. Tax requirements

As part of your financial submission, please provide a breakdown of the total cost of service over the 12-month period, showing tax separately.

Our total tendered price for the cost of the 12-month service is: XCD \_\_\_\_\_

Daily Charter rate is XCD \_\_\_\_\_

=====

\*I/We agree to abide by this tender for a period of 180 days after submission of said tender or until a contract has been entered.

\*I/We understand that the Government of Montserrat are not bound to accept the lowest or any tender and shall not be bound to use the Successful Bidder as a sole supplier.

\*I/We understand that it is intended that the service provision will commence on 01/10/2019

\*I/We agree to accept the terms and conditions contained within this ITT.

I/We understand our tax obligations and liabilities to the Government of Montserrat.  
(For further information, please contact Montserrat Customs & Revenue Service  
(MCRS) via email at irev@gov.ms).

Signature: \_\_\_\_\_

Name: (BLOCK CAPITALS) \_\_\_\_\_

Designation: \_\_\_\_\_

Duly authorized to sign Tenders for and on behalf of: Name of Bidder

Nature of Firm \_\_\_\_\_

Address \_\_\_\_\_

Telephone No \_\_\_\_\_

Date \_\_\_\_\_

It must be clearly shown whether the Bidder is a limited liability company,  
statutory corporation, partnership, or single individual trading under his own  
name.

# **TENDER EVALUATION DECLARATION**

## **To be returned with the tender**

### **STATEMENT OF UNDERSTANDING OF KEY REQUIREMENTS OF THE SERVICE SPECIFICATION:**

I/We the undersigned confirm that the submission is made in accordance with the requirements of the ITT. I/We the Bidder:

- I. Accepts all the requirements of the ITT as issued including all aspects of the Terms and Conditions, Tender Requirements and Technical Specification.
- II. Accepts that it will be responsible for all its costs relating to mobilisation of the Services, the operation of the Services as described in this ITT including crewing and other staff costs, upkeep of vessels, the provision of any replacement vessel when required and obligations relating to the handover of the operation of the Services at the end of the Contract Period (if the Operator is not appointed to provide the same or similar services thereafter pursuant to a subsequent tendering exercise) Such costs are to be included as an attachment to the Form of Tender.
- III. Will comply with the requirement to account for the use of the fuel subsidy in a transparent and auditable fashion so that it is able to demonstrate that there is no cross-subsidization with other business activities.
- IV. Will comply with international and national regulations, Codes and procedures at all times and, in particular, with the requirements of the International Safety Management (ISM) Code.
- V. Will comply with all relevant rules and regulations including Health & Safety at Work Regulations enforced by the Health and Safety Executive and the Port Marine Safety Code as applicable
- VI. Will, if successful, provide all information which may be required in order to allow the Government of Montserrat to demonstrate transparency in their procurement operations in the provision of the Service.
- VII. Will have regard to the legislative framework and obligations in relation to disabled people and will consider the needs of disabled people.
- VIII. Accepts the terms of the performance regime.

- IX. Accepts the relevant provisions in the ITT as it relates to breaches and termination.
- X. Accepts the requirement to attend regular meetings with the Government of Montserrat as part of the monitoring and management of the Contract.
- XI. Accepts the requirement to comply with all relevant national and international legislation, Conventions, Directives, as well as Industry Codes and Standards.
- XII. Confirms that it will meet the requirement to provide ferry services on the routes determined by the Government of Montserrat

XIII Accepts the following requirements:

- i. The vessel proposed by the Bidder will be subject to the approval of the Government of Montserrat.
  - ii. All vessels that are used to provide the Services must be of at least the same standard as stipulated in the ITT.
- XIV. Will accept the conditions of use to dock at Harbours owned by the Government of Montserrat for the use of the Harbours and Harbour Facilities.
- XV. If successful, will comply with any instruction by the Government of Montserrat to implement a revised timetable to meet the needs of the travelling community.
- XVI. Will co-operate with the requirements to provide the emergency services with out of hours contact details for the purpose of providing lifeline support to the emergency services.
- XVII. Will comply with the requirement to ensure that crews are able to communicate with passengers and each other in English to meet the requirements of the International Safety Management (ISM) Code.
- XVIII. Will comply with the requirement to keep monthly performance figures and information up to date and make them readily available to the Government of Montserrat at their immediate request.
- XIX. Will comply with the requirement to co-operate with the Government of Montserrat in the monitoring arrangements set out in the Contract and provide accurate auditable information to the Government.

XX. Will comply with the information requirements required for internal audit purposes and for transparent operation within the Government Procurement process. The information will be used to inform the Government of Montserrat and other Bidders in the next competition.

XXI. Will comply with:

- i. all applicable International Conventions, Directives and Regulations and ensure that relevant industry codes, guidance and standards are fully taken into account.
- ii. the requirement that the vessels to be used on the Contract complies with International Regulations.
- iii. the requirement that both the Primary and any relief vessel deployed to undertake the services comply with the requirements of the ISM Code.

XXV. In carrying out all duties relating to shore side activities shall comply with all relevant rules and regulations, including Health and Safety Legislation, applicable Regulations and Codes of Practice and the Port Marine Safety Code as applicable.

XXVI. Will comply with the requirement that, in the event that the Contract is terminated or there is a breakdown in the Contractual relationship, all Ship Safety Management Systems and safety documentation relating to the Services must be made available to the Government of Montserrat in order that the continuation of the ferry services can be ensured in accordance with the terms of the Contract.

XXVII. Will comply with the requirement to cooperate fully with all reasonable requests if and when another operator is appointed to take over the Services or to provide services broadly similar to them (when a subsequent public service Contract is being awarded). It also confirms that it will work closely and cooperate fully with the Government of Montserrat and the new operator during the handover period.

XXVII. Will comply with our tax obligations and liabilities to the Government of Montserrat.

Signature: \_\_\_\_\_

Name: (BLOCK CAPITALS) \_\_\_\_\_

Designation: \_\_\_\_\_

Duly authorized to sign Tenders for and on behalf of: Name of Bidder:

## **APPENDICES TO THE FERRY ITT**

APPENDIX 1 - LIST OF ROUTES TO BE SERVED

APPENDIX 2 - SPECIFIC NON-TIMETABLED REQUIREMENTS

APPENDIX 3 -TENDER SUBMISSION ANTI-COLLUSION  
CERTIFICATE AND DECLARATION OF INTEREST FORM

APPENDIX 4 - RESPONDENT'S IDENTIFICATION/DETAILS

APPENDIX 5 – FERRY ITT MANDATORY CHECK LIST



## **APPENDIX 1 - LIST OF RETURN ROUTES TO BE SERVED**

1. Montserrat to Antigua

Other possible additional routes

2. Montserrat to Guadeloupe
3. Montserrat to St Kitts/Nevis
4. Montserrat to St Maarten/Anguilla

## **APPENDIX 2 - SPECIFIC NON-TIMETABLED REQUIREMENTS**

In addition to the sailings specified in the relevant timetables, the Operator will be required to respond to certain other requirements as part of the Contract. This APPENDIX sets out examples of events which the Operator may be asked to amend his schedule to cater for.

- I. Additional sailings for the Annual Christmas festival in December;
- II. Additional sailings for the Annual St Patrick's festival in March;
- III. Additional sailings for the Annual Easter celebrations in April;
- IV. Additional sailings for the Calabash festival and the Festival of the word;
- V. Special day tours to and from Antigua, St Kitts/Nevis, Guadeloupe and St Maarten;
- VI. Special charters from local and neighbouring sports teams such as basketball, cricket and football and golf;
- VII. Other special sailings for medical emergencies;

## **APPENDIX 3 - TENDER SUBMISSION ANTI-COLLUSION CERTIFICATE AND DECLARATION OF INTERESTS FORM**

This APPENDIX is to be completed and returned with the ITT.

### **TENDER SUBMISSION ANTI-COLLUSION CERTIFICATE**

I/we certify that this tender is made in good faith, and that we have not fixed or adjusted the amount of the tender by or under or in accordance with any agreement or arrangement with any other person. I/we also certify that we have not and I/we undertake that we will not before the award of any Contract for the work:

disclose the tender price or any other figures or other information in connection with the tender to any other party (including any other company or part of a company forming part of a group of companies of which I am/we are a part of) nor to any sub-Contractor (whether nominated or domestic) nor supplier (whether nominated or domestic) or any other person to whom such disclosure could have the effect of preventing or restricting full competition in this tendering exercise

enter into any agreement or arrangement with any person that they shall refrain from tendering, that they shall withdraw any tender once offered or vary the amount of any tender to be submitted or otherwise collude with any person with the intent of preventing or restricting full competition

pay, give or offer pay or give any sum of money or other valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to another tender or proposed tender for the work any act or thing of the sort described at i), ii) or iii) above.

I/we further declare that I/we have no knowledge either of any sum quoted or of any other particulars of any other tender for this Contract by any other party.

I/We further certify that the principles described above have been, or will be, brought to the attention of all sub-Contractors, suppliers and associated companies providing services or materials connected with the tender and any Contract entered into with such sub-Contractors, suppliers or associated companies will be made on the basis of compliance with the above principles by all parties.

I/we acknowledge that any breach of the foregoing provisions shall lead automatically to this tender being disqualified and may lead to criminal or civil proceedings. The Government of Montserrat shall treat any tender received in confidence but reserves the right to make the same available to any other funding organisation or statutory regulatory Authority either having jurisdiction over the works or who may now or at any time in the future have statutory power to require disclosure of this tender.

In this certificate, the word 'person' includes any persons and anybody or association, incorporated or unincorporated; any agreement or arrangement includes

any transactions, formal or informal and whether legally binding or not; and 'the work' means the work in relation to which this tender is made.

Signature..... in  
capacity of .....  
Date.....

Duly authorised to sign tenders and acknowledge the  
contents of the anti-collusion certificate for and on  
behalf of:

Name of Firm.....  
Full postal address.....  
Telephone No..... Fax  
No.....

#### DECLARATION OF INTERESTS

I, THE UNDERSIGNED [*insert full name of signatory*] ....., IN  
MY CAPACITY AS [*insert capacity, i.e., member, director, partner, etc.*]  
..... OF THE SUPPLIER [*insert full name of the supplying  
entity*] ....., CERTIFY THAT, TO THE BEST OF MY  
KNOWLEDGE, THE INFORMATION FURNISHED HEREIN IS TRUE AND CORRECT.

In order to manage situations where conflicts of interests may exist, you are hereby required to  
declare them.

For the purposes of this Declaration:

- **Private Work** includes private interests, and means any employment or commercial activity,  
or any other interests embarked on by an employee outside the scope of his/her GoM  
employment.

- A **commercial activity** means any activity an employee engages in outside GoM for the purpose of generating income, whether or not the activity actually produces income and/or is profitable.
- **Close Family** means persons related to the employee or director by birth, marriage, domestic partnership, adoption, guardianship or the like, who may influence, or be seen to influence the objectivity of the employee or director OR related persons who may be influenced by the employee or director in their dealings with GoM;
- **Associate** means any person (i.e. a friend, rival, business partner, neighbour or the like) who has a relationship with an employee or director who may influence, or be seen to influence the objectivity of the employee or director OR who may be influenced by the employee or director in their dealings with GoM;
- **Participation in the Procurement Process** means conceptualisation, proposal, specification, feasibility studies, sourcing, evaluation, benchmarking, negotiation, approval and awarding or withdrawal of offers / tenders in relation to orders / contracts for performing any work, providing any services, or supplying any material, article or equipment or performing any other act; and
- **Business Courtesy** means a gift or favour received from a person or a firm for which fair market value is not paid, and includes non-monetary gifts, meals, drinks, entertainment, hospitality, recreation, transportation, attendance prizes, discounts, tickets, passes, promotional items, materials, equipment and the like.

In order to give effect to the above, the following questionnaire must be completed and submitted as a returnable with your enquiry / tender/ attendance at a negotiation.

*\* Delete whichever is not applicable.*

Are you or any other person who holds an interest in the Supplier named above (i.e. a shareholder, a director, or a member or partner, a line manager, or a fellow employee), employed by GoM or serves as a director at GoM?

\*YES/NO

If so, state particulars.

.....  
.....  
.....

Are you, or any other person who holds an interest in the Supplier named above, a **close family** member to or an **associate** of a GoM employee and/or director, who may be **participating in the procurement process** associated with this enquiry / tender / negotiation?

\*YES/NO

If so, state particulars.

.....  
.....  
.....

Are you aware of any relationship which amounts to that of **close family** (i.e. related by birth, marriage, domestic partnership, adoption, guardianship or the like) or that of an **associate** (i.e. a friend, rival, business partner, neighbour, etc) between person/s acting for or on behalf of the Supplier and an GoM employee who may be **participating in the procurement process** associated with this enquiry / tender / negotiation?

\*YES/NO

If so, state particulars.

.....  
.....  
.....

Have you, or any other person who holds an interest in the Supplier named above, given a **business courtesy** to or received a business courtesy from a GoM employee and/or director over the last 12 (twelve) months?

\*YES/NO

If so, state particulars.

.....  
.....  
.....

<p>SIGNATURE.....</p> <p>DATE.....</p> <p>POSITION.....</p>
---

## APPENDIX 4 - RESPONDENT'S IDENTIFICATION/DETAILS

### A PERSONAL INFORMATION

COMPANY NAME \_\_\_\_\_

REGISTRATION NUMBER \_\_\_\_\_

COMPANY ADDRESS \_\_\_\_\_

CONTACT PERSON \_\_\_\_\_ POSITION \_\_\_\_\_

TELEPHONE NUMBER \_\_\_\_\_ FAX NUMBER \_\_\_\_\_ WEBSITE \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_



1	Your entity operates as which one of the following?		Sole Proprietorship
			Partnership
			Limited Liability
			Others
2	How many years has your entity been in operation?		(0-1)
			(1-3)
			(3-5)
			(5-10)
			(10 & Over
3	Number of Employees within your entity?		(1-5)
			(6-10)
			(11-15)
			(16 & Over)
4	How many similar Contracts has your entity successfully completed in the last 2 years?		(1-3)
			(4-6)
			(7-9)
			(10 & Over)
6	What is the highest sum of any of the Contracts completed in the last 2 years?		(50-100)K
			(101-200)K
			(201-400)K
			Over 400K
7	Has your entity failed to complete a Contract for a public or private entity?		YES
			NO

C SIGNATURE

I hereby certify that the information outlined in this document is true and accurate to the best of my knowledge and belief. I understand false statement may result in denial of a Contract and possible debarment from future prospects.

-----  
Signature of Company /Representative Company  
Name/Stamp Date\_\_\_\_\_

## APPENDIX 5 – CHECK LIST

This APPENDIX is to be completed and returned with the ITT.

**The checklist below sets out the mandatory requirements that must be met for this ITT to be considered for evaluation. Failure to provide the information will deem the submission non-compliant and will not be considered any further.**

**NB. Not applicable (N/A) is not an acceptable response.**

<b>Number</b>	<b>Mandatory Check list items - Ferry ITT Submission</b>	<b>Tick if submitted</b>
(i)	Document confirming that the essential criteria set out in the evaluation methodology are met.	
(ii)	<b>Operational Management Plan</b> , this should include a detailed explanation of how the operator intends to manage operational requirements.	
(iii)	<b>Service Continuity (contingency) plan</b> for a back-up service in the event the main vessel is unable to perform the services under the Contract.	
(iv)	<b>Safety Plan</b> . The plan should address all major issues concerned with the prevention of accidents and the minimizing of their effect, and contingency arrangements in the event of a major incident.	
(v)	<b>Mobilisation Plan</b> . This should include a timetable with key milestones.	
(vi)	Statement on journey time for the scheduled service to Antigua	
(vii)	Indicative fuel consumption per return journey to Antigua	
(viii)	Details of carrying capacity for people and cargo	
(ix)	Arrangements to meet the needs of individuals with sensory/physical or special needs.	

(x)	Statement showing how you will ensure the provision of performance-related information required under the contract and how will you ensure the quality of the information.	
(xi)	Table breaking down annual cost into main expenditure headings.	
(a)	copy of tax certificate (if appropriate);	
(b)	copy of load line certificate;	
(c)	copy of Harbour state inspection record covering previous 2 years of operation;	
(d)	For all roles a detailed job description and person specification	
(e)	If the potential bidder is a consortium, full details of the consortium must be provided.	
(f)	Anti-Collusion certificate and Declaration of Interest form APPENDIX 3.	
(g)	Respondents Identification details APPENDIX 4	
(h)	Tender Evaluation Declaration	
(i)	Form of Tender	
(j)	Details of two referees for similar work	