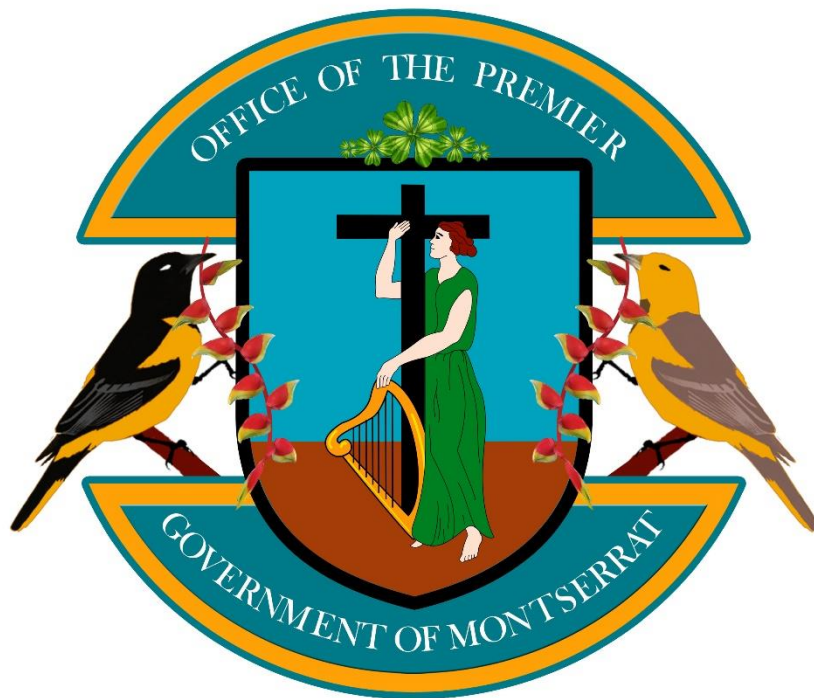


GOVERNMENT OF MONTSERRAT

INVITATION TO TENDER
OP/PROC/001 (Sea Access)

FOR THE PROVISION OF
FERRY SERVICES



P.O. Box 292, Government Headquarters, Brades, Montserrat
Tel: (664) 491 3378/3463/2066/2557, Fax: (664) 491 6780/4632
Email: op@gov.ms

Our Ref: OP1/12/2

Date: July 5th 2017

Dear Sir/Madam,

Re: Tender for the Provision of Passenger Ferry Services (OP/PROC/001)

Tenderers are invited in accordance with the following Notices and Instructions to tender for the provision of passenger ferry services to operate between Montserrat and Antigua.

Finalisation of the Contract will be subject to the Government of Montserrat's consideration of the bids received and their compliance with the conditions set out in this IIT and in the draft contracts. Included are the tender documents, consisting of:

- (1) Invitation to Tender
- (2) Instructions to Tenderers
- (3) Form of Tender
- (4) Specifications
- (5) General Conditions of Contract
- (6) Respondent's Identification and Details
- (7) Anti-Collusion Statement
- (8) Tender checklist

Electronic tender packages can be accessed and submitted via the Mytender Portal at <http://www.mytenders.org/>.

Hard copies can be downloaded from the Government of Montserrat website at www.gov.ms. Completed hard copy must be placed in a sealed inner envelope and addressed to the **Chairman, Public Procurement Board, Ministry of Finance and Economic Management, Brades, Montserrat**. The name of the Project should be written on this inner envelope and should read, **"Tender for the provision of Passenger Ferry Services (OP/PROC/001)"**. The name of the tenderer should also be written on the inner envelope.

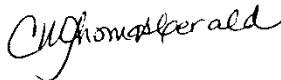
This inner envelope should then be placed in a sealed outer envelope and addressed to **the Chairman, Public Procurement Board, Ministry of Finance and Economic Management, Brades, Montserrat**. The name of the project should also be written on this outer envelope and should read, "Tender for the provision of Passenger Ferry Services (OP/PROC/001)". The outer envelope should bear no identification of the bidder. Tenders, both electronic and hard copies are to be received no later than **2:00 p.m. Eastern Caribbean Time on Wednesday 26th July 2017**. Please ensure that no additional marks are placed on the envelope.

Any electronic query relating to the tender should be submitted via the Mytender Portal <http://www.mytenders.org/>. Clarification to electronic queries will also be posted on the Mytender Portal <http://www.mytenders.org/>.

Please be advised no bidder is allowed to submit multiple tenders. Also, it is your duty to ensure that any agent that is representing your organisation, shall not also represent another organisation in regard to this tender process. Failure to comply may result in your bid being rejected.

The deadline for submission of electronic queries will be 2:00pm Eastern Caribbean Time Friday 21th July 2017. Alternatively, tenderers submitting bids via hard copy may submit queries in writing addressed to Taraq Bashir, Head of Procurement at bashirt@gov.ms. Deadline for submission of such queries will be 2:00pm Friday 21th July 2017. Queries received after the deadline will not be answered.

Yours faithfully,



.....

Camille Thomas-Gerald (Mrs)
PS, Office of the Premier

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Definitions

The Tender: These definitions together with all the documents requested within this ITT.

The Contract: The Agreement concluded between the Contractor and The Government of Montserrat, including the Specification and other documents which are relevant to the contract and also such of these conditions as are included in the terms and conditions of the contract.

The Contracting Authority: The Government of Montserrat.

The Contractor: The Contractor who by the terms of the Agreement undertakes to render the Services of the Government of Montserrat as is provided by the Tender, and, where the Contractor is an individual or a partnership, the expression shall include the personal representatives of that individual or of the partners, as the case may be, and shall also include any person to whom the benefit of the contract may be assigned by the Contractor but only with the prior written consent of the Government of Montserrat.

The Government of Montserrat (GoM). The Contracting Authority or its authorized representative.

CARICOM: The Caribbean Community and Common Market.

DFID: The Department for International Development.

The Contract Manager: The Contracting Authority's representative responsible for the active management of all aspects of the relationship between the Contractor and the Government of Montserrat.

The Services: All the services to be provided by, and to be performed by and obligations to be fulfilled by the Contractor.

The Contract Price: The price exclusive of VAT (where legislated and relevant), payable to the Contractor by the Government of Montserrat under the contract for the full and proper performance by the Contractor of his part of the contract as determined under the provisions of the contract.

Government Property: Anything issued or otherwise furnished in connection with the contract by or on behalf of the Government of Montserrat.

Issued Property: Government property issued in connection with the contract.

The Site(s): The area or place where the services are to be provided and any other area or place by the Contracting Authority for or in connection with the provision of the services.

Loss: includes destruction.

Month: Calendar month.

Person: Includes corporation.

Gender: Where the context so admits denoting the masculine gender it also refers to the feminine and neuter genders and words denoting natural persons include corporations and firms and all such words shall be construed interchangeably in that matter.

Headings: The headings of these conditions shall not affect the interpretation thereof.

Withholding Tax: The amount of monies withheld and sent directly to the government as partial payment of income tax.

GENERAL

SECTION 1 GENERAL

Summary

This document invites local and regional ferry operators to tender for the provision of passenger and cargo ferry services between Montserrat and Antigua on behalf of the Government of Montserrat.

This document has eight Sections:

- **Section 1 - General** - This Section sets out the background to this ITT and describes the policy objectives of the Government of Montserrat.
- **Section 2 - Notices and Instructions** - This Section sets out the purpose and scope of the tender. It also sets out the expected timetable for tendering and the process that the Government of Montserrat will follow in evaluating bids. It also outlines some key principles which will be included in the Contract that will be entered into between the Government of Montserrat and the Successful Tenderer.
- **Section 3 - Service Specification** - This Section sets out the Government of Montserrat's detailed requirements. The Government of Montserrat's overarching concerns are to provide a safe, affordable, reliable and high quality ferry service between Montserrat and Antigua. Section three (3) therefore is based on an approach which sets out the minimum levels of service and standards required throughout the Contract Period whilst at the same time providing an opportunity for all Tenderers to offer a service which meets the needs of the Government of Montserrat and ferry users traveling between both islands.
- **Section 4 - Content of Technical Submission** - This Section sets out the technical issues which the Government of Montserrat will require to be addressed by Tenderers in response to this ITT.
- **Section 5 – Content of Financial Submission** – This Section sets out the financial issues which the Government of Montserrat will require to be addressed by Tenderers in response to this ITT.
- **Section 6 - Form of Tender to the Government of Montserrat** – This Section requires Tenderers to give a signed undertaking to provide the services in the Service Specification in accordance with this ITT and the Contract.
- **Section 7 – Statement of Understanding of Key Requirements of this Specification** – This Section is a statement of understanding of the key requirements of the ITT.
- **Section 8 - Evaluation Criteria** - This Section sets out the evaluation criteria which will be used by the Government of Montserrat in the evaluation of bids.

In addition, there are 6 Annexes which provide further background and information about the provision of the passenger ferry Services and to capture respondents identification and details.

1. INTRODUCTION

1. Background

The National Vision of the Government of Montserrat is for: “A healthy and wholesome Montserrat, founded upon a thriving modern economy with a friendly, vibrant community, in which all our people through enterprise and initiative, can fulfill their hopes in a truly democratic and God-fearing society”

Moulded by Nature, nurtured by God

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 British Monarch, and is led by the Premier as the Head of Government along with three (3) Ministers.

The constitution provides for a governance process consisting of a Cabinet and a Legislative Assembly. Cabinet consists of the Governor, the Premier, Ministers, the Attorney General and the Financial Secretary. Legislative Assembly is made up of eleven (11) seats. Nine (9) members are elected to serve a five-year term, with the Attorney General and Financial Secretary as the official Government representatives.

Elections are held once every five years. Following a public vote (the elections) the leader of the majority party, usually becomes the Premier.

Government operations are delivered through: i: The Office of the Premier, ii: The Ministry of Finance & Economic Management, iii: The Ministry of Communications, Works & Labour; iv: The Ministry of Education, v: The Ministry of Health & Social Services, vi: The Ministry of Agriculture, Lands, Housing, Trade & the Environment.

The Government Headquarters are located in Brades in the Northwestern end of Montserrat.



Figure 1 – General Map of Montserrat

Montserrat¹ 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 4,950 (2014 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

¹ 27 miles Southwest of Antigua.

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.

The benefits of a sea link are clear; air access under the current constraints (volcano, weather, only daylight operations, and length of runway) will not provide the volume of tourists needed to drive economic growth, and GoM will remain dependent on access subsidies. Furthermore, a ferry service would allow Montserrat to tap into the huge² cruise tourism market in Antigua and neighboring Islands. Similarly, it will provide additional passenger and freight capacity at prices that Montserratians can afford and will increase intra-regional trade. It will support social development opportunities for Montserratians, including regular and affordable transport, increased business and labour opportunities, and goods at more economical prices. It will also serve as a lifeline transport solution.

Further information about the Government's business can be found on our Internet site: www.gov.ms

² Greater than 600,000

2. POLICY OBJECTIVES

2. Policy Objectives

The Government of Montserrat's (GoM) policy objectives for securing a contract for Ferry Services is as follows:

- (i) the provision of a suitable standard of transport connection, in terms of quality, safety, frequency, capacity and affordability to and from Montserrat and Antigua and other neighbouring islands.
- (ii) to transport individuals, loose freight and parcels at reasonable prices;
- (iii) the level of service is to be provided at the minimum cost;

Tenderers will be aware that this tendering exercise is being conducted in accordance with the provisions outlined in the Public Finance (Management and Accountability) Procurement Regulation 2012.

3. INSTRUCTIONS & INFORMATION ON TENDERING PROCEDURE

3. Instructions and Information on Tendering Procedures

3.1. About These Instructions

- (i) The aim of this tendering exercise is to meet the Government of Montserrat's policy and strategic objectives, and to meet the sea transportation needs of individuals and businesses on the island. It is the intention to provide a continuous, safe, stable and affordable passenger ferry service whilst in adherence to the provisions of International Maritime Regulations. The ITT covers the provision of passenger ferry services between Montserrat and Antigua. Tenderers are to include the provision of efficient and safe services, be fully compliant with all the current safety requirements, and be supported by appropriate on board facilities adequate for handling passengers and the loading, carriage and discharge of accompanied or unaccompanied loose freight and parcels.
- (ii) This invitation to tender should not be construed as a commitment by the Government of Montserrat to contract with any particular Tenderer. These instructions are designed to ensure that equal and fair consideration is given at all times. It is important therefore that Tenderers provide all the information requested as failure to submit the required information will result in rejection.

3.2. Contract Duration

- (i) It is proposed to offer the contract for a period of **twelve (12) months**. Following this initial term, the Contracting Authority retains the right to extend the contract for a minimum of 1 month up to a maximum of 18 months. The overall contract duration will not exceed 18 months.

3.3. Contract Award

- (i) Notification of contract award to the successful tenderer will be made on or around the 09th August 2017. A mobilisation plan will be agreed between the parties with the expectation that the successful contractor(s) will be ready to formally commence work on 01st October 2017. See the following table:

Table 1 - Timeline Milestones

Issue and publish ITT	Thursday 6 th July 2017
Deadline for receipt of clarifications	Friday 21 th July 2017
Tender submission deadline	Wednesday 26 th July 2017
Commencement of tender evaluation	Wednesday 26 th July 2017
Completion of tender evaluation	Wednesday 2 nd August 2017
Contract Award	Friday 4 th August 2017
Indicative Mobilization period	Friday 4 th Aug to Saturday Sept 30 th 2017
Contract for Ferry operations begins	Sunday 01 st October 2017

3.4. Tender Validity Period

- (i) All charges shown on the form of tender will remain valid from the date of receipt of proposal until this tender process is complete.

3.5. Confidentiality

- (i) 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.

3.6. Contact Points

All clarifications are to be made through the GoM Electronic tenders portal Mytenders or in writing to:

Mr. Taraq Bashir

Head of Procurement

Ministry of Finance and Economic Management

Government Headquarters

Brades

Montserrat

Tel: 1-664-491- 2777/2356

Email: bashirt@gov.ms

3.7. Clarification and Communication during the Tender Period

- (i) **Under no circumstances should Tenderers direct any other questions or seek clarification about the scope of this ITT to or from any of the advisors that are supporting the Government of Montserrat throughout this process.**
- (ii) All queries and requests for clarification or meetings during the Tender Period must be made in written form. The Government of Montserrat will

endeavour to respond to Tenderers' requests for clarification within two (2) days of receipt. Tenderers should note that responses to queries and requests for clarification will be published on the Mytenders portal and on the Government of Montserrat website and any changes made as a result of such clarification will be published as an addendum to the tender. Tenderers are therefore advised to submit their requests as early as possible. This procedure is designed to preserve equity between Tenderers by ensuring no premature disclosure of information can take place.

- (iii) While every effort has been and will be made to provide accurate information, Tenderers should note that the Government of Montserrat does not guarantee the accuracy of the information provided and it is provided for guidance only. It is for Tenderers to fully satisfy themselves as to the accuracy and relevance of all of the information provided in connection with this ITT. It is the responsibility of Tenderers to verify and interpret the information provided and to obtain for themselves, at their own expense, any additional information necessary for the preparation of their tender. Tenders will be accepted by the Government of Montserrat on the understanding that the Tenderer is deemed to have satisfied itself on the scope of the requirement from the information provided.
- (iv) The Contracting Authority is committed to responding to queries within two (2) working days of its receipt.
- (v) The Contracting Authority retains the right to annul the tendering process and not award a contract. The Government of Montserrat reserves the right not to accept any tender and to end the competition without awarding a contract. Tenderers should be aware that it is unlikely that the Government of Montserrat will be in a position to go forward with any tender that fails to meet the minimum standard. The Government of Montserrat 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 Government of Montserrat during the tender process shall be deemed to form part of this ITT and shall supersede any part of the ITT where indicated. The Government of Montserrat 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.
- (vi) Except when specifically authorized by the Government of Montserrat, Tenderers shall not approach any member, officer or employee of the Government of Montserrat who is not named in this document with a view to providing additional information in respect of any part of their submission or proposals or attempting to support or enhance their tender evaluation. Any such approach or attempted approach by a Tenderer may lead to the Tenderer's exclusion from the process. Any collusion between Tenderers may, at the discretion of the Government of Montserrat, also lead to the exclusion of all or any of the Tenderers involved.

3.8. Incomplete Tender

- (i) The Contracting Authority will reject a proposal if all the information is not provided. If any bid is found not to comply with the Government of Montserrat's requirements, to lack any information necessary to enable evaluation or to contain inconsistent information, the Government of Montserrat may either:
 - (a) Seek additional information or clarification from the tenderer, or
 - (b) Reject the bid
- (ii) The Contracting Authority will reject an unsigned proposal.

3.9. Interviews & Cost of Tendering

- (i) The Contracting Authority may require interviews with the tenderer. Such a requirement shall imply no obligation on the part of the Contracting Authority and the tenderer shall be responsible for any of its' own expenses incurred. Any expenditure, work or effort undertaken during the tendering process is a commercial judgement for the Tenderer and is at the Tenderer's own risk and expense. The Government of Montserrat shall not be liable for any cost incurred by any of the Tenderers.
- (ii) The Contracting Authority also retains the right to visit the tenderers premises or any nominated reference site prior to any contract award being made. The Contracting Authority will be responsible for any of its' own expenses incurred.

3.10. Acceptance of Tender

- (i) The Contracting Authority does not bind itself to accept any tender. The Contracting Authority also reserves the right to accept a tender for part or for all the requirements. Should the Government of Montserrat accept a specific proposal, a contract between the Government of Montserrat and the Successful Tenderer will be concluded. Having regard to the timetable set out in Section 3.4 and the process described in this ITT, Tenderers are invited to submit to the Government of Montserrat their completed proposals no later than 2:00pm Eastern Caribbean Time (7:00pm UK time) on Wednesday 26th July 2017. It is expected that tender evaluation and the identification of a suitable operator will be made shortly after to be finalized by contract signing. Tenderers should note that this project is being advertised on the Government of Montserrat official website (www.gov.ms) under the caption marked tenders. This tender is also advertised on the Mytenders portal at <https://www.mytenders.org> and conducted under the open tendering procedure as provided in the Public Finance (Management and Accountability) Procurement Regulations 2012.

3.11. Communications

- (i) Nothing herein or in any communication made on behalf of the Contracting Authority shall be taken as constituting an agreement, offer or representation between the Contracting Authority and any other party (save for a formal award of contract made in writing by or on behalf of the Government of Montserrat) nor shall they be taken as constituting an agreement, offer or representation that an agreement shall be offered in accordance herewith or at all. Tenders are reminded that all information supplied by the Government of Montserrat in connection with this ITT shall be treated as confidential by tenderers except that such information may be disclosed for the purposes of obtaining sureties and quotations necessary for the preparation of tender submission.

3.12. Value for Money

- (i) The Government of Montserrat believes that it is necessary to evaluate tender submissions transparently and fairly both to meet the standards of public accountability and to achieve the best passenger ferry services possible.
- (ii) Considering this, the Government of Montserrat has produced evaluation criteria that will be strictly adhered to. Seeking value for money through procurement is an increasingly important aspect of the Government of Montserrat's business practices. Award of contract through this procurement process will be made on the basis of whole life cost/most economically advantageous considerations, over the full period of the contract.
- (iii) The Evaluation Criteria include emphasis on quality as well as price. Each Tender Submission will be the subject of a technical, legal, commercial and financial analysis. The aim of the evaluation is to select the Tender Submission that is most economically advantageous for the provision of the required service. To assist in the evaluation process, Invitation to Tender responses (your proposal) must have a structure to include appropriate page and paragraph numbers.

3.13. Technical

- (i) The Government of Montserrat will consider all the technical information provided in each bid following the evaluation criteria as set out in this document. This process may involve a period of clarification with Tenderers. Commercial and financial analysis will be applied to the Submissions to establish the full price of tenders. Tenderers should note that Submissions should provide detailed financial and other information to enable the Government of Montserrat to make a full assessment of the proposal.
- (ii) The Government of Montserrat also needs to be confident that the successful Tenderer 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. The information required to satisfy this requirement will include (but is not limited to):

- (a) total and disaggregated costs, profit and fuel subsidy assumptions;

- (iii) Table 2 below details the non-commercial evaluation criteria that will be used to assess responses to this Invitation to Tender. Each of the criteria has been allocated a percentage in accordance with the Contracting Authorities perceived importance of that criteria.

Table 2 – Evaluation Criteria: Quality Weighting Allocation

Evaluation Criteria – 60% overall weighting		%
1	The Mode of Transport	12
2	Suitability of Contingency plans for vessels	8
3	Mobilization Plan.	8
4	General understanding of the Service Specification & Operational Management of the Services	10
5	Reference of Previous Similar Performance	4
6	Proposals for Quality and Safety management	10
7	Experience of Key Staff	8

- (iv) The evaluation criteria detailed in Table 2 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.
- (v) Commercial weighting will be 40% of the overall evaluation.
- (vi) The Contracting Authority will award a contract based on identified optimum solution(s) that best meets its’ needs. Tenderers will wish to be aware that the evaluation will be based on both the commercial evaluation (40%) which will be scored relative to each other; and the content of the Technical Submission (60%). Please be aware that evaluators will not be able to assume knowledge on the part of the Tenderer. Tenderers should therefore consider the level of detail and completeness in the Submission as regards how they would intend to operate the Services.
- (vii) Total scores will be summed from each criterion and each will be scored on the capabilities demonstrated by the tenderer. The score for each criterion will be attained by multiplying its percentage (provided in Table 2) by the quality of the response as per the below details:
 - i: 0..... Does not meet the requirements at all
 - ii: 1 to 2..... Very poor level of requirements met;
 - iii; 3 to 4..... Poor level of requirements met;
 - iv: 5 to 6..... Good level of requirements met;
 - v: 7 to 8..... Very good level of requirements met;
 - vi: 9 to 10.....Excellent level of requirements met.

Example Calculation:

Mode of Transport 12% * Quality of response (Good level) 6 = 12%*6/10 = 7.2%. This is calculated for each of the 7 criteria and added together to arrive at a total score.

3.14. Changes in Circumstances

- (i) Tenderers are required to inform the Government of Montserrat immediately if any of the following occurs:
 - (a) changes to the corporate structure or membership set out in their tender submitted; and
 - (b) any other changes to their circumstances or their Tender Submission which might affect the Government of Montserrat's decisions as to the suitability of their Tender Submission.
- (ii) **Tenderers must include, as part of their Submission, a clear statement confirming that they have complied and will continue to comply with this requirement.**

3.15. Guidelines for Submitting a Tender

- (i) Tenderers must provide a detailed proposal for operating the Passenger Ferry Services in their Tender Submission. Tenderers should note that the operational details, service standards and other statements on service provision and legislative compliance made by the Tenderer as part of their proposals will form a binding part of the final contract for the operation of the Services.
- (ii) Electronic tender packages can be accessed and submitted via the Mytender Portal at <http://www.mytenders.org/>.
- (iii) Hard copies can be downloaded from the Government of Montserrat website at www.gov.ms. Hard copy proposals must be placed in a sealed inner envelope. The inner envelope should be addressed to the **Chairman, Public Procurement Board, Ministry of Finance and Economic Management, Brades, Montserrat**. The name of the Project should also be written on this inner envelope and should read, **“Tender for the provision of Passenger Ferry Services (OP/PROC/001)”**. The name of the tenderer should also be written on the inner envelope.
- (iv) This inner envelope should then be placed in a sealed outer envelope and addressed to **the Chairman, Public Procurement Board, Ministry of Finance and Economic Management, Brades, Montserrat**. The name of the project should also be written on this outer envelope and should read, “Tender for the provision of Passenger Ferry Services (OP/PROC/001)”. The outer envelope should bear no identification of the bidder. Tenders, both electronic and hard copies are to be received no later than **2:00 p.m. on Wednesday 26th July 2017**. Please ensure that no additional marks are placed on the envelope.

3.16. Income and Expenditure

- (i) The Government of Montserrat shall pay the Operator a daily charter rate in respect to the vessel utilized to perform the ferry service. The agreed daily rate for the service must be submitted in the tenderers Proposal.
- (ii) An example of the daily cost structure that is required by GoM is identified in table 3 below. This is not exhaustive or prescriptive but is indicative and it is anticipated that the tenderer will use their own standard format for the provision of such information. The purpose is to assess the overall costs of the ferry.
- (iii) The cost of fuel shall be the responsibility of the Government of Montserrat. Please provide an indicative daily fuel consumption and cost for one return from Montserrat to Antigua.

Summary Line Items	Unit	Figures	Costs
Daily Operations			
Labour			
Maintenance			
Other			
Monthly Vessel Cost			
Mobilisation			
De-mobilisation			
Office and Administration			

Table 3 – Example of Ferry Pricing Breakdown

3.17. Allocation of Costs

- (i) The Successful Tenderer will be responsible for all its costs relating to mobilization of the Services, the operation of the Services as described in this IIT 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 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 in the breakdown of cost. The tenderer must provide a completed and signed Price Schedule or a breakdown of cost must be submitted. The charges tendered shall remain valid from the date of receipt of the proposal until this tender process is complete and a contract has been awarded. The contract price shall be fixed for the first 12 months and for any further extensions of the contract for a further maximum period of 12 months.

3.18. Financial Structure

- (i) Tenderers are required to make full disclosure to the Government of Montserrat of any relationships with other companies. Any Tenderer meeting the Minimum Standard, but sharing the cost of assets involved in the provision of other services, will be required to satisfy the Government of Montserrat that adequate systems would be put in place – and if a contract is placed the Successful Tenderer will have to satisfy the Government of Montserrat that such adequate systems have been put in place to ensure no cross-subsidization occurs between the services which are subject to this contract and any other ferry route or any other activities.
- (ii) The Successful Tenderer 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.
- (iii) **Tenderers must include, as part of their Submission, a clear statement confirming that they will comply with this requirement and detail proposals setting out how they intend to satisfy this requirement.**

3.19. Insurance

- (i) The Successful Tenderer will be required to ensure that the primary vessel and any other back-up vessel are fully insured at the appropriate commercial value. The Successful Tenderer will also be required to provide the insurances required by the Government of Montserrat under the Contract. Additionally, the Successful Tenderer will be required to carry the necessary insurances sufficient to cover for all and any third party claims which may occur as a result of providing the Services. The Government of Montserrat reserve the right to request that this level of cover be increased if it is deemed to be inadequate.
- (ii) The Successful Tenderer will be responsible for providing demonstrable evidence that all the necessary insurances are in place prior to contract commencement and thereafter copies of policy renewals on the specified date will be submitted to the Government of Montserrat as appropriate.
 - (a) the name of the insurance provider with which each vessel is to be insured along with a copy of the certificate of entry and evidence of the extent of the cover;
 - (b) identity of the underwriters with whom third party risk is placed along with details of the extent of cover;
 - (c) evidence of insurance in respect of hull and machinery;
- (iii) Under no circumstances shall the Successful Tenderer be allowed to provide the Services without appropriate insurance being in place. The payment of

all associated premiums, deductibles and other costs will be borne by the Successful Tenderer.

3.20. Contract and Compliance Legal Jurisdiction

- (i) The Successful Tenderer 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.
- (ii) **Submissions should include a clear statement confirming that the Tenderer accepts this requirement and detailing how the Tenderer will comply with this requirement.**
- (iii) The Successful Tenderer 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.
- (iv) **Submissions should include a clear statement confirming that the Tenderer accepts this requirement and detailing how the Tenderer will comply with this requirement.**
- (v) The Successful Tenderer will be required to have regard to any International or legislative framework and obligations in relation to disabled people and to consider the needs of disabled travellers (see section 6.1.3)
- (vi) **Submissions should include a clear statement confirming that the Tenderer accepts this requirement and detailing how the Tenderer will comply with this requirement.**

3.21. Contract Duration

- (i) The Contract Period under this passenger ferry service contract will be for twelve (12) months and is expected to commence on 01st October 2017 and terminate on 30th September 2018, subject to the Government of Montserrat's right of earlier termination on default under the Contract. It is possible thereafter that the Contract may be extended on a month to month basis for the maximum period of 12-months.

3.22. Fuel Subsidy

- (i) The Government of Montserrat will bear the cost of fuel for the operation of the ferry service on the designated route during this contract. The purpose of this subsidy is to allow the Operator to provide a ferry service which would not otherwise be commercially viable.

3.23. Performance Regime

- (i) 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.

- (ii) **Submissions should include a clear statement confirming that the Tenderer accepts the terms of the performance regime. Technical Submissions should also include proposals setting out how the Tenderer intends to provide the information required by the Government of Montserrat under the Contract in relation to the performance regime.**

3.24. Variations

- (i) Tenderers 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 Government of Montserrat throughout the Contract Period should the Government of Montserrat consider that the Services under this Contract have or are to become inadequate or inappropriate for any reason.
- (ii) The Government of Montserrat may also add other destinations to the service such as St Kitts, Nevis, St Maarten and Guadeloupe.

3.25. Monitoring and Audit

- (i) The Government of Montserrat intends to place great emphasis on the monitoring of the service. In accordance with the terms of the Contract, the Operator will be required to provide detailed monitoring and accounting information on a route-by-route and harbour-by-harbour basis. These arrangements are intended to ensure that the standards set out in the performance regime are being met. The Operator will also be required to attend regular meetings with the Government of Montserrat as part of the monitoring and management of the Contract. This would comprise weekly meetings between relevant members of the Operator's management team and the Government of Montserrat officials.
- (ii) **Submissions should include a clear statement confirming that the Tenderer accepts this requirement.**

3.26. Disputes/ Mediation and Arbitration

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

3.27. Transfer or Assignment

- (i) The Operator may not transfer or assign the Contract or any part thereof without the written approval of the Government of Montserrat.

3.28. Termination

- (i) The Government of Montserrat may terminate this Contract in any of the circumstances set out below by giving to the Operator notice in writing where the Operator; -
 - (a) commits a material breach of any of its obligations under this Contract; and despite notice of such breach in writing by the Government of Montserrat to the Operator, the Operator fails to remedy such breach within 14 days of the notice then the Government of Montserrat may terminate the Contract forthwith.
 - (b) 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;
 - (c) Has a winding-up order made or (except for the purposes of amalgamation or Reconstruction) a resolution for voluntary winding-up passed;
 - (d) Has a provisional liquidator, receiver or manager of its business or undertaking duly appointed;
 - (e) 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 Government of Montserrat may without prejudice to any accrued rights or remedies under this Contract, terminate the Contract by giving notice in writing.

- (ii) If the Contract is terminated as provided in this condition, then the Government of Montserrat shall: -
 - (a) Cease to be under any obligation to make further payment until the costs or loss resulting from or arising out of the termination of this Contract shall have been calculated, and shall make such payment only in accordance with a court order or pursuant to the applicable law;
 - (b) Be entitled to repossess any of its Equipment (if any) in the possession of the Operator;
 - (c) Be entitled to deduct any losses to the Government of Montserrat 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 Government of Montserrat to the Operator as a debt). Such loss shall include the reasonable cost to the

Government of Montserrat of the time spent by them in the termination of the Contract as aforesaid have been due to the Supplier.

3.29. Constraints, Risks and other Key Points to note

- (i) Tenderers must be aware of the high importance the Government of Montserrat attaches to the safety of the contracted Services and to the requirement for the Operator 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.
- (ii) **Submissions should include a clear statement confirming that the Tenderer accepts this requirement.**

3.30. Force Majeure

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

3.31. Anti-Collusion Statement

- (i) All tenderers must ensure that the enclosed anti-collusion statement form is duly signed and returned with the tender. Failure to submit the signed anti-collusion declaration will invalidate your tender.

3.32. Mobilisation

- (i) Tenderers must submit a comprehensive mobilization plan. The plan must include a clear statement of how the operator will provide mobilisation commencing six (6) weeks prior to the service commencement (based on the current planned activities). Submission should include detailed proposals setting out how the Tenderer would approach contract handover. This Mobilisation Plan should include a timetable with key milestones. Tenderers 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.
- (ii) The Government of Montserrat will have the right to monitor the Successful Tenderer's progress on service mobilization against the agreed Mobilisation Plan. The Successful Tenderer will be required to provide weekly reports to the Government of Montserrat 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 Tenderer will be required to produce proposals for rectifying this and to immediately take such action as may be required to address the problem. Tenderers will wish to note that the Government of Montserrat will cooperate fully with all reasonable requests during the handover/mobilisation period.

- (iii) The mobilization plan in their proposal must demonstrate how the initial commencement of the contract would be managed, from the contract award date of Friday 11th August 2017. The plan should include, but not exclusively:
- (a) The resources that will be used for the mobilization and full operation of the services. This can include staff and non-staff resources.
 - (b) As a minimum it must include a structured diagram, resumes/CV's together with a professional overview of the 'key staff' resources. Including the senior management team with overall responsibility for the contract; the 'core' members of the vessel/crew; the 'core' members of the support/ground crew;
 - (c) If the winning bidder is not the incumbent operator, information about how you will deal with the transition from the current ferry service is required. It should be noted in this instance that the service is currently provided by the MV Jaden Sun under a contract which expires on 30th September 2017. If you need more time from the contract award date to commencement of the service, this must be clearly stated, together with the reasons why.
 - (d) 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;
- (iv) **Submission must include a clear statement confirming that, if successful, the Tenderer will meet the requirements of this Section and setting out how the Tenderer would achieve this.**
- (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) to take over the Services or to provide services broadly similar to them. The Operator will be required to work closely and co-operate fully with the Government of Montserrat and the new operator during the handover period in accordance with the Handover Assistance Plan.**

4. INFORMATION TO BE PROVIDED

4. Information to be provided

The information requested in this section is mandatory.

4.1. Structure of Response

- (i) The tenderer shall take note and fully comply with the notices and instructions set out below.
- (ii) To assist in the evaluation process, Invitation to Tender responses (your proposal) must have a structure to include appropriate page and paragraph numbers and must be ordered into 4 clearly marked sections:
 - (a) General Information
 - (b) Specific Information
 - (c) Confirmations
 - (d) Contract Price
- (iii) The content of these sections are identified below.

4.2. General Information

The tenderer shall include the following in the section headed General Information:

- (i) The Project Number OP/**PROC/001(Sea Access)** to which the tender relates;
- (ii) the full name of the tenderer together with any trading name, the address of the tenderer and the address for communications under any resultant contract;
- (iii) the name(s) and telephone number(s) of the tenderer(s) or their representative(s) whom the Contracting Authorities may contact in relation to the tender;
- (iv) details of the relevant levels of insurance cover you have in order to operate the service. The insurance, where appropriate, must include optimum cover for sea transportation. As well as travel, the insurance should cover professional indemnity, public liability and employer's liability. A copy of your most recent insurance policies/schedules must be included in this section.
- (v) an account of previous performance when delivering similar services, in the past 3 years. You must include information about success levels, including how you have been able to manage passenger demands. Also include an overview of how difficulties had been overcome, and resolution procedures followed.

4.3. Specific Information

The tenderer shall include the following in the section headed Specific Information

Please note that the content of this section is not exhaustive and should be cross referenced with the "EVALUATION CRITERIA and SECTION" table :

- (i) Confirmation is required that the scheduled Timetables and Routes, in item 6.1.3 of the specification will be achieved
- (ii) Full details of the mode of transport, in response to the information detailed in item 6.3 of the Specification;

- (iii) An account of how you will manage the Harbour, Docking and Landing and Customs Services, in response to the information provided in item 6.3.10 of the Specification;
- (iv) An overview of how you will facilitate collaborative working in response to the information detailed in item 6.1.18 of the Specification;
- (v) Comprehensive quality assurance in response to the information detailed in item 6.3.12
- (vi) An outline on how you will undertake operations management and performance, in response to the information provided in Section 6.1.19 of the Specification;
- (vii) Detail on how you will provide reporting and management information, in response to section 6.1.20 in the Specification.

4.4. Confirmations

The tenderer shall include the following in the section headed Confirmations:

- (i) That tendered services are those specified in section 6 of the Specification;
- (ii) That the Terms and Conditions in section 7 shall govern the provision of the service specified in section 6 of the Specification and any resultant contract;
- (iii) That this is a bone fide competitive tender and that the tenderer has not fixed or adjusted the amount of the tender by arrangement with other tenderers
- (iv) That the tenderer has not communicated to any other persons (and will not do so before the tender closing date) the amount or approximate amount of their tender. This must be accompanied by a signed anti collusion form, provided in Annex A;

4.5. Contract Pricing

The tenderer shall include the following in the section headed Contract Pricing:

- (i) A completed and signed Price Schedule including a breakdown of costs using the tables provided;
- (ii) The Charges tendered shall remain valid from the date of the receipt of the proposal until the tender process is complete & contract awarded
- (iii) The contract price shall be fixed for the first 12 (twelve) months with no negotiation for increase thereafter.

4.6. Mandatory Returns

- (i) It should be noted that as a minimum the following items are to be completed, signed and returned as required:
 - (a) Form of Tender
 - (b) Tender Evaluation Declaration
 - (c) Responses to the Evaluation Criteria (Section 6) and references
 - (d) Annex 3 – Tender Submission Anti-Collusion Certificate
 - (e) Annex 5 – Respondents Identification/Details
 - (f) Annex 6 – Ferry ITT Mandatory Check list

5. FERRY ACCESS

5. Current Access Status

In this section we look at the premise of improving access for Montserrat

5.1. Access for Montserrat

- (i) Montserrat currently has a sea transport service providing access for people travelling to and from the island of Montserrat by sea. The current service started in October 2016 after a competitive tendering process with the resultant contract expiring on 30th September 2017. In terms of support infrastructure, there are docking and customs facility operational at Little Bay. The docking and customs facility at Little Bay are fully operational with regular boarding and disembarking between three to six days a week.
- (ii) Passenger safety is of paramount importance and as a result docking at Port Little Bay is always subject to sea conditions. In the past, there has been occasions when decisions were made not to dock due to heavy swells in and around the little bay area.
- (iii) Improving access to and from Montserrat is a key priority for The Government of Montserrat. This contract is an important part of that improvement process, bringing increased emphasis to the delivery of value for money, quality, and increased options, which could also include a balance of sea and air services.
- (iv) During the term of this contract the Government will be working closely with all its' key stakeholders, in order to consider the best options for making further progress. This is likely to involve considering options for services that can meet needs much further into the future. This could include adopting more fully integrated approaches, and setting in place longer term contracting processes.

5.2. Historic Passenger Numbers

- (i) The number of passengers that travelled by sea to and from Montserrat during 2014 – 2015, 2015 – 2016 and 2016 – 2017 are represented on table 3, 4 and 5. These may be helpful when designing the type of service that the operator is proposing, however it is envisaged that future numbers will be more significant. The operator will need to number of passengers vis-à-vis on-board entertainment, number of crew, and vessel(s) specification. In this regard the Government of Montserrat encourages innovative responses that are capable of demonstrating the delivery of value for money. This can include showing your ability for: improving traveller choice; providing for an excellent passenger experience and increasing passenger numbers.

Table 4 - 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 5 - 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 6 - 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	Not available
OVERALL TOTAL		12224

6. THE SPECIFICATION

6. The Specification

The specification section of the ITT addresses the GoM expectations in service provided.

6.1. The Requirement

- (i) This section provides details of the outputs and core requirements for the Passenger Ferry Service (the Specification). The requirements in this Service Specification deal with minimum standards which the Government of Montserrat wishes to see incorporated into the tender for the Passenger Ferry Service.
- (ii) **Submissions should set out how the Tenderer intends to provide the Services so as to satisfy the requirements of the Government of Montserrat. Tenderers should consider all requirements set out in this Service Specification.**
- (iii) The Operator will be responsible for ensuring that the service specification requirements are achieved in full.
- (iv) The requirement is for the provision of sea transport services for people traveling to and from Montserrat. In preparing the Service Specification, the Government of Montserrat has had particular regard to the following key principles:

6.1.1. Safety Standards

- (i) The safety of passengers and crews is a fundamental issue which under no circumstances can be compromised or diluted. Accordingly, it is a requirement that the Service is managed and operated in a manner that consistently provides the highest standards of safety. The Operator shall, therefore, ensure compliance with all applicable National and International Conventions and Regulations and ensure that relevant industry codes, guidance and standards are fully taken into account. In particular, the Operator shall comply with and ensure that the vessels to be used to perform the obligations of the Contract and all matters concerning their operation, comply with relevant International Standards. All vessels employed, and the Operator, must comply with the requirements of the ISM Code. Continued compliance with all relevant laws, rules and legislation governing marine operations is essential.
- (ii) **The Technical Submission must include a clear statement confirming that, if successful, the Tenderer will meet the requirements of this Section and setting out how the Tenderer would achieve this.**
- (iii) The Government of Montserrat requires Tenderers to demonstrate how they will meet all relevant safety requirements for vessel specification and operations, and in relation to crew and passenger safety on board.
- (iv) In carrying out all duties relating to shore side activities, the Operator 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.

- (v) **Submission must include a clear statement confirming that, if successful, the Tenderer will meet the requirements of this Section and setting out how the Tenderer would achieve this.**
- (vi) 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.
- (vii) **Submission must contain a clear statement confirming that this information will be provided should it be required.**

6.1.2. Standards and Quality

- (i) More emphasis has been placed on the level of service to be supplied and more-so the quality. Tenders will be required to submit quality plans, a customer service undertaking and set out minimum standards of operation. The performance regime will monitor reliability, punctuality, service levels, operability, safety, provision of applicable on-board services and compliance with applicable law. Monitoring will be based on reports to be submitted by the Operator on a monthly basis to enable any problems to be picked up and dealt with early (although cancellations must be notified immediately). The regime uses a mix of reduction in the daily charter rate and, for more serious defaults, the issue by the Government of Montserrat of a notice requiring the Operator to prepare an Improvement Plan which will set out steps (to be agreed with the Government of Montserrat) to remedy a default within a certain timescale, failure to comply with which may result in termination of the Contract. It should be noted that the regime allows for cancellations and delays due to specified Events. This ensures that safety need never be compromised to avoid penalties. Monthly performance figures and information must be made available by the Operator at the request of the Government of Montserrat. Continued high standards of punctuality and immediate availability of contingency vessel, on-board passenger accommodation and comfort, attitude and helpfulness of crew in providing quality customer service is paramount.
- (ii) **Submissions should include a clear statement confirming that, if successful, the Tenderer will comply with this requirement and setting out how this requirement would be fulfilled.**
- (iii) The Operator shall also be subject to audit by the Government of Montserrat (or the Government's appointed auditors) and this may include spot checks.
- (iv) The submission should include a draft Service Level Agreement/Customer Services Undertaking devised by the Tenderer. It should cover issues such as the following:
 - (a) cleanliness and availability (where applicable) of those parts of the vessels which are designed to be available to passengers for the purposes of a sailing including, without limitation, passenger bar and restaurant areas, cafeterias, passenger decks and lounges, seating and lavatory facilities;

- (b) availability (where appropriate) of those parts of the vessels utilized for the carriage of loose freight and parcels, or refrigerated cargo;
 - (c) availability of the relevant gangways, companion ways and other means of access;
 - (d) where relevant, any bar and/or restaurant facility on the vessel, which should be open for the hours advertised and able to serve, during those hours, the hot and cold food and alcoholic and non-alcoholic beverages advertised as being available on that sailing;
 - (e) availability, where relevant, of vending machines on board the vessel;
 - (f) staff livery and conduct
 - (g) services for disabled people including availability on every sailing of disabled toilets, where applicable;
 - (h) customer satisfaction with the ferry Services; and
 - (i) the way in which customer complaints are to be dealt with.
- (v) The Operator will be required to publish the Customer Services Undertaking (which will be subject to the approval of the Government of Montserrat) and to abide by the standards which it sets. The Contract contemplates that the Customer Services Undertaking will be updated from time to time. Tenderers will note that compliance with the Customer Services Undertaking forms a part of the performance regime.

6.1.3. 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 Government of Montserrat recognizes that specific timetable elements may require adjustment from time to time to meet the changing needs of users. In addition, service delivery may be increased or reduced by the introduction of some modifications to the existing timetables. However, the Government of Montserrat considers that it is essential that current timetables should not be unduly modified in order that the Ferry Services are protected for users and that all stakeholders may gain experience of the new pattern of service delivery.
- (iii) For this reason, the regular timetables are to be delivered as the Minimum Standard and will not be significantly varied by the Government of Montserrat. The regular timetable is outlined below:

Tuesday----- 4 sailings
 Thursdays ----- 2 sailings
 Fridays -----4 sailings
 Saturdays ----- 2 sailings
 Sundays ----- 2 sailings

- (iv) The Operator will also be required to provide occasional day tours to and from Antigua. Other routes may be introduced over the contract period which may include St Maarten, Guadeloupe and St Kitts/Nevis. Such requirement will be communicated to the Operator in advance. The Operator should however be aware that journeys may increase during certain times of the year due to festivals, sporting events etc. The Operator undertakes to fully cooperate with the Government of Montserrat in satisfying those requirements.
- (v) **Submissions must contain a clear statement confirming that the above timetables and the requirement to undertake day tours will form the Minimum Standard of service under the Contract.**

6.1.4. The Vessel

- (i) The mode of transport will be through the operation of a sea faring vessel. Tenderers must detail the type and full capability of the sea faring vessel it proposes to use, in order to meet the needs of this requirement. Including proposed back-up. The type of the vessels being proposed must be capable of plying the waters within the routes that are being offered, as well as meeting changing passenger demands. The solution should focus on value for money, considering: ‘all’ operational costs. It can also include any ‘added benefits’ or extras that would be made available. These could include efficient travel time, passenger luggage or light cargo options. Success factors will include but are not limited to:
 - (a) efficient travel time;
 - (b) the sea vessel(s) capability and ‘capacity’
 - (c) the ease, comfort and practicality of travel;
 - (d) vessel onboard facilities/refreshments;
 - (e) ability to accommodate those with disabilities;
 - (f) efficient fuel consumption;
 - (g) vessel reliability, including proactive maintenance and cleaning;
 - (h) clear back up plans that safeguard against vessels being out of operation;
 - (i) Vessels ability to handle Beaufort³ 6 (six) scale wind and wave conditions exceeding 16 feet
- (ii) Tenderers are required to outline their contingency plan for 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.
- (iii) The Operator will be responsible for the operational management of the Vessels, including manning, repairs, running maintenance (including annual overhauls), insurance, etc., for the Contract Period.

³ https://en.wikipedia.org/wiki/Beaufort_scale

- (iv) 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 manning, 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;

6.1.5. Passenger Facilities

- (i) The Operator shall ensure that the vessel has certain on-board facilities, cafeterias, vending machines, etc. and are available for the use of passengers throughout the journey. Televisions, game consoles and comfortable seating.
- (ii) Vessels should also be equipped with front and rear stabilizers to enhance comfort and better passenger experience.
- (i) **Submission should include a statement confirming that, if successful, the Tenderer will comply with this requirement and details setting out how the Tenderer would meet this requirement.**
- (ii) It is hoped that the successful tenderer will bring innovative ideas to enhance the way in which these services are to be delivered and improve services to customers. As a minimum, the Submissions should provide the services that are currently available on board (although Tenderers have freedom to decide how best to provide these). Tenderers must specify the services that will be available on board the vessel on a daily basis as part of their Submission.

6.1.6. 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) **Tenderers must, as part of their Submission, specify the arrangements made and response times for fleet relief.**
- (iii) 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.

6.1.7. Harbour Services

- (i) The Government of Montserrat operate 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. GoM do not currently operate these services on any other islands.

- (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.
- (iv) **Submissions should include a clear statement confirming that the Tenderer accepts this requirement.**

6.1.8. Provisions for Carriage

- (i) Tenderers must include, as part of their Submission, detailed proposals setting out provisions for carriage of passengers, loose freight and parcels. The Operator is required to provide a loose freight and parcels service as part of the Contract. This service will permit the transportation of loose items such as small to medium sized packages, mail freight, frozen and perishable goods. Tenderers are encouraged to explore expansion of this loose freight and parcels service where possible to assist small businesses pursuing intra-regional trade. Vessels must be fitted with mechanical or hydraulic hoist to facilitate heavy lifting and adequate cold storage facility.

6.1.9. Unscheduled Special Events

- (i) 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/Support required by the Emergency Services, Special Events, including Christmas. The scheduling and service proposed must consider how it would manage and provide Festivals, St Patrick's Festival, Easter Celebrations and Calabash, 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. Submissions must include plans outlining how the Tenderer would meet these and any other unforeseen and unscheduled commitments which may arise from time to time.

6.1.10. Emergency Services

- (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) **Submissions must include a clear statement confirming that the Tenderer will co-operate with these requirements.**
- (iii) This Service specification represents the Minimum Standard required. However, Tenderers are encouraged to be responsive to ferry users and may wish to consider representations made, during consultation, by users in respect of service.

6.1.11. Brand and Marketing

- (i) The Operator will be required to provide a plaque setting out the service. The Operator will be fully responsible for the cost of applying any branding referred to in this Section at the commencement of the Contract and the removal of the same at the end of the Contract.

6.1.12. Disabled People

- (i) The Operator will be required to have regard to the legislative framework and obligations in relation to disabled people and to consider the needs of disabled travellers. This will include consideration of the needs of physically, visually and hearing impaired people. The Operator will also be required to have regard to the *Minimum Standards for Staff Assisting Disabled People*. The Operator will be required to put in place a service level agreement for disabled passengers, and to set out in the Customer Services Undertaking future plans for improvements.
- (ii) The Submission should include the Tenderer's proposals for dealing with accessibility issues. In particular, the Submission should address the following issues:
 - (a) how the Tenderer, if successful, would take into account and comply with the Disability Discrimination Act. This will particularly include accessibility onto and to facilities on the vessel;
 - (b) how the tenderer if successful, would develop a service level agreement for disabled passengers;
 - (c) what proposals for future improvements the Tenderer would intend to include in the Customer Services Undertaking;
- (iii) Tenderers are encouraged to consider initiatives to enhance and promote the culture, language, enterprise and tourism facilities within the neighbouring Islands.
- (iv) **Tenderers must include, as part of their Submission, a clear statement confirming that in providing the Services they will consider the needs of disabled travellers and submit detailed proposals setting out how they intend to satisfy this requirement.**
- (v) For those passengers with visual impairment, the Operator is encouraged to comply with the guidance on travel issued by the Guide Dogs for the Blind Association.

6.1.13. Language

- (i) The Operator shall ensure that the crews are able to communicate with the passengers and each other in English (the principal language of the passengers carried) to meet the requirements of the International Safety Management (ISM) code. The Operator shall particularly ensure that crew and shore staffs that deals directly with users of the Services are proficient in English.
- (ii) **The Submission should include clear statements confirming that the Tenderer will, if successful, comply with these requirements and set out how the Tenderer would propose to fulfil these requirements.**

6.1.14. Monitoring of Operations

- (i) The Government of Montserrat will monitor the Operator's performance against the requirements of the Contract, and in so doing will conduct whatever audits and spot checks it feels are required.
- (ii) **The Submission should contain a clear statement confirming that, if successful, the Tenderer will co-operate in the monitoring arrangements set out in the Contract and provide accurate auditable information to the Government of Montserrat.**
- (iii) This will enable such audits to be carried out to the Government of Montserrat's required standards. 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.
- (iv) The following proposals must also be submitted:
 - (a) proposals for monitoring key service standards on a day to day basis and reporting performance to the Government of Montserrat on a weekly basis;
 - (b) proposals for monitoring and assessing customer satisfaction with the Services for the Customer Service Undertaking and for handling complaints;
 - (c) proposals for the complaints procedure which the Successful Tenderer will implement, with targeted timescales for the resolution of issues;
 - (d) proposals for establishing a regular consultation process with ferry users to meet the requirements set out in the contract.

6.1.15. Information Required from Operator

- (i) The Operator will be required to provide regular detailed information about the operation of the Services. This information is required for internal audit purposes, to comply with rules relating to Transparency and to inform the Government of Montserrat and other Tenderers in the next competition.
- (ii) Submission should include a clear statement confirming that the Tenderer, if successful, will comply with the information requirements and setting out how the Tenderer will ensure accurate, reliable and timeous information provision.

- (iii) 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.

6.1.16. 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.
- (ii) **The Submission should set out how the Tenderer, if successful, would do this.**

6.1.17. 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.

6.1.18. 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. The frequency of these will be reviewed after an initial three-month period.
- (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 responsible for the overall performance and contract management aspects of this contract whilst ably supported by the Access Coordinator.

6.1.19. Reporting and Management Information

- (i) The contractor shall provide monthly management information reports directly to the Permanent Secretary in the Office of the Premier. The focus of the monthly reporting will be to help maintain and improve quality and performance. In this regard they will be a fundamental aspect of the monthly contract meetings. As a minimum the monthly management information must include:
- (ii) **Passenger Experiences.**
This can include the type and regularity of information made available; ease of boarding; on-board experience & comfort; facilities and refreshments (if relevant); ease of disembarking;
- (iii) **Vessel Performance.**
Vessel performance will include but is not limited to: travel time; punctuality; reliability; number of breakdowns; speed of travel.
- (iv) **Health & Safety**
Including the number of passenger and staff incidents; near misses, follow up actions & resolution.
- (v) **Day to Day Activities**
This will provide information about staff moral; the number of positive day to day experiences; any problems/issues being received, including those needing resolution, and those requiring escalation.
- (vi) **Vessel Performance and Maintenance**
This will provide information about planned vessel servicing; detail about how the service will continue; and, any proactive condition reporting.
- (vii) **Efficiency Outcomes & Performance Improvement**
This information will detail achievements in connection with efficiencies and improvements being realized under the contract. It will include, but is not exclusive of or limited to: the regularity and attendance levels at contract management meetings; reductions in unnecessary processes for 'all' the different aspects of the service; use of standards that result in avoiding costs.

6.2. Objectives & Success Factors for the Requirement

The overall objectives and outcomes for this contract include, but are not exclusive of:

- (i) flexible, consistent and frequent travel options/choice, **capable of increasing interest of people in travelling to and from Montserrat.**
- (ii) A targeted 'best in class' level of service. **One of the key focuses for this level of quality is so that passengers/travellers have the best possible experience whilst travelling to and from Montserrat, whatever the reason for their travel.**
- (iii) accommodating changing passenger needs/demands, **in a way that optimises the cost of the service, without unnecessarily compromising and maintaining flexible, consistent and frequent travel option as well as a 'best in class' level of service.**
- (iv) **affordable** travel options for passengers, balanced with achieving an optimum value for money service.

- (v) **safe and comfortable travel**, where health and safety is not compromised in any circumstance.
- (vi) collaborative and coordinated working **with all key stakeholders. This will include the way information is shared, day to day communications, monthly contract meetings.**

6.3. Ferry Specifications

6.3.1. Principal Particulars

- (i) Catamaran type, double hull
- (ii) Ferry should be at least 38 meters in length
- (iii) Draft Hull should be 1.30m to 2.00m
- (iv) One closed cabin and at least one open deck
- (v) Service speed of no less than 25 knots
- (vi) Must be built after 2005⁴

6.3.2. Cargo

- (i) Capable of carrying at least ten tons of pelleted dry cargo, plus large luggage space. Capable of transporting liquid gas and oxygen and other flammable cargo.
- (ii) **Has cold storage facility or space to carry chest freezers. The amount of cold storage space is to be provided as part of the submission. Must have dry cargo facility as well as luggage and cargo trolleys.**

6.3.3. Safety

- (i) The vessel must be equipped with at least 4 x 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.
- (ii) All open deck areas are guarded with 1m high safety rail enclosures to allow the passengers to observe the scenery and photographing unhindered and completely safe
- (iii) Independent steering, propulsion, electrical and fire-fighting systems
- (iv) Should be able to dock at Port Plymouth in case seas at Little Bay are rough

6.3.4. Navigation Equipment

- (i) Equipped with state of the art Radar, GPS Plotters Sounders/ Sonar, radios and Marine Sat phone system and auto pilot, a Wi-Fi system is fitted for the passengers use.

⁴ Please note that the purpose of this prescribed date is to ensure the condition and functionality and form of the ferry. If the vessel is older certification is to be provided such that the hull and engines have been refurbished to meet these conditions.

6.3.5. Aesthetics, Comfort and Entertainment

- (i) The vessel is equipped with comfortable large seats to accommodate at least 200 passengers. A vessel with multiple air-conditioned decks is desirable as it is the intention of the Government of Montserrat to offer day tours from Antigua to Montserrat.
- (ii) At least two toilets and a refreshment bar, all floor coverings are rubber or wood type for ease of cleaning. Kiosk and entertainment equipment. Wall mounted flat screen televisions.

6.3.6. Disabled or disadvantaged Passengers

- (i) Must be able to accommodate passengers with physical disabilities and have adequate ramp, lift or wheel chair access.

6.3.7. Key Staff

- (i) 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:
 - (a) Captain of the Vessel;
 - (b) Chief Mechanic;
 - (c) First Mate;
 - (d) Second Mate;
 - (e) Sailor;

6.3.8. Arrangements for Staff

- (i) The Operational Management Plan should include:
 - (a) structure diagram showing lines of responsibility within the structure;
 - (b) details of the Tenderer's approach to crewing in relation to the Services;
 - (c) details of training policies for the development of seagoing staff on the Services
 - (d) Tenderers should note that proposals will be required to adequately provide for the continuing and long term requirements of the Services;

6.3.9. Vessel to be used, Deployment, Maintenance and Relief Arrangements

- (i) Full details for the structure of the vessel (during the Contract Period) and the deployment of any other relief vessel must be provided. The Technical Submission must include:
- (ii) proposed arrangements for deployment of the primary vessel. It should be noted that the crossing between Montserrat and Antigua include a stretch of notoriously

rough water. Therefore, in order to meet the requirements of the Government of Montserrat, the proposed Vessel must be suitable to operate in sea conditions of a Beaufort wind scale up to 6 allowing for crossings with wave heights of up to two (2) metres. Therefore, the successful tenderer must ensure that the vessel to be deployed satisfies the requirements on safety and seaworthiness.

- (iii) Sufficient detail must be provided in the submission about the Vessel to enable the evaluation team to assess their suitability. The following information is 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 pax certificate (if appropriate);
 - (vii) copy of load line certificate;
 - (viii) copy of Harbour state inspection record covering previous 2 years of operation;
- (iv) 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.
- (v) Tenderers will wish to note that all proposed vessels will be subject to physical inspection before being approved. Details of where this can be done should be provided.
- (vi) 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.
- (vii) 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.

6.3.10. Management and Operation of Harbours, Ports and Shore Facilities

- (ix) 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).

6.3.11. 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.

6.3.12. Quality Plan

- (i) Tenderers shall provide, as part of their Submission, the following information:
 - (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. Where individuals are identified for particular roles their names and CV's should be included. Where tenderers intend to recruit new staff (if their tender is successful) this should be made clear. For this role, 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 a part of the Contract requirements. Failure to appoint suitable individuals to key roles may result in termination of the Contract.
 - (b) 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. In the case of joint ventures where partners have differing quality accreditation, an explanation should be provided as to how the quality management system will be administered and where the specific areas of responsibility will lie.
 - (c) Tenderers must submit a quality plan. This should outline details of how the quality system will be administered and encompass the entire quality assessment system. Outline details of key service standards, including quantifiable targets, should be given. In no circumstances, however, should these targets be viewed as a reason to take action that in any way jeopardizes the safety of the vessel, its crew or passengers.

7. STANDARD TERMS & CONDITIONS OF CONTRACT FOR SERVICE

7. Standard Terms and Conditions of Contract for Services

7.1. Interpretation

In these Conditions:

- (i) “the Condition(s)” mean the standard terms and conditions of contract for services as set out in this document;
- (ii) “Charging Rates” shall be construed as those excluding any applicable Value added Tax;
- (iii) “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;
- (iv) “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;
- (v) “the Contracting Authority” means the Government of Montserrat;
- (vi) “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;
- (vii) “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;
- (viii) “Loss” includes destruction;
- (ix) “Month” means calendar month;
- (x) “Person” includes a corporation, partnership, individual;
- (xi) “the Services” means the services to be supplied under the Contract.
- (xii) “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;
- (xiii) “FOI” means Freedom of Information and associated Montserrat Law and Guidance
- (xiv) “FOIA” means the United Kingdom Freedom of Information Act 2000;
- (xv) “EI” means Environmental Information and any associated Montserrat Law and Guidance as may be issued from time to time.
- (xvi) “EIR” means the United Kingdom Environmental Information Regulations 2004 and any subsequent amended Regulations as may be issued from time to time.

7.2. Acts by the Contracting Authority

- (i) 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.

7.3. Services of Notice

- (i) Any written notice or other written communication which any party to the Contract is required to give under the Contract shall be deemed to be sufficiently given if sent by recorded or registered post to the last known address of the other party to the Contract.

7.4. Assignment and Sub Contracting

- (ii) 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.
- (iii) **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.**

7.5. Government Property

- (i) 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.
- (ii) 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.
- (iii) 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.
- (iv) 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.

7.6. Waiver

- (i) 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.
- (ii) The rights, powers and remedies provided in this Contract are cumulative and not exclusive of any rights, powers and remedies provided by law.

7.7. Severability

- (i) 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.
- (ii) 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.

7.8. Use and Safeguarding of Documents

- (i) 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.
- (ii) 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.
- (iii) 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 vest in him otherwise than as a result of work carried out under this Contract.
- (iv) 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.

7.9. Confidentiality

- (i) 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 provided that:

- (ii) The Recipient shall not be prevented from using any general knowledge, experience or skills which were in its possession prior to the commencement of the Contract;
- (iii) The provisions of this Condition shall not apply to any Confidential Information which:
 - (a) is in or enters into the public domain other than by breach of the Contract or other act or omissions of the Recipient;
 - (b) is obtained by a third party who is lawfully authorised to disclose it
 - (c) is authorised for release by the prior written consent of the Discloser; or
 - (d) the disclosure of which is required to ensure the compliance of the Contracting Authority with any applicable FOI guidance or codes of practice.
- (iv) 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.
- (v) The Contractor acknowledges that the Contracting Authority is subject to Montserrat law relating to FOI and EI. In the absence of this, that it will consider the principles laid down in the United Kingdom FOIA and the EIR.
- (vi) The Contractor notes and acknowledges any Montserrat law and guidance on FOI and EI. In the absence of this it will consider the principles of the United Kingdom FOIA and both the respective Codes of Practice on the Discharge of Public Authorities' Functions and on the Management of Records (which are issued under sections 45 and 46 of the FOIA respectively) as may be amended, updated or replaced from time to time and the EIR.
- (vii) The Contractor will act in accordance with Montserrat Law and guidance on FOI. And EI in the absence of this will follow the principles of the United Kingdom FOIA and these Codes of Practice (and any other applicable codes of practice or guidance notified to the Contractor from time to time) and the EIR to the extent that they apply to the Contractor's performance under the Contract.
- (viii) The Contractor agrees that without prejudice to the generality of paragraph 8.9 of this Condition the provisions of this Condition are subject to the respective obligations and commitments of the Contracting Authority under Montserrat law and guidance on FOI and EI. In the absence of this the principles of the United Kingdom FOIA and the Codes of Practice and the EIR;
- (ix) 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;
- (x) 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.

- (xi) 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.
- (xii) 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.”
- (xiii) When entering into contracts it is advisable to put all information that may be subject to any exemption under Montserrat law, or in the absence of this any considerations towards the key principles of FOIA followed in a Schedule to the Contract rather than having to consider exemptions when a request for information is received by the Contracting Authority relating to the Contract.

7.10. Amendments and Variation

- (i) 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.

7.11. Payment

- (i) 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.
- (ii) Invoices will show the period and the amount of the Services for which the payment is claimed together with the agreed Charging Rates.
- (iii) Invoices for the Contract performed shall be rendered at the time and in the manner specified by the Contracting Authority.
- (iv) 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.
- (v) 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 Director of Procurement at The Contracting Authority setting out his case. The Director 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.
- (vi) The Contractor shall be entitled to charge interest at the rate of 1% above the Eastern Caribbean Central Bank's Prime Rate for Montserrat, for the time being in force from the relevant date (“the Relevant Date”) should the Contracting Authority fail to pay the Contract Price. The Relevant Date shall be deemed to be the first day immediately following a period of 30 days commencing on the day when the invoice was presented

by the Contractor to the Contracting Authority. The Relevant Date shall apply unless the invoice was presented before the Contractor fully performed his obligations under the Contract and in these circumstances, the Relevant Date shall be deemed to be the first day immediately following a period of 30 days commencing on the day when the Contractor performed his obligations under the Contract.

7.12. Accounts

- (i) The Contractor shall keep proper accounts and proper records and vouchers for all expenditure referable to the Contract.
- (ii) The Contractor shall permit the Contracting Authority by its officers, servants and 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.
- (iii) 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.

7.13. Recovery of Sums Due

- (i) 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.
- (ii) Any over-payment by the Contracting Authority to the Contractor whether of charges or of any Value Added Tax (“VAT”), where a VAT scheme is adopted, shall be a sum of money recoverable from the Contractor.

7.14. Performance

- (i) 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.
- (ii) 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.
- (iii) 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.

- (iv) If the performance of the Contract by the Contractor is delayed by causes mentioned in paragraph 7.14(i) 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.
- (v) 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.

7.15. Progress Report

- (i) Where formal Progress Reports are specified in the Contract, the Contractor shall render such reports at the time and in such form as may be specified or as otherwise agreed between the Contractor and the Contracting Authority or its authorised representative.
- (ii) 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.

7.16. Contractor's Personnel

- (i) 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.
- (ii) 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.
- (iii) If the Contractor shall fail to comply with paragraph 7.16(i) 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.
- (iv) 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(ii) or 7.16(iii) of this Condition shall be final and conclusive.

7.17. Indemnities and Insurance

- (i) Except as stated in Clause 7.17, where there has been misconduct, gross negligence, dishonesty by the Supplier or the Supplier's Personnel the Supplier'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.
- (ii) The Contractor and Contracting Authority do not limit their liability for:
 - (a) death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors (as applicable);
 - (b) fraud or fraudulent misrepresentation by it or its employees;
 - (c) 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
 - (d) any liability to the extent it cannot be limited or excluded by Law.
- (iii) Subject always to Clauses 7.17.2; in no event shall the Contractor or Contracting Authority be liable to the other for any:
 - (a) loss of profits, business, revenue or goodwill; and/or
 - (b) 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.
- (iv) The Supplier shall not exclude liability for additional operational, administrative costs and/or expenses or wasted expenditure resulting from the direct Default of the Supplier.
- (v) Subject to Clauses 7.17 (i) to (iv) inclusive, the Contractor shall indemnify GoM 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 GoM by third parties in respect thereof and in relation to this Contract.
- (vi) 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 GoM or GoM's employees, or by breach by GoM of its obligations under the Contract.
- (vii) 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.
- (viii) Without limitation to Clause 7.17(iv) 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.

- (ix) The Contractor shall give GoM, immediately on request, copies of all insurance policies referred to in this Clause 7.17 (vii) to (viii) 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.
- (x) 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.

7.18. Termination Due to Insolvency

- (i) The Contractor shall notify the Contracting Authority in writing immediately upon the occurrence of any of the following events:
 - (a) where the Contractor is an individual and if a petition is presented for the Contractor's bankruptcy or a criminal bankrupt order is made against the Contractor or he makes any composition or arrangement with or for the benefit of creditors, or makes any conveyance or assignment for the benefit of creditors, or if an administrator is appointed to manage his affairs; or
 - (b) where the Contractor is not an individual but is a firm or a number of persons acting together in any capacity if any event in sub-paragraph i or iii of this paragraph occurs in respect of any partner in the firm or any of those persons or a petition is presented for the Contractor to be wound up as an unregistered company; or
 - (c) where the Contractor is a company, if the company passes a resolution to wind-up or the court makes an administrator order or a winding-up order, or the company makes a composition or arrangement with its creditors, or an administration receiver, receiver or manager is appointed by a creditor or by the court or possession is taken of any of its property under the terms of a floating charge.
- (ii) On receipt of the notice under paragraph 7.18. (i) above or earlier discovery by the Contracting Authority of the occurrence of any of the events described in that paragraph, the Contracting Authority may, by notice in writing to the Contractor, summarily terminate the Contract without compensation to the Contractor and without any prejudice to any right of action or remedy which may accrue to the Contracting Authority thereafter.

7.19. Termination for Breach of Contract

- (i) If a party commits a material breach of the Contract and, in the case of a breach which is capable of remedy, fails to remedy such breach within 28 days of being required by the other party in writing to do so, the injured party shall be entitled to terminate the Contract with immediate effect by notice in writing to the other party and without prejudice to any rights of the parties accrued to the date of the determination of the Contract.

7.20. Cancellation

- (i) The Contracting Authority shall be entitled to terminate the Contract by giving to the Contractor not less than 28 days' notice in writing to that effect without prejudice to any rights or remedies of the Contractor for breach of Contract.

7.21. Dispute Resolution

- (i) 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.
- (ii) If the dispute cannot be resolved by the parties pursuant to paragraph 7.21(i) of this Condition, the dispute may, by agreement between the parties, be referred to mediation pursuant to paragraph 7.21 (iv) of this Condition.
- (iii) The performance of the Contract shall not cease or be delayed by the reference of a dispute to mediation pursuant to paragraph 7.21 (ii) of this Condition.
- (iv) The procedure for mediation and consequential provisions relating to mediation are as follows:
 - (a) 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;
 - (b) 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;
 - (c) 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;
 - (d) 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;
 - (e) 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;

- (f) 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.

7.22. Corrupt Gifts and Payments of Commission

- (j) The Contractor shall not:
- (a) 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;
 - (b) 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.
- (iv) 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.
- (v) Where the Contract has been determined under paragraph 7.22 (ii) of this Condition, the powers given by paragraph 7.14 (v) of Condition 7.14 shall apply as if there had been a failure to commence the work.
- (vi) In any dispute, difference or question arising in respect of:
- (a) the interpretation of this Condition (except so far as the same may relate to the amount recoverable from the Contractor under paragraph 7.22 (iii) of this Condition in respect of any loss resulting from such determination of the Contract); or
 - (b) **the right of the Contracting Authority to determine the Contract; or**
 - (c) **the amount or value of any gift, consideration or commission;**
 - (d) **the decision of the Contracting Authority shall be final and conclusive.**

7.23. Special Provisions

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

7.24. Conflict of Interest

- (i) 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.
- (ii) Where the Contracting Authority is of the opinion that the conflict of interest notified to it under paragraph 7.24 (i) 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:
 - (a) if the Contractor fails to comply with the Contracting Authority requirements in this respect; or
 - (b) if, in the opinion of the Contracting Authority, compliance does not avoid or remove the conflict, the Contracting Authority may determine the Contract and recover from the Contractor the amount of any loss resulting from such determination.
- (iii) 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.

7.25. Copyright and Property Information and Equipment

- (i) 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.

- (ii) 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.
- (iii) Nothing in the Contract or done under the Contract shall be taken to diminish any copyright or rights to any other intellectual or industrial property which would apart from this Contract vest in the Contracting Authority.
- (iv) 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 from or arising out of any such information, specification, plan, drawing, sample or other thing.
- (v) 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, licence, sub-licence, 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.
- (vi) 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.

7.26. Force Majeure

- (i) **For the purposes of the Contract “Force Majeure” shall include but not be limited to the following:**
 - (a) war, civil war, riots, revolution;
 - (b) natural disasters such as earthquakes, tidal waves and floods;
 - (c) explosions and fires not caused by neglect of duty by the operator
- (ii) 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.

- (iii) 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.

7.27.No Partnership

- (i) 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.

7.28.Rights of Third Parties

- (i) 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.

7.29.Language

- (i) 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.

7.30.Law

- (i) The Contract shall be considered as a contract made in Montserrat and shall be governed by, and construed in accordance with the provision of Montserrat Law.

**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 IIT, at the prices entered in the Financial Proposal.

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

- Notices and Instructions
- Service Specification
- Content of the Technical Submission
- Content of the Financial Proposal
- Form of Tender for the Procurement of Passenger Ferry Service
- Statement of Understanding of Key Requirements of the Service Specification

As part of your financial submission, please provide a breakdown of the total cost of service over the 12 month period and reflecting the sailing schedule.

Our total tendered price for the cost of the 12 month service is:

XCD _____

=====

*I/We agree to abide by this tender for a period of 90 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 Tenderer as a sole supplier.

*I/We understand that it is intended that the service provision will commence on 01/10/2017.

Signature:

Name: **(BLOCK CAPITALS)**

Designation:

Duly authorized to sign Tenders for and on behalf of:

Name of Tenderer

Nature of Firm

Address

Telephone No **INCLUDE AREA CODE**

Date

It must be clearly shown whether the Tenderer 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 and in particular but not exclusive to I/We the tenderer:

1. Accepts all the terms and conditions in the ITT as issued.
2. Accepts that it will be responsible for all its costs relating to mobilization 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.
3. 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.
4. 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.
5. 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.
6. 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.
7. Will have regard to the legislative framework and obligations in relation to disabled people and will consider the needs of disabled travellers.
8. Accepts the terms of the performance regime.
9. Accepts the relevant provisions in the ITT as it relates to breaches and termination.
10. Accepts the requirement to attend regular meetings with the Government of Montserrat as part of the monitoring and management of the Contract.
11. Accepts the requirement to comply with all relevant national and international legislation, Conventions, Directives, as well as Industry Codes and Standards.
12. Confirms that it will meet the requirement to provide ferry services on the routes listed in this ITT and, as a minimum, as specified in the timetables set out in the ITT.
13. Will comply with the requirement to provide on-board facilities, cafeterias, vending machines etc. for the use and comfort of passengers.

14. Accepts the following requirements:
 - a. The vessel proposed by the Tenderer will be subject to the approval of the Government of Montserrat.
 - b. All vessels that are used to provide the Services must be of at least the same standard as stipulated in the ITT.
15. 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.
16. Confirms that the timetables outlined in this tender document will form the Minimum Standard of service under the Contract.
17. 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.
18. 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.
19. In providing the Services, will consider the needs of disabled travellers.
20. Will comply with the requirement to ensure that crews are able to communicate with passengers and each other in English (the principal language of the passengers carried) to meet the requirements of the International Safety Management (ISM) Code.
21. Confirms that it will comply with the requirement to ensure that crew and shore staffs who deal directly with users of the Services are proficient in English.
22. If successful, shall comply with the Government of Montserrat's requirements in relation to consultation with users.
23. 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.
24. 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.
25. 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 Tenderers in the next competition.
26. Will comply with:
 - a. all applicable International Conventions, Directives and Regulations and ensure that relevant industry codes, guidance and standards are fully taken into account.
 - b. the requirement that the vessels to be used on the Contract complies with International Regulations.
 - c. the requirement that both the Primary and any relief vessel deployed to undertake the services comply with the requirements of the ISM Code.
27. If successful, 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.
28. 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.

29. If successful, 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.
30. Accepts:
- a. all the requirements of the Services Specification as set out in the various sections of the IIT.

Signature:

Name:

(BLOCK CAPITALS)

Designation:

Duly authorized to sign Tenders for and on behalf of:

Name of Tenderer:

EVALUATION CRITERIA and SECTION

Evaluation Criteria – 60% overall weighting		Sections relevant and considered during the evaluation
1	The Mode of Transport	6.1.4 6.1.5 6.1.8 6.3.1 6.3.2 6.3.4 6.3.5 6.3.6
2	Suitability of Contingency plans for vessels	3.23 6.1.6 6.3.9 (vi) (vii)
3	Mobilisation Plan.	3.32
4	General understanding of the Service Specification & Operational Management of the Services	3.20 3.23 6.1.3 6.1.7 6.1.9 6.1.14 6.1.15 6.1.16 6.1.17 6.1.18 6.1.19 6.3.9 6.3.10
5	Reference of Previous Similar Performance	References
6	Proposals for Quality and Safety management	3.23 3.29 6.1.1 6.1.2 6.1.10 6.1.12 6.1.16 6.3.3 6.3.6 6.3.9 6.3.10 6.3.11 6.3.12
7	Experience of Key Staff	3.23 6.1.13 6.1.17 6.1.18 6.3.6 6.3.10

ANNEX TO THE FERRY ITT

ANNEX 1 - LIST OF ROUTES TO BE SERVED

ANNEX 2 - SPECIFIC NON-TIMETABLED REQUIREMENTS

ANNEX 3 - TENDER SUBMISSION ANTI-COLLUSION CERTIFICATE

ANNEX 4 - SUMMARY OF PERFORMANCE STANDARDS REQUIRED

ANNEX 5 - RESPONDENT'S IDENTIFICATION/DETAILS

ANNEX 6 – FERRY ITT MANDATORY CHECK LIST

ANNEX 1 - LIST OF ROUTES TO BE SERVED

1. Montserrat to Antigua (return)
2. Montserrat to Guadeloupe
3. Montserrat to St Kitts/Nevis
4. Montserrat to St Maarten/Anguilla

ANNEX 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 Annex sets out examples of events which the Operator may be asked to amend his schedule to cater for.

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

ANNEX 3 - TENDER SUBMISSION ANTI-COLLUSION CERTIFICATE

This Annex 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.....2017

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.....

ANNEX 4 - SUMMARY OF PERFORMANCE STANDARDS REQUIRED

1. Introduction

- 1.1 The Government of Montserrat will monitor all aspects of the service provision. During the Contract Period, the Operator will be expected to discuss all service issues with the Government of Montserrat and to address any problems that arise to the satisfaction of the Government. In addition, poor performance of the Contracted Services may result in a deduction from any monthly instalment or payment.
- 1.2 Tenderers should detail in their Tender Submission how they intend to provide the level and accuracy of information required by the Government of Montserrat for performance monitoring. The Executive will audit this information.
- 1.3 The Contracted Services will require to be operated in accordance with following performance regime.

2. Reliability (Cancellations)

- 2.1 This applies where a sailing is cancelled or is so late that it becomes *de facto* cancelled.

Deductions for cancellation

- 2.2 Each cancelled sailing (other than for a Relief Event) will attract a deduction equivalent to the daily charter rate per sailing. There will be no deduction where a sailing is cancelled due to a Relief Event.

3. Punctuality (Lateness)

- 3.1 A sailing will not be considered late if it arrives alongside the Dock within 15 minutes of scheduled arrival time.

Deductions for lateness

- 3.2 Each late sailing (other than for a Relief Event) will attract a deduction equivalent to 25 percent of the daily chartered rate. There will be no deduction where a sailing is late due to a Relief Event.

Early Departure

- 3.3 Except for safety reasons no sailing should depart earlier than scheduled.

4. Compliance

Deductions will be applied for failure to comply with the following performance measures:

- Compliance with all applicable law and the Harbour Agreement;
- Compliance with the provisions of the Customer Services Undertaking.

5. Reporting

- 5.1 The Operator must provide weekly electronic reports to the Government of Montserrat in accordance with the Contract. These reports will be in a form to be agreed between the Government of Montserrat and the Operator and will address the various performance measures outlined above, any applicable Relief Events, and scheduled maintenance.
- 5.2 The Operator is also required to provide a monthly report on all complaints received pursuant to the Customer Services Undertaking together with a monthly safety report.
- 5.3 The Operator must also provide the monitoring information set out in the above instructions. This relates to carrying information, usage of Harbours, vessel capacity utilisation, and Harbour Services and all activities at Ports. Financial information is also required as set out in the Contract.

ANNEX 5 - RESPONDENT’S IDENTIFICATION/DETAILS

A	PERSONAL INFORMATION
COMPANY NAME _____	
REGISTRATION NUMBER _____	
COMPANY ADDRESS _____	
CONTACT PERSON _____ POSITION _____	
TELEPHONE NUMBER _____ FAX NUMBER _____ WEBSITE _____	
EMAIL ADDRESS: _____	

B	QUESTIONNAIRE	
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 _____

ANNEX 6 – FERRY ITT MANDATORY CHECK LIST

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

If the mandatory item is not submitted, you must provide a reason, failure to do so will result in your submission being disqualified.

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

Number	Mandatory Check list items - Ferry ITT Submission	Tenderer <input checked="" type="checkbox"/> <input type="checkbox"/>	GoM
(i)	A clear statement confirming that they have complied and will continue to comply with 3.7 Clarification and Communication during the Tender Period		
(ii)	A detailed proposal for operating the Passenger Ferry Services in their Tender Submission. Tenderers should note that the operational details, service standards and other statements on service provision and legislative compliance made by the Tenderer as part of their proposals will form a binding part of the final contract for the operation of the Services		
(iii)	The agreed rates for the Primary and the back-up vessel must be submitted in the tenderers Proposal.		
(iv)	A clear statement confirming that they will comply with 3.18 Financial Structure and detail proposals setting out how they intend to satisfy this requirement.		
(v)	A comprehensive mobilization plan. The plan must include a clear statement about how the operator will provide mobilisation commencing six (6) weeks prior to the service commencement (based on the current planned activities). Submission should include detailed proposals setting out how the Tenderer would approach contract handover. This Mobilisation Plan should include a timetable with key milestones. Tenderers 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.		
(vi)	A clear statement confirming that, if successful, the Tenderer will meet the requirements of 3.29 Constraints, Risks and other Key Points and setting out how the Tenderer would achieve this.		
(vii)	The enclosed anti-collusion statement form is duly signed and returned with the tender. Failure to submit the signed anti-collusion declaration will invalidate your tender.		
(viii)	A structured submission to include appropriate page and paragraph numbers and must be ordered into 4 clearly marked sections:		
(a)	General Information		
(b)	Specific Information		
(c)	Confirmations		
(d)	Contract Price		
(ix)	Confirmation that the tenderer has not communicated to any other persons (and will not do so before the tender closing date) the amount or approximate amount of their tender. This must be accompanied by a signed anti collusion form, provided in Annex A;		
(x)	A clear statement confirming that, if successful, the Tenderer will meet the requirements of 6.1.1 Safety Standards and setting out how the Tenderer would achieve this.		

(xi)	A clear statement confirming that this information will be provided should it be required.		
(xii)	A clear statement confirming that, if successful, the Tenderer will comply with 6.1.2 Standards and Quality setting out how this requirement would be fulfilled.		
(xiii)	A clear statement confirming that, if successful, the Tenderer will comply with 6.1.3 Reliability & Timetable setting out how this requirement would be fulfilled.		
(xiv)	The type and full capability of the sea faring vessel it proposes to use, in order to meet the needs of this requirement. Including proposed back-up. The type of the vessels being proposed must be capable of plying the waters within the routes that are being offered, as well as meeting changing passenger demands.		
(xv)	An outline of their contingency plan for 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.		
(xvi)	A statement confirming that, if successful, the Tenderer will comply with 6.1.6 Passenger Facilities and detail setting out how the Tenderer would meet this requirement.		
(xvii)	The arrangements made and response times for 6.1.7 Fleet relief.		
(xviii)	Detailed proposals setting out provisions for carriage of passengers, loose freight and parcels in accordance with 6.1.9 Provision for Carriage. The Operator is required to provide a loose freight and parcels service as part of the Contract. This service will permit the transportation of loose items such as small to medium sized packages, mail freight, frozen and perishable goods. Tenderers are encouraged to explore expansion of this loose freight and parcels service where possible to assist small businesses pursuing intra-regional trade. Vessels must be fitted with mechanical or hydraulic hoist to facilitate heavy lifting and adequate cold storage facility.		
(xix)	Plans outlining how the Tenderer would meet 6.1.10 unscheduled Special Events and any other unforeseen and unscheduled commitments which may arise from time to time.		
(xx)	A clear statement confirming that the Tenderer will co-operate with 6.1.11 Emergency Services.		
(xxi)	A clear statement confirming that in providing the Services they will consider the needs of 6.1.13 Disabled People; disabled travellers and submit detailed proposals setting out how they intend to satisfy this requirement.		
(xxii)	A clear statement confirming that, if successful, the Tenderer will co-operate in 6.1.15 Monitoring of Operations and monitoring arrangements set out in the Contract and provide accurate auditable information to the Government of Montserrat.		
(xxiii)	The following proposals must also be submitted:		
(a)	Monitoring key service standards on a day to day basis and reporting performance to the Government of Montserrat on a weekly basis;		
(b)	Monitoring and assessing customer satisfaction with the Services for the Customer Service Undertaking and for handling complaints;		
(c)	Complaints procedure which the Successful Tenderer will implement, with targeted timescales for the resolution of issues;		
(d)	Establishing a regular consultation process with ferry users to meet the requirements set out in the contract.		

(xxiv)	The structure of the vessel (during the Contract Period) and the deployment of any other relief vessel must be provided.		
(xxv)	Sufficient detail about the Vessel to enable the evaluation team to assess their suitability. The following information is required:		
(a)	name and previous names;		
(b)	when and where built		
(c)	flag, port of registry;		
(d)	general arrangement drawing;		
(e)	Service speed and consumption, carrying capacity and class;		
(f)	copy of pax certificate (if appropriate);		
(g)	copy of load line certificate;		
(h)	copy of Harbour state inspection record covering previous 2 years of operation;		
(xxvi)	A detailed explanation of how they intend to manage operational requirements as per 6.23.10 Management and Operation of Harbours, Ports and Shore Facilities. 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).		
(xxvii)	A comprehensive safety plan in accordance with 6.3.11 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.		
(xxviii)	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		
(xxix)	A quality plan. In accordance with 6.3.12 Quality Plan. This should outline details of how the quality system will be administered and encompass the entire quality assessment system. Outline details of key service standards, including quantifiable targets, should be given. In no circumstances, however, should these targets be viewed as a reason to take action that in any way jeopardizes the safety of the vessel, its crew or passengers.		