



**Asia-Pacific
Economic Cooperation**

Request for Proposals

EWG 05 2010A

**Increasing the Knowledge and Awareness of Carbon Capture and
Storage: Capacity Building in the APEC Region (Phase V)**

Further assistance regarding this Request for Proposals may be obtained from:

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Lodgment of Tenders to:

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(Reference EWG 05/2010A)

Closing Time and Date: 5.00 pm, Singapore time, Friday, 17 June 2011

Summary

This Request for Proposals is for a consultancy to conduct three two-day capacity-building workshops on carbon capture and storage (CCS) in three developing Asia-Pacific Economic Cooperation (APEC) economies (Thailand, Viet Nam, and a third economy yet to be confirmed). The first two workshops are scheduled to be held in September 2011, in close collaboration with the Asian Development Bank (ADB), which plans to release national feasibility studies of the CCS potential in Thailand and Viet Nam in separate workshops before or after the APEC workshops. The location and local arrangements for the third workshop, likely to be held in early 2012, are yet to be confirmed.

Local and international CCS experts will, making use of existing APEC CCS training materials adapted for these workshops, provide in-depth overviews of CCS technologies being developed around the globe, present case studies of major CCS projects currently in operation or being planned, and emphasize key issues across the CCS chain, including legal and regulatory issues, project economics and public awareness. The programme for each workshop will be tailored to suit the specific circumstances of each host economy and dovetail with the ADB workshops.

The project will be conducted in consultation with the Project Overseer and a Project Steering Committee, drawn from the APEC Expert Group on Clean Fossil Energy (EGCFE), to ensure the project meets Energy Working Group (EWG) expectations and follows APEC project guidelines.

Background and Objectives

In order to meet their future energy needs, developing APEC economies are anticipated to sharply increase their consumption of predominantly fossil fuel energy. As a result, carbon dioxide (CO₂) emissions from energy production and use in the APEC region are forecast to rise by 60 per cent between 1999 and 2020. Technologies to store (or sequester) CO₂ in geologic formations have the potential to provide a viable option for developing APEC economies to retain the benefits of deriving energy from low-cost fossil fuels, such as coal, while at the same time reducing CO₂ emissions to the atmosphere and thus promoting environmentally sustainable growth.

A good understanding of the various CCS technologies and related issues is needed before candidate economies can consider these technologies and include them in their longer-term energy planning strategies. The primary objective of this proposal is, therefore, to help increase the capacity of developing APEC economies to assess the potential of CCS technologies within their own economies and evaluate options for the implementation and potential uptake of such technologies. There is a sense of urgency, which was highlighted by the International Energy Agency (IEA) in 2004 by stating that “*governments need to take action now to ensure that CCS technologies are developed and deployed on a large scale over the next few decades*” and which was echoed by G8 Energy Ministers in Japan in 2008, who recommended that 20 large-scale CCS demonstration projects be launched globally by 2010 and that broad deployment should begin in 2020.

This proposal aims to help increase the capacity of Thailand, Viet Nam and a third APEC economy (possibly the Philippines) to assess the potential of CCS technologies within their own economies and to evaluate options for the uptake and implementation of this technology. The first two targeted APEC economies (Thailand and Viet Nam) are heavily fossil fuel-based and will benefit directly from having a better understanding and knowledge of the potential of CCS to reduce greenhouse gas emissions from their energy sectors.

The proposed project will build on and continue a highly successful series of APEC CCS capacity-building workshops that started in 2005. Workshops were hosted in South Korea (Phase II – EWG 02/2004); China and Mexico (Phase III – EWG 07/2005); and Indonesia and China (Phase IV – EWG 09/2008). Final reports on these workshops can be found at www.egcfe.ewg.apec.org.

Similar to the previous workshops, the current workshops will engage government, industry and academic officials, and continue to build on the successful formula that was developed for the dissemination of CCS knowledge and know-how during the previous phases. In particular, this formula is based on the use of advanced CCS workshop training materials that were developed and updated in the previous phases.¹ A typical course outline includes overviews of key issues concerning the CCS chain, ranging from in-depth reviews of technologies being developed around the globe, case studies of major CCS projects currently in operation or being planned, legal and regulatory issues, project economics and public awareness. While previous workshops provided a general overview of the key issues, the workshop programmes in this phase will, to the extent possible, focus in more detail on specific issues and circumstances of each host economy.

As mentioned, the APEC workshops will be organised in close collaboration and coordination with the ADB, which will host separate one-day workshops before or after the APEC workshops.² Collaboration will also be sought with the International Energy Agency (IEA), which has a strong interest in developing regional CCS capacity as well. Partnering with these organisations will leverage their organisational and financial resources and increase the profile and impact of these APEC workshops.

The objectives of this consultancy will be:

- To complete three training workshops in Thailand, Viet Nam and a third APEC economy (the Philippines or an alternate economy, to be confirmed), in which international and local CCS experts will review and disseminate in-depth information on CCS, comprising the entire CCS value chain as well as related key non-technical issues, and provide case studies of CCS projects;
- To achieve a greater understanding by workshop participants of CCS and its options, key issues, and the potential for national implementation of CCS;
- Building on existing course materials, to develop host economy-focused workshops materials, including workshop presentation binders and CDs, comprising training modules and a selection of key CCS reports and other materials, and deliver these to the workshop participants;
- To deliver a final report on the workshops, which will describe the results of the workshops and provide recommendations on how to further advance CCS knowledge dissemination in the three host economies;
- To present the results and outcomes of these workshops at an EGCFE Clean Fossil Energy Technical and Policy Seminar.

Project success will be measured by:

- the number of workshop participants and their level of engagement;
- the increase in the level of awareness and knowledge of CCS technologies amongst workshop participants (e.g. from workshop feedback questionnaires);
- the number of host economies that wish to become involved in more detailed feasibility studies of CCS;
- any follow-up actions or activities by host economies to advance the application and implementation of CCS.

¹ Phase IV files can be downloaded from <ftp://ftp.nrcan.gc.ca/eps/APEC/CCS Phase IV>.

² The ADB launched a major CCS development programme in South-East Asia in 2010 with support from the Global CCS Institute (GSSCI). They held one-day CCS inception workshops in Thailand, Viet Nam, the Philippines and Indonesia, formed national expert participating teams and are now completing CCS feasibility studies for each of these economies. The final reports of these studies will be released and presented to ADB clients in a series of one-day workshops.

Scope of Work

The project will be carried out and completed by 30 June 2012 by a Consultant under the guidance of the Project Overseer and an APEC Project Steering Committee, which will be comprised of EGCFE and CCS experts as well as government and industry representatives from the regions where the training workshops will be given. The Consultant will have expertise in public consultations and in organizing and facilitating workshops, while also possessing a good understanding of the issues involved in CCS. Demonstrated evidence of having closely worked with key national or international CCS projects or organisations, such as the GCCSI, IEA, IEA Greenhouse Gas R&D Programme, or the Carbon Sequestration Leadership Forum (CSLF) will be an asset.

The project will include the following staged activities, all of which will be undertaken in close consultation with the Project Overseer and the Project Steering Committee.

1. Preparation

- Workshops in Thailand and Viet Nam:
 - The Consultant will work with the ADB and select, in collaboration with the ADB's local advisors, the workshop locations and dates (September 2011 time frame envisaged). In order to reduce travel costs by the international experts, it is anticipated that these two workshops will be held, back-to-back, in two consecutive weeks.
 - The ADB, its national teams and the host economies will be responsible for arranging the venue and other local logistical matters in Thailand and Viet Nam. This APEC project will be responsible for the workshop programme and the workshop materials and for inviting the expert speakers (see below).
- The third workshop (in the Philippines or alternate APEC economy) will likely be held in the first quarter of 2012, possibly without the direct collaboration with the ADB. Should this be the case, a host economy collaborating entity will need to be identified for the arrangement of the local logistics as well as for cost-sharing. The Consultant will undertake and coordinate such arrangements.
- The Consultant will use the EGCFE network to help promote the workshops in the host economy and relevant neighbouring economies, in addition to the promotional activities by the ADB and its national teams,.
- The Consultant will review relevant reports and workshop materials from previous APEC projects (Phases I-IV), arrange for and coordinate the updating of the existing workshop materials by CCS experts, and, where appropriate and as advised by the ADB, adapt these materials to tailor them to the identified needs of the host economies.

2. Organizing the workshops. The Consultant will:

- prepare, with input from the ADB, workshop programmes; identify and invite local and international CCS expert speakers; in collaboration with the ADB and its local organisers, identify and invite workshop participants;
- based on the workshop materials and the experts' presentations, finalise a program of in-depth information, review and case studies of CCS technologies, tailored to the needs of the target economy. Some of the key topics to be covered in the workshops will be:
 - technical review of CCS technologies
 - legal and regulatory issues
 - cost of CCS, financial issues
 - safety, environmental and security issues
 - public awareness
 - CDM (Clean Development Mechanism) opportunities;
- prepare workshop binders, which will include the speakers' presentations, other materials to be provided to the participants, and a CD with course materials;

- facilitate workshop discussions on the above topics as well as the uptake potential for CCS technologies in the host economies;
- facilitate the formulation of recommendations on how to advance CCS technology dissemination and implementation in the host economies.

3. Reporting. The Consultant will:

- prepare a final report on the proceedings of the three workshops, including the outcomes of the discussions on CCS technology potential in the host economies and the recommendations for future CCS activities.
- based on the guidance received from the Project Steering Committee, complete a draft final report and submit it for comments and approval by the Project Steering Committee by 30 April 2012.
- taking into account the comments and suggestions provided by the Project Steering Committee, finalise the report for publication by APEC, ensuring that editing and formatting meet high professional standards and comply with APEC style and nomenclature guidelines.
- submit electronic copies (MS Word and PDF formats) of the approved final report on CD-ROM to the Project Overseer and the APEC and EWG Secretariats by 30 June 2012.
- present the results and outcomes of this project at a future EGCFE Clean Fossil Energy Technical and Policy Seminar (in 2012 or 2013).

Timetable and Deliverables

The following timetable for the completion of the project is suggested. The Consultant may propose an alternative schedule as long as the project is completed by 30 June 2012.

	Activity	Deadline
1	Issuance of Request for Proposal (RFP)	2 June 2011
2	Deadline for submission of Proposals to APEC Secretariat	17 June 2011
3	Consultant selected and recommendation referred to APEC Secretariat for contract negotiation	21 June 2011
4	Contract awarded by APEC Secretariat	24 June 2011
5	Modifications of existing training materials, development of workshop programmes, arrangement of speakers	2 September 2011
6	Conduct first and second workshop	September 2011
7	Conduct third workshop	January-March 2012
8	Draft report submitted to Project Steering Committee for review and approval	30 April 2012
9	Feedback provided to Consultant	31 My 2012
10	Final report completed and submitted to Project Steering Committee and APEC Secretariat	30 June 2012
NOTE: The project must be completed with all monies disbursed by 30 June 2012		

Qualifications of the Consultant

Consultants wishing to tender for this project should present a proposal to the APEC Secretariat by close of business on 10 June 2011. The Proposal should include evidence of ability and experience to undertake the specified tasks in this Request for Proposals; specifically, the Proposal should:

1. provide an outline of all project activities, sufficiently detailed to demonstrate that the Consultant:
 - a) has a clear understanding of the tasks and methodologies to be applied;
 - b) has made appropriate assignments in terms of expertise and time needed for each task (provide a table showing, by task, a breakdown in person-days of the team members);
 - c) has original suggestions that can ensure a quality product;
 - d) can complete the work efficiently and provide deliverables on time and on budget.
2. demonstrate the Consultant's experience and expertise in conducting and facilitating international workshops in the energy sector. Possessing such experience in developing APEC economies would be an asset;
3. provide evidence of the Consultant's capacity to deliver high-quality projects and outputs on time and within budget;
4. provide evidence of the Consultant's broad knowledge of CCS and familiarity with issues regarding the potential for CCS, including technical options and impediments to the uptake of CCS;
5. provide evidence of the Consultant's international networking capacity and ability to effectively communicate with contacts in developing and/or APEC economies;
6. evidence of the Consultant having worked closely with key national or international CCS projects or organisations (such as the GCCSI, IEA or IEA Greenhouse Gas R&D Programme, and the Carbon Sequestration Leadership Forum (CSLF)) would be an asset;

The Consultant should provide a résumé for each person proposed to participate in the project. When reviewing proposals, specific attention will be given to qualified women proposed by the Consultant to work on the project. It will be important to involve women in the organization of the workshops as well as the management of the project and preparation of the final report. The proposal should adhere to the priorities of the Framework for the Integration of Women in APEC³ (“Accelerate the progress of integrating women in the mainstream of APEC processes and activities” and “Promote and encourage the involvement of women in all APEC fora”).

Bids from Consultants based in non-member economies and bids from international organisations may be considered. However, priority is given to suitably qualified tenders from member economies. If the preferred Consultant resides outside the APEC region, additional justification is required prior to contract approval. It is necessary to explain the preferred Consultant's particular expertise, and detail efforts to source a suitably qualified Consultant from within APEC.

Budget

The total approved budget for this study is US\$120,000. This budget assumes that local facilities and logistics costs will be covered by the host economies and other supporting organisations.

The Consultant will prepare an itemized budget (up to US\$120,000) and submit this with the proposal. This budget should include:

³http://www.apec.org/apec/publications/free_downloads/2002.MedialibDownload.v1.html?url=/etc/medialib/apec_media_library/downloads/taskforce/aggi/pubs/2002.Par.0003.File.v1.1.

- Consulting fees, including Consultant and subcontractor fees;
- Consultant's secretary cost and other administrative costs associated with the project;
- Travel and per diems by the Consultant and international expert speakers;
- Travel and per diems by national speakers (active participants);
- Any speakers' honoraria if required;
- Report publication, photocopying and telecommunication costs.

Reimbursement for travel is subject to signature by the APEC Secretariat of the travel undertaking and submission of relevant invoices. It is anticipated that up to six international CCS experts, including the Consultant, will be participating in each of the three workshops as instructors/speakers. Also, up to two local/national speakers are expected to participate in each workshop. The savings achieved from the back-to-back arrangement of the first two workshops may allow for more international speakers to participate. An itemized budget prepared for planning purposes is available on request.

The *Guidebook on APEC Projects* provides a comprehensive overview of all procedures, including contracting and disbursement procedures, and a listing of allowable expenses.⁴

Proposal Information

Inquiries on this request for proposals should be addressed to:

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And

Mr. Luis E. Vertiz
 APEC Secretariat
 35, Heng Mui Keng Terrace
 Singapore 119616
 Tel - 65-6891-9661
 Fax - 65-6891-9690
 Email: lev@apcc.org

Conditions of the RFP

Detailed conditions of this RFP are listed in Attachment A. **Please note that submission of your proposal is deemed to indicate your acceptance of these conditions.**

A draft contract is included as Attachment B.

⁴http://www.apcc.org/en/Projects/~/_media/Files/AboutUs/PoliciesandProcedures/2010/APEC_Guidebook_7thed_Oct2010.ashx

Attachment A

Conditions of this Request for Proposals

1. APEC PREFERENCE PROGRAM

It is the policy of APEC to award contracts to firms from Member Economies when this can be done consistent with an expectation of efficient performance of the Contract, at prices no higher than are obtainable elsewhere, and which can be done without restricting competition. If subcontractors are used, the Contractor shall use its best efforts to place subcontracts in accordance with this policy.

2. ASSIGNMENT

The Contract is intended to cover a relationship between the Parties only. The Contractor must not transfer (i.e. assign) the Contract or any interest or benefit arising out of, or in connection with, the Contract to another person or company without the prior written approval of the APEC Secretariat.

3. CHANGES TO CONTRACT

The APEC Secretariat and the Contractor may change (i.e. vary) the terms of the Contract by written agreement only.

4. CONTRACTOR LIABILITY FOR PERSONAL INJURY AND/OR PROPERTY DAMAGE

If the Contractor, its employees, agents or Contractors cause damage during the performance of the Contract, the Contractor will bear all liability on behalf of the APEC Secretariat. If someone makes a claim against the APEC Secretariat for damage caused by the Contractor, its employees, agents or Contractors, the Contractor must indemnify and reimburse the APEC Secretariat for any costs it has incurred (including actual legal costs on a full indemnity basis).

5. DEFAULT

5.1 A Default is anything the APEC Secretariat considers to be a significant breach of the Contract including:

- 5.1.1 failure to perform an obligation under the Contract within the agreed time; or
- 5.1.2 failure to deliver outputs of satisfactory capability, quality or reliability.

5.2. In the event of a Default by the Contractor, the APEC Secretariat may write to the Contractor setting out the Default and the time by when the Contractor must fix it. If the Contractor fails to fix the Default within the time specified, the APEC Secretariat may immediately terminate the Contract by issuing a written Notice of Termination to the Contractor.

5.3. Termination under this clause does not affect the rights and/or remedies either party may have accumulated up to the date of termination including the rights and/or remedies the APEC Secretariat may have in relation to the Default.

6. INTERPRETATION

Should a dispute about the meaning of any term in the Contract arise, the APEC Secretariat may make a written determination as to the term's meaning. A written determination made under this clause shall be final and conclusive between the Parties.

7. EXAMINATION OF RECORDS

7.1. Upon request, the Contractor must provide the APEC Secretariat or its designated representative with access to materials relevant to the Contract, including the following:

- 7.1.1. books;
- 7.1.2. documents;
- 7.1.3. papers; and
- 7.1.4. other records which document transactions related to the Contract.

7.2. The Contractor's obligation to provide access commences from the date on which the Contract is made and continues for a period of three (3) years following the completion of the Work.

8. RIGHTS IN DATA

8.1. If intellectual property or confidential information is required to enable the Contractor to provide the Work, the Contractor shall be solely responsible for obtaining approvals for the use of any intellectual property and/or confidential information that belongs to anyone else (i.e. third parties).

8.2. The APEC Secretariat shall own all intellectual property and confidential information that it creates in relation to the Work. The APEC Secretariat shall own all intellectual property and confidential information that the Contractor creates as a result of performing the Work. In particular, the APEC Secretariat shall own the following:

- 10.2.1. all data resulting from performance of the Contract, regardless of its form, format, or media;
- 10.2.2. all data (other than that owned by third parties) used in performing the Contract regardless of its form, format, or media;
- 10.2.3. all data delivered under the Contract making up manuals or instructional and training materials;
- 10.2.4. all processes provided for use under the Contract; and
- 10.2.5. all any other data delivered under the Contract.

8.3. If the Contractor wishes to use the intellectual property and/or confidential information (mentioned in clause 10.2 above) for purposes that are not in relation to the performance of the Work, it must obtain prior written consent from the APEC Secretariat.

8.4. The Contractor consents to the APEC Secretariat's use of the Contractor's own intellectual property and/or confidential information if the APEC Secretariat requires the Contractor's own intellectual property and/or confidential information to use the Work.

8.5. The Contractor must protect all intellectual property and/or confidential information belonging to the APEC Secretariat vigorously to the extent permissible by law. If the Contractor has a reasonable suspicion that there has been any event that infringes the rights of the APEC Secretariat in relation to its intellectual property and/or confidential information, it will inform the APEC Secretariat immediately.

9. SUSPENSION OF WORK

The APEC Secretariat may, at any time, give a written order to the Contractor, suspending all, or part, of the Work. The APEC Secretariat has full and sole discretion to decide the length of the suspension. Upon receiving the order, the Contractor must immediately comply with its terms and take all steps necessary to minimize any and all costs resulting from the suspension. The APEC Secretariat and the Contractor must negotiate any adjustment to the price and/or schedule for completing the Work, which may result from the suspension.

10. TERMINATION BY THE APEC SECRETARIAT

10.1. The APEC Secretariat may terminate this Contract, in whole or in part, by issuing a written Notice of Termination. The APEC Secretariat may terminate this Contract without giving any reasons. If this Contract is terminated, the APEC Secretariat and the Contractor must negotiate the rights, duties, and obligations of the parties, including but not limited to compensation to the Contractor and/or the APEC Secretariat. Any compensation to the Contractor must not exceed the total value of the Contract, which is set out in clause 2.1.

10.2. Upon receiving a Notice of Termination, the Contractor must immediately stop work as specified in the notice, except if directed otherwise by the APEC Secretariat.

10.3. After termination, the Contractor must submit a final termination settlement proposal to the APEC Secretariat. The settlement proposal must include a certification from the Project Overseer of the actual costs the Contractor has incurred.

10.4. If the Contractor fails to submit the termination settlement proposal within seven (7) days from the date of the Notice of Termination, the APEC Secretariat may determine the amount, if any, due to the Contractor following the termination.

11. LANGUAGE

11.1. All of the Work, including any drawings, documents, information, correspondence, test reports and similar items must:

13.1.1. be in the English language; and

13.1.2. comply with the nomenclature requirements set out in the APEC Publications Guidelines.

Attachment B

CONTRACT

[Insert Project Name and Number]

This contract (the “Contract”) is made on [Insert Date].

BETWEEN

The Asia-Pacific Economic Cooperation Secretariat (the "APEC Secretariat"), with an office at 35 Heng Mui Keng Terrace, Singapore 119616.

AND

[Insert Company Name/Consultant's Name] (the “Contractor”), a company incorporated in [Insert Economy/Jurisdiction] and having its registered office at [Insert Address]/a Contractor, with an office at [Insert Address].

BACKGROUND

The APEC Secretariat has agreed to engage the Contractor to provide services (the “Work”) in accordance with the terms and conditions set forth in the annexes to the Contract.

THE APEC SECRETARIAT AND THE CONTRACTOR ALSO AGREE TO THE FOLLOWING:

1. PARTIES

1.1. The Parties to this contract are the APEC Secretariat and the Contractor.

2. PAYMENT

2.1. Subject to the satisfactory completion of the Work, the APEC Secretariat must pay the Contractor US\$[Insert amount in figures] (United States Dollars [Insert amount in words]). Any payment is inclusive of any Goods and Services Tax (GST) and bank charges levied by the Contractor’s agent and/or beneficiary banks for remittances made to the Contractor’s bank account.

2.2. The Contractor must submit invoices to the APEC Secretariat to claim payment or reimbursement. Original or electronic copies of the invoices may be submitted. The invoices must be accompanied by all supporting documentation as set forth in the Guidebook on APEC Projects as varied from time to time.

2.3. The APEC Secretariat must make payment according to the following schedule and/or as soon as practicable after it receives the appropriate invoices and accompanying supporting documentation from the Contractor:

- 2.3.1. Completion of Task 1 ([Insert expected completion date]) US\$ _____
- 2.3.2. Completion of Task 2 ([Insert expected completion date]) US\$ _____
- 2.3.3. Completion of Task 3 ([Insert expected completion date]) US\$ _____

COMPLETION DATE

- 2.4. The Contractor must complete the Work by [Insert Date].

3. AUTHORISED REPRESENTATIVE

- 3.1. A signed statement by the Contractor that the services have been performed in accordance with the terms and conditions of this contract, and the costs being billed are true and correct and have not been previously paid, with the endorsement by the Project Overseer, that the services have been satisfactorily completed.
- 3.2. The APEC Secretariat may authorise representative(s) to instruct and provide clarification to the Contractor in performing the Work.

4. EXAMINATION OF RECORDS

- 4.1. Upon request, the Contractor must provide the APEC Secretariat or its designated representative with access to materials relevant to the Contract, including the following:
 - 4.1.1. books;
 - 4.1.2. documents;
 - 4.1.3. papers; and
 - 4.1.4. other records which document transactions related to the Contract.
- 4.2. The Contractor's obligation to provide access commences from the date on which the Contract is made and continues for a period of three (3) years following the completion of the Work.

5. ASSIGNMENT

- 5.1. The Contract is intended to cover a relationship between the Parties only. The Contractor must not transfer (i.e. assign) the Contract or any interest or benefit arising out of, or in connection with, the Contract to another person or company without the prior written approval of the APEC Secretariat.

6. CHANGES TO CONTRACT

- 6.1. The APEC Secretariat and the Contractor may change (i.e. vary) the terms of the Contract by written agreement only.

7. CONTRACTOR LIABILITY FOR PERSONAL INJURY AND/OR PROPERTY DAMAGE

- 7.1. If the Contractor, its employees, agents or Contractors cause damage during the performance of the Contract, the Contractor will bear all liability on behalf of the APEC Secretariat. If someone makes a claim against the APEC Secretariat for damage caused by the Contractor, its employees, agents or Contractors, the Contractor must indemnify and reimburse the APEC Secretariat for any costs it has incurred (including actual legal costs on a full indemnity basis).

8. DEFAULT

- 8.1. A Default is anything the APEC Secretariat considers to be a significant breach of the Contract including:
 - 8.1.1. failure to perform an obligation under the Contract within the agreed time; or
 - 8.1.2. failure to deliver outputs of satisfactory capability, quality or reliability.
- 8.2. In the event of a Default by the Contractor, the APEC Secretariat may write to the Contractor setting out the Default and the time by when the Contractor must fix it. If the Contractor fails to

fix the Default within the time specified, the APEC Secretariat may immediately terminate the Contract by issuing a written Notice of Termination to the Contractor.

- 8.3. Termination under this clause does not affect the rights and/or remedies either party may have accumulated up to the date of termination including the rights and/or remedies the APEC Secretariat may have in relation to the Default.

9. RIGHTS IN DATA

- 9.1. If intellectual property or confidential information is required to enable the Contractor to provide the Work, the Contractor shall be solely responsible for obtaining approvals for the use of any intellectual property and/or confidential information that belongs to anyone else (i.e. third parties).
- 9.2. The APEC Secretariat shall own all intellectual property and confidential information that it creates in relation to the Work. The APEC Secretariat shall own all intellectual property and confidential information that the Contractor creates as a result of performing the Work. In particular, the APEC Secretariat shall own the following:
 - 9.2.1. all data resulting from performance of the Contract, regardless of its form, format, or media;
 - 9.2.2. all data (other than that owned by third parties) used in performing the Contract regardless of its form, format, or media;
 - 9.2.3. all data delivered under the Contract making up manuals or instructional and training materials;
 - 9.2.4. all processes provided for use under the Contract; and
 - 9.2.5. all any other data delivered under the Contract.
- 9.3. If the Contractor wishes to use the intellectual property and/or confidential information (mentioned in clause 9.2 above) for purposes that are not in relation to the performance of the Work, it must obtain prior written consent from the APEC Secretariat.
- 9.4. The Contractor consents to the APEC Secretariat's use of the Contractor's own intellectual property and/or confidential information if the APEC Secretariat requires the Contractor's own intellectual property and/or confidential information to use the Work.
- 9.5. The Contractor must protect all intellectual property and/or confidential information belonging to the APEC Secretariat vigorously to the extent permissible by law. If the Contractor has a reasonable suspicion that there has been any event that infringes the rights of the APEC Secretariat in relation to its intellectual property and/or confidential information, it will inform the APEC Secretariat immediately.

10. SUSPENSION OF WORK

- 10.1. The APEC Secretariat may, at any time, give a written order to the Contractor, suspending all, or part, of the Work. The APEC Secretariat has full and sole discretion to decide the length of the suspension. Upon receiving the order, the Contractor must immediately comply with its terms and take all steps necessary to minimize any and all costs resulting from the suspension. The APEC Secretariat and the Contractor must negotiate any adjustment to the price and/or schedule for completing the Work, which may result from the suspension.

11. TERMINATION BY THE APEC SECRETARIAT

- 11.1. The APEC Secretariat may terminate this Contract, in whole or in part, by issuing a written Notice of Termination. The APEC Secretariat may terminate this Contract without giving any reasons. If this Contract is terminated, the APEC Secretariat and the Contractor must negotiate the rights, duties, and obligations of the parties, including but not limited to compensation to the

Contractor and/or the APEC Secretariat. Any compensation to the Contractor must not exceed the total value of the Contract, which is set out in clause 2.1.

- 11.2. Upon receiving a Notice of Termination, the Contractor must immediately stop work as specified in the notice, except if directed otherwise by the APEC Secretariat.
- 11.3. After termination, the Contractor must submit a final termination settlement proposal to the APEC Secretariat. The settlement proposal must include a certification from the Project Overseer of the actual costs the Contractor has incurred.
- 11.4. If the Contractor fails to submit the termination settlement proposal within seven (7) days from the date of the Notice of Termination, the APEC Secretariat may determine the amount, if any, due to the Contractor following the termination.

12. LANGUAGE AND NOMENCLATURE

- 12.1. All of the Work, including any drawings, documents, information, correspondence, test reports and similar items must:

- 12.1.1. be in the English language; and
- 12.1.2. comply with the nomenclature requirements set out in the APEC Publications Guidelines.

13. INTERPRETATION

- 13.1. Should a dispute about the meaning of any term in the Contract arise, the APEC Secretariat may make a written determination as to the term's meaning. A written determination made under this clause shall be final and conclusive between the Parties.

14. GOVERNING LAW

- 14.1. The laws of the Republic of Singapore govern this Contract. The Parties to the Contract agree to submit to the non-exclusive jurisdiction of the Courts of the Republic of Singapore.

15. COMMUNICATIONS

- 15.1. All communications relating to this Contract must be in writing and may be delivered:

- 15.1.1. personally;
- 15.1.1. by prepaid registered post with recorded delivery to one of the addresses listed at the beginning of this Contract (as relevant); or
- 15.1.2. by email.

16. ENTIRE AGREEMENT

- 16.1. This Contract is the entire agreement between the APEC Secretariat and the Contractor in relation to the matters set out in this Contract. No other terms and conditions may be included or implied. Any warranty, representation, guarantee or other term or condition not contained in this Contract has no effect.

17. ILLEGALITY AND SEVERABILITY

- 17.1. A term of this Contract that is, or becomes invalid, illegal or unenforceable in any way, may not in any way affect any other term of this Contract.

18. WAIVER

18.1. A Party's failure, delay or relaxation in exercising any power or right it has under this Contract does not mean that the Party has given up (i.e. waived) that power or right.

18.2. A Party exercising a power or right does not stop it from:

18.2.1. further exercising that power or right; or

18.2.2. exercising any other power or right under this Contract.

19. REASONABLENESS

19.1. The Contractor confirms it has had the opportunity to receive independent legal advice relating to all the matters relating to this Contract.

19.2. The Contractor agrees that, having considered the terms of this Contract as a whole, the terms of this Contract are fair and reasonable.

20. PARTNERSHIP

20.1. This contract does not create a partnership between the APEC Secretariat and the Contractor.

21. FORCE MAJEURE

21.1. A Force Majeure Event is any event which is beyond the reasonable control of the Contractor or the APEC Secretariat and which makes it impossible to perform an obligation under this contract, including the following:

21.1.1. acts of God, lightning strikes, earthquakes, volcano eruptions, floods, storms, explosions, fires, pandemics and any natural disaster;

21.1.2. acts of war (whether declared or not), invasion, acts of foreign enemies, mobilisation, requisition, or embargo;

21.1.3. acts of public enemies, terrorism, riots, civil commotion, malicious damage, sabotage, rebellion, insurrection, revolution, military usurped power, or civil war; or

21.1.4. contamination by radio-activity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radio-active toxic explosion, or other hazardous properties of any explosive nuclear assembly or nuclear component of such assembly.

21.2. A Party that does not perform an obligation under this contract shall not be in breach to the extent that a Force Majeure Event caused the non-performance.

21.3. Where the Contractor thinks there is likely to be a delay in performing an obligation under this Contract because of a Force Majeure Event the Contractor must:

21.3.1. immediately notify the APEC Secretariat in writing of:

21.3.1.1. the likely delay and how long they think it will last; and

21.3.1.2. details of the likely effect on the Work and the Contractor's ability to perform the Contract;

21.3.2. take all reasonable steps to lessen (i.e. mitigate) the effects of any delay; and

21.3.3. use its best efforts to continue to perform its obligations under the Contract.

21.4. The APEC Secretariat and the Contractor shall, as soon as practicable after receiving the notification, discuss whether the Contract can continue. If, following that discussion, the APEC Secretariat and the Contractor agree that the Contract can continue they may:

21.4.1. continue the Contract unchanged; or

21.4.2. change the Contract using the process in clause 6.

21.5. Nothing in this clause limits the APEC Secretariat's ability to suspend or terminate the Contract under clause 10 or clause 11.

22. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT - SINGAPORE

22.1. A person who is not a party to this Contract has no right under the Contracts (Rights of Third Parties) Act Chapter 53B to enforce any terms of this Contract.

Signed for and on behalf of the APEC Secretariat

_____ [Insert Name]
Director (Project Management Unit)
in the presence of

_____ [Insert Name]

Signed for and on behalf of [Insert Name of Contractor]

_____ [Insert Name and Position/Title]
in the presence of

_____ [Insert Name and Position/Title]