

GOVERNMENT OF THE REPUBLIC OF
SOUTH SUDAN



STANDARD BIDDING DOCUMENTS

Procurement of Small Works

Trial Edition, Nov. 2024

Preface

Procurement for Works under public financing is carried out in accordance with policies and procedures laid down in the Public Procurement and Disposal of Assets Act, 2018 (hereinafter called PPDA 2018) and Public Procurement and Disposal of Assets Regulations, 2024 (hereinafter referred as PPDA Regulations 2024).

This Standard Bidding Document (SBD) has been prepared by the South Sudan Public Procurement and Disposal of Assets Authority for use by Procuring Entities (PEs) in the procurement of Smaller Works through National Competitive Bidding (NCB) procedures.

The procedures and practices presented in this document have been developed through broad international experience and are mandatory for use in public projects that are financed in whole or in part by Government funds in accordance with the provisions of the PPDA 2018 and PPDA Regulations, 2024.

This Standard Bidding Document is issued as a trial edition for a period of one year. During this period all those using this document are welcome to share your experiences, and challenges experienced in the use of this document. These will be used to improve the document and issue it as a final Bidding Document after the expiry of the trial period.

To obtain further information on procurement of works under public financing, contact:

Executive Director
South Sudan Public Procurement and Disposal of Assets Authority

List of Abbreviations

BDS	Bid Data Sheet
Cap	Chapter
ES	Environmental and Social
FY	Financial Year
GCC	General Conditions of Contract
IFB	Invitation for Bids
ITB	Instruction to Bidders
JV	Joint Venture
JVCA	Joint Venture, Consortium, or Association
NCB	National Competitive Bidding
PE	Procuring Entity
PPDAA	Public Procurement and Disposal of Assets Authority
SCC	Special Conditions of Contract
SEA	Sexual Exploitation and Abuse
SH	Sexual Harassment
SBD	Standard Bidding Document

Guidance Notes on the Use of this Standard Bidding Document

These guidance notes have been prepared by the South Sudan Public Procurement and Disposal of Assets Authority (PPDAA) to assist Procuring Entities (PEs) and bidders to understand the content and the provisions of the Standard Bidding Document for Procurement of Small Works under National Competitive Bidding method and other procedures as appropriate. The PE should also refer to PPDA 2018 and PPDAA Regulations, 2024

This SBD applies when a prequalification process has or has not taken place provided alternative documents should be selected as applicable.

The SBD is based upon internationally acceptable model formats, which have been adapted to suit the particular needs of procurement within Republic of South Sudan. The SBD is divided into three parts and has eleven (11) sections, **of which Section II- Instruction to Bidders and Section VIII-General Conditions of Contract - must not be altered or modified under any circumstances.**

The way in which a PE addresses its specific needs is through the information provided under Section III – Bid Data Sheet and Section IX-Special Conditions of Contract as well as in the detailed requirements of the procurement in Section VII- Works Requirements.

When properly completed, this SBD will provide all the information that a Bidder needs to prepare and submit a bid. This should provide a sound basis on which a PE can fairly, transparently and accurately carry out an evaluation process on the bids submitted by the bidders.

Parts and Sections of the SBD and how a PE should use them when preparing a particular bid document for Procurement of Small Works are described hereunder

PART 1 – BIDDING PROCEDURES

Section I. Invitation for Bids

This section provides relevant information that enables potential bidders to decide whether to participate in the bidding process. The Invitation for Bids (IFB) shall include specific details such as the name of the PE, scope of works to be executed and deadline for bid submission. Likewise, information on how the bidding documents can be obtained by prospective bidders and the minimum level of experience required by bidders to be eligible should be furnished in the IFB. The final document should contain neither blank spaces nor options. The Invitation for Bids will cease to have effect once a prospective bidder has accessed the bidding document.

Section II. Instructions to Bidders (ITB)

This section provides information to help bidders to prepare responsive bids. It provides information on constituent of the bid document, preparation and submission of bids, opening and evaluation of bids, the award of contract and on submitting complaints regarding the bid process. **The Section contains provisions that are to be used without modification.** The Instructions to Bidders will not be part of the Contract and will cease to have effect once the Contract is signed.

Section III. Bid Data Sheet (BDS)

This Section includes provisions that are specific to each procurement and that supplement Section I, Instructions to Bidders. Amendments, if any, to the **ITB** should be made through the BDS. If duplication of a subject is inevitable in the different sections of the document, care must be exercised to avoid contradiction between clauses dealing with the same matter. All italicized spaces in the BDS should be filled out by the PE prior to issuance of the bidding documents **No entry should be made in the BDS if it is not cross referenced in the ITB.**

Section IV (a). Evaluation and Qualification Criteria *(Following Pre-Qualification)*

This Section specifies the criteria to determine the lowest evaluated Bid and to ascertain the continued qualification of the Bidder to perform the contract.

Section IV (b). Evaluation and Qualification Criteria *(alternative Section IV to be used when Prequalification has not taken place before bidding)*

This Section includes the criteria to determine the lowest evaluated Bid and the qualifications of the Bidder to perform the contract.

Section V: Bidding Forms

This Section includes the forms which are to be completed by the Bidder and submitted as part of his Bid.

Section VI- Eligible Countries

This Section contains information regarding eligible countries.

Section VII - Fraud and Corruption

This Section includes the Fraud and Corruption provisions which apply to this Bidding process.

PART 2 – EMPLOYER’S REQUIREMENTS

Section VIII. Works Requirements

This Section contains the Specification, the Drawings, the Bills of Quantities and supplementary information that describe the Works to be procured. The Works Requirements may also include the environmental and social (ES) requirements (including requirements relating to Sexual Exploitation and Abuse (SEA) and Sexual Harassment (SH) which are to be satisfied by the Contractor in executing the Works.

PART 3 – CONDITIONS OF CONTRACT AND CONTRACT FORMS

Section IX. General Conditions of Contract (GCC)

This section contains the general clauses to be applied to all contracts. The General Conditions of Contract (GCC) form a complete document expressing all the rights and obligations of the parties during the execution of the contract. **The text of the clauses in this Section shall not be modified.**

Section X. Special Conditions of Contract (SCC)

This Section consists of Contract Data and Specific Provisions which contains clauses specific to each contract. The contents of this Section modify or supplement the GCC. All italicized spaces in the SCC should be filled out by the PE prior to issuance of the bidding documents. **No entry should be made in the SCC if it is not cross referenced in the GCC.**

Section XI: Contract Forms

This Section contains forms which, once completed and submitted, will form part of the Contract. The forms for Performance Security or Securing Declaration shall be completed and submitted by successful Bidder before signing of the contract and when advance payment is required, Advance Payment Security shall be completed and submitted after contract signature. The Section also contains the Notice of Intention to Award the Contract, which shall not form part of the contract.

PROCUREMENT DOCUMENTS

Bidding Document for Procurement of Small Works

Procurement of

Bid No: _____

[insert reference number as per procurement plan]

Project: _____

Procuring Entity: _____

Issued on: _____

[insert date when document was issued to bidders]

Standard Bidding Document

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PART 1 – Bidding Procedures

Section 1 – Invitation for Bids

[NAME OF PROJECT]: _____

Reference No. (as per Procurement Plan): _____

1. This Invitation for Bids follows the General Procurement Notice for this Project which appeared in the **[insert dates of publication of GPN]**.
2. The Government of South Sudan has set aside funds for the operation of the **[insert the name PE]** during the financial year **[insert the financial year]**. It is intended that part of the proceeds of the fund will be used to cover eligible payment under the contract for the **[insert the name of the contract]**¹

Or

The **[insert name of PE]** has received/has applied for/intends to apply for a **[loan/credit /grant]** from the **[name of financing institution]** towards the cost of **[insert name of project]**, and it intends to apply part of the proceeds of this **[loan/credit/grant]** to cover eligible payments under the contract for **[insert name. of the contract]**.

3. The **[insert name of PE]** now invites sealed bids from eligible bidders for **[insert brief description of Works required, including quantities, location, construction period, margin of preference if applicable, etc.]**².

*Or if prequalification has been conducted use the version below*³.

The **[insert name of the PE]** now invites bids from prequalified eligible bidders for construction of **[insert brief description of the works to be procured]**

4. Bidding will be conducted through the National Open Competitive Bidding procedures as specified in the Public Procurement and Disposal of Assets Act, 2018 and the Public Procurement and Disposal of Assets Regulations, 2024 and is open to all eligible bidders as defined in the Act and the Regulations.
5. Interested eligible bidders may obtain further information from **[insert name of implementing agency, insert name and e-mail of officer in charge]** and inspect the bidding documents during office hours **[insert office hours if applicable i.e. 0900 to 1700 hours]** at the address given below **[state address at the end of this invitation]**⁴.

¹ Use this version if the contract is fully funded by the Government of South Sudan or the other version when it is donor funded. Remove the version which is not applicable from the IFB

² A brief description of the type(s) of Works should be provided, including quantities, location of Project, construction period, application of margin of preference and other information necessary to enable potential bidders to decide whether or not to respond to the Invitation. Bidding Documents may require bidders to have specific experience or capabilities; such qualification requirements should also be included in this paragraph.

³ Omit the version which is not applicable from the IFB

⁴ The office for inquiry and issuance of bidding documents and that for bid submission may or may not be the same.

6. A complete set of bidding documents in ***[insert name of language]*** may be purchased by interested eligible bidders upon the submission of a written application to the address below and upon payment of a nonrefundable fee⁵ of ***[insert amount in South Sudanese Pounds or in a convertible currency]***. The method of payment will be ***[insert method of payment]***.⁶ The document will be sent by ***[insert delivery procedure]***.⁷
7. Bids must be delivered to the address below ***[state address at the end of this invitation]***⁸ on or before ***[insert time and date]***. Electronic bidding will ***[will not]*** be permitted. Late bids will be rejected. Bids will be publicly opened in the presence of the bidders' designated representatives and anyone who choose to attend at the address below ***[state address at the end of this invitation]*** on ***[insert time and date]***.
8. All bids must be accompanied by a ***[insert "Bid Security" or "Bid-Securing Declaration," as appropriate]*** of ***[insert amount and currency in case of a Bid Security]***.
9. The address(es) referred to above is(are): ***[insert detailed address(es)]***

[insert name of office, room number]

Attn: ***[insert name of officer & title]***

[insert postal address and/or street address]

[insert postal code, city, country]

Tel: ***[include the country and city code]***

Fax: ***[include the country and city code]***

E-mail: ***[insert electronic address if electronic bidding is permitted]***

Web site:

⁵ The fee chargeable should only be nominal to defray reproduction and mailing costs. An amount between or equivalent is deemed appropriate.

⁶ For example, cashier's check, direct deposit to specified account number, etc.

⁷ The delivery procedure is usually airmail for overseas delivery and surface mail or courier for local delivery. If urgency or security dictates, courier services may be required for overseas delivery..

⁸ Substitute the address for bid submission if it is different from address for inquiry and issuance of bidding documents.

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Section I - Instructions to Bidders

A. General

1. Scope of Bid

1.1 In connection with the Invitation for Bids **specified in the Bid Data Sheet (BDS)**, the Procuring Entity, as **specified in the BDS**, issues these Bidding Documents for the procurement of the Works as specified in Section VIII [Works Requirements]. The name, identification, and number of lots (contracts) of this bidding are **specified in the BDS**.

1.2 Throughout this Bidding Document:

(a) the term “in writing” means communicated in written form and delivered against receipt;

(b) except where the context requires otherwise, words indicating the singular also include the plural and words indicating the plural also include the singular;

(c) “day” means calendar day; and

(d) “**ES**” means environmental and social (including Sexual Exploitation, and Abuse (SEA) and Sexual Harassment (SH));

(e) “**Sexual Exploitation and Abuse**” “(SEA)” means the following:

“**Sexual Exploitation**” is defined as any actual or attempted abuse of position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another;

“**Sexual Abuse**” is defined as the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions;

(f) “**Sexual Harassment**” “(SH)” is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by the Contractor’s Personnel with other Contractor’s or PE’s Personnel;

(g) “**Contractor’s Personnel**” is as defined in Sub- Clause 1 (ii) of the General Conditions of Contract; and

(h) “**Employer’s personnel**” is as defined in GCC Sub-Clause 1 (nn) of the General Conditions of Contract.

A non-exhaustive list of (i) behaviors which constitute SEA and (ii) behaviors which constitute SH is attached to the Code of Conduct form in Section IV.

2. Source of Funds

2.1 The Government of the Republic of South Sudan has set aside sufficient funds for the operations of the PE named in the **BDS** during the Financial Year indicated in the **BDS**. It is intended that part of the proceeds of the funds will be applied to cover eligible payments under the contract for the works as described in the **BDS**.

or

2.2 The Government of South Sudan, through the PE named in the **BDS** has applied for/received/ intends to apply for a [loan/credit/grant] from the financing institution named in the **BDS** towards the cost of the Project named in the **BDS**. The Government of South Sudan intends to apply a part of the proceeds of this [loan/credit/grant] to payments under the Contract described in the **BDS**.

2.3 Payments will be made directly by the PE (or by financing institution specified in the **BDS** upon request of the PE to so pay) and will be subject in all respects to the terms and conditions of the resulting contract placed by the PE.

3. Corrupt and Fraudulent Practices

3.1 The Government of South Sudan requires that PEs (including beneficiaries of Government funded projects and procurement) as well as bidders under Government financed contracts, to observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the following shall apply:

- a) for the purpose of this provision, the terms set forth below are defined as follows:-
 - i. “corrupt practice” means the offering, giving receiving or soliciting of anything of value to influence the action of a public officer in the procurement process or contract execution;
 - ii. “coercive practice” means impairing or harming, or threatening to impair or harm directly or indirectly, any party or the property of the party for the purpose of influencing improperly the action or that party in connection with public procurement or in furtherance of corrupt practice or fraudulent practice;
 - iii. “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Government or a public body and includes collusive practices among Bidders, prior to or after submission designed to establish tender prices at

artificial non-competitive levels and to deprive the Government of the benefits of free and open competition;

- iv. “obstructive practice” means acts intended to materially impede access to required information in exercising a duty under the contract
 - b) Will reject a proposal for award if it determines that the Bidder recommended for award has engaged in corrupt, coercive, fraudulent or obstructive practices in competing for the contract;
 - c) Will declare a firm ineligible for a period of ten years, to be awarded a public-financed contract if it at any time it determines that the firm has engaged in corrupt, coercive, fraudulent or obstructive practices in competing for, or in executing, a public – financed contract
- 3.2 The Government of South Sudan reserves the right, where a firm has been found by a foreign country, international organization or other foreign organization to have engaged in corrupt, coercive, fraudulent or obstructive practices, to declare that such a firm is ineligible, for a period of ten years to be awarded a public financed Contract in the Republic of South Sudan.
- 3.3 The Government of South Sudan will have the right to inspect Bidder’s accounts and records relating to the performance of any contract financed by the Government and to have them audited by auditors appointed by the Government of South Sudan

4. Eligible Bidders

- 4.1 A Bidder may be a firm that is a private entity, or a government-owned entity—subject to ITB 4.5—or any combination of them in the form of a joint venture (JV), under an existing agreement, or with the intent to enter into such an agreement supported by a letter of intent. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the bidding process and, in the event the JV is awarded the Contract, during contract execution. **Unless specified in the BDS**, there is no limit on the number of members in a JV.
- 4.2 A Bidder shall not have a conflict of interest. All Bidders found to have a conflict of interest shall be disqualified. A Bidder may be considered to have a conflict of interest for the purpose of this bidding process, if the Bidder:
- (a) directly or indirectly controls, is controlled by or is under common control with another Bidder; or
 - (b) receives or has received any direct or indirect subsidy from another Bidder; or

- (c) has the same legal representative as another Bidder; or
 - (d) has a relationship with another Bidder, directly or through common third parties, that puts it in a position to influence the bid of another Bidder, or influence the decisions of the PE regarding this bidding process; or
 - (e) participates in more than one bid in this bidding process. Participation by a Bidder in more than one Bid will result in the disqualification of all Bids in which such Bidder is involved. However, this does not limit the inclusion of the same subcontractor in more than one bid; or
 - (f) or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the bid; or
 - (g) or any of its affiliates has been hired (or is proposed to be hired) by the PE as Engineer for the Contract implementation;
 - (h) would be providing goods, works, or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of the project specified in the BDS 2.1 that it provided or were provided by any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm;
 - (i) has a close business or family relationship with a staff of the PE who: (i) are directly or indirectly involved in the preparation of the bidding documents or specifications of the contract, and/or the bid evaluation process of such contract; or (ii) would be involved in the implementation or supervision of such contract unless the conflict stemming from such relationship has been resolved in a manner acceptable throughout the procurement process and execution of the contract.
- 4.3 A Bidder may have the nationality of any country, subject to the restrictions pursuant to ITB 4.7. A Bidder shall be deemed to have the nationality of a country if the Bidder is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be. This criterion also shall apply to the determination of the nationality of proposed sub-contractors or sub-consultants for any part of the Contract including related Services.

- 4.4 A Bidder that has been sanctioned by the Republic of South Sudan in accordance with the above ITB 3.1 [Corrupt and Fraudulent Practices], shall be ineligible to be prequalified for, bid for, or be awarded a contract or benefit from a contract, financially or otherwise, during such period of time as the Government of South Sudan shall have determined. The list of debarred firms and individuals is available at the electronic address **specified in the BDS**.
- 4.5 Public or Semi-public owned enterprises in the Republic of South Sudan, may participate only if they are legally and financially autonomous, if they operate under commercial law, are registered by the relevant registration board or authorities and if they are not a dependent agency of the Government.
- 4.6 A Bidder shall not be under suspension from bidding by the Authority as the result of the operation of a Bid-Securing Declaration.
- 4.7 Firms and individuals may be ineligible if they are from ineligible countries as Specified in Section V of this bidding document. .
- 4.8 A Bidder shall provide such evidence of eligibility satisfactory to the Employer, as the Employer shall reasonably request.
- 5. Eligible Materials, Equipment and Services**
- 5.1 The materials, equipment and services to be supplied under the Contract may have their origin in any country subject to the restrictions specified in Section V [Eligible Countries], and all expenditures under the Contract will not contravene such restrictions. At the Employer's request, Bidders may be required to provide evidence of the origin of materials, equipment and services.

B. Contents of Bidding Document

- 6. Sections of Bidding Document**
- 6.1 The Bidding Document consist of Parts 1, 2, and 3, which include all the Sections specified below, and which should be read in conjunction with any Addenda issued in accordance with ITB 8 [Amendment of Bidding Document].

PART 1 Bidding Procedures

- Section I – Invitation for Bids (IFB)
- Section II - Instructions to Bidders (ITB)
- Section III - Bid Data Sheet (BDS)
- Section IV - Evaluation and Qualification Criteria
- Section V - Bidding Forms
- Section VI - Eligible Countries
- Section VII - Fraud and Corruption

PART 2 Procuring Entity's Requirements

Section VIII - Works Requirements

PART 3 Conditions of Contract and Contract Forms

Section IX - General Conditions of Contract (GCC)

Section X - Particular Conditions of Contract (SCC)

Section XI - Contract Forms

- 6.2 The Invitation for Bids issued by the PE is not part of the Bidding Document.
- 6.3 Unless obtained directly from the PE, the PE is not responsible for the completeness of the Bidding Documents, responses to requests for clarification, the minutes of the pre-Bid meeting (if any), or Addenda to the Bidding Documents in accordance with ITB 8 [Amendment of Bidding Document]. In case of any contradiction, documents obtained directly from the PE shall prevail.
- 6.4 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Documents and to furnish with its bid all information and documentation as is required by the Bidding Documents.
- 7. Clarification of Bidding Document, Site Visit, Pre-Bid Meeting**
- 7.1 A Bidder requiring any clarification of the Bidding Document shall contact the PE in writing at the PE's address **specified in the BDS** or raise its inquiries during the pre-bid meeting if provided for in accordance with ITB 7.4. The PE will respond in writing to any request for clarification, provided that such request is received prior to the deadline for submission of bids within a period **specified in the BDS**. The PE shall forward copies of its response to all Bidders who have acquired the Bidding Documents in accordance with ITB 6.3 [Sections of Bidding Document], including a description of the inquiry but without identifying its source. **If so specified in the BDS**, the PE shall also promptly publish its response at the web page identified in the BDS. Should the clarification result in changes to the essential elements of the Bidding Documents, the PE shall amend the Bidding Documents following the procedure under ITB 8 [Amendment of Bidding Document] and ITB 22.2 [Deadline for Submission of Bids].
- 7.2 The Bidder is advised to visit and examine the Site of Works and its surroundings and obtain for itself on its own responsibility all information that may be necessary for preparing the bid and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the Bidder's own expense.
- 7.3 The Bidder and any of its personnel or agents will be granted permission by the PE to enter upon its premises and lands for the purpose of such visit, but only upon the express condition that the Bidder, its personnel, and agents will release and indemnify the PE and its personnel and agents from and against all liability in respect thereof,

and will be responsible for death or personal injury, loss of or damage to property, and any other loss, damage, costs, and expenses incurred as a result of the inspection.

7.4 **If so specified in the BDS**, the Bidder's designated representative is invited to attend a pre-bid meeting. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.

7.5 The Bidder is requested, to submit any questions in writing, to reach the PE not later than one week before the meeting.

7.6 Minutes of the pre-bid meeting, if applicable, including the text of the questions asked by Bidders, without identifying the source, and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Bidders who have acquired the Bidding Documents in accordance with ITB 6.3 [Sections of Bidding Document]. Any modification to the Bidding Documents that may become necessary as a result of the pre-bid meeting shall be made by the PE exclusively through the issue of an addendum pursuant to ITB 8 [Amendments of Bidding Document] and not through the minutes of the pre-bid meeting. Non-attendance at the pre-bid meeting will not be a cause for disqualification of a Bidder.

8. Amendment of Bidding Document

8.1 At any time prior to the deadline for submission of bids, the PE may amend the Bidding Documents by issuing addenda.

8.2 Any addendum issued shall be part of the Bidding Documents and shall be communicated in writing to all who have obtained the Bidding Document from the PE in accordance with ITB 6.3 [Sections of Bidding Document]. The PE shall also promptly publish the addendum on the PE's web page in accordance with ITB 7.1 [Clarification of Bidding Document, Site Visit, Pre-Bid Meeting].

8.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their bids, the PE may, at its discretion, extend the deadline for the submission of bids, pursuant to ITB 22.2 [Deadline for Submission of Bids].

C. Preparation of Bids

9. Cost of Bidding

9.1 The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the PE shall in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

10. Language of Bid

10.1 The Bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the PE, shall be written in the

language **specified in the BDS**. Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language **specified in the BDS**, in which case, for purposes of interpretation of the Bid, such translation shall govern.

11. Documents Comprising the Bid

11.1 The Bid shall comprise the following:

- (a) Letter of Bid in accordance with ITB 12 [Letter of Bid and Schedules];
- (b) Completed Schedules, in accordance with ITB 12 [Letter of Bid and Schedules] and ITB 14 [Bid Prices and Discounts]: **as specified in the BDS**;
- (c) Bid Security or Bid Securing Declaration, in accordance with ITB 19.1 [Bid Security];
- (d) alternative bids, if permissible, in accordance with ITB 13 [Alternative Bids];
- (e) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB 20.2 [Format and Signing of Bid];
- (f) documentary evidence in accordance with ITB 17 [Documents Establishing Qualifications of the Bidder] establishing the Bidder's qualifications to perform the contract if its Bid is accepted;
- (g) Technical Proposal in accordance with ITB 16 [Documents Comprising Technical Proposal];
- (a) any other document **required in the BDS**.

11.2 In addition to the requirements under ITB 11.1, bids submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all members. Alternatively, a letter of intent to execute a Joint Venture Agreement in the event of a successful bid shall be signed by all members and submitted with the bid, together with a copy of the proposed Agreement.

11.3 The Bidder shall furnish in the Letter of Bid information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Bid.

12. Letter of Bid and Schedules

12.1 The Letter of Bid and Schedules shall be prepared using the relevant forms furnished in Section V, Bidding Forms. The forms must be completed without any alterations to the text, and no substitutes shall be accepted except as provided under ITB 20.2 [Format and Signing of Bid]. All blank spaces shall be filled in with the information requested.

13. Alternative Bids

- 13.1 Unless otherwise **specified in the BDS**, alternative bids shall not be considered.
- 13.2 When alternative times for completion are explicitly invited, a statement to that effect will be **included in the BDS**, as will the method of evaluating different times for completion.
- 13.3 Except as provided under ITB 13.4 below, Bidders wishing to offer technical alternatives to the requirements of the Bidding Document must first price the PE's design as described in the Bidding Document and shall further provide all information necessary for a complete evaluation of the alternative by the PE, including drawings, design calculations, technical specifications, breakdown of prices, and proposed construction methodology and other relevant details. Only the technical alternatives, if any, of the lowest evaluated Bidder conforming to the basic technical requirements shall be considered by the PE.
- 13.4 When **specified in the BDS**, Bidders are permitted to submit alternative technical solutions for specified parts of the Works. Such parts will be **identified in the BDS** and described in Section VII. Works Requirements. The method for their evaluation will be stipulated in Section IV [Evaluation and Qualification Criteria].

14. Bid Prices and Discounts

- 14.1 The prices and discounts (including any price reduction) quoted by the Bidder in the Letter of Bid and in the Schedules shall conform to the requirements specified below.
- 14.2 The Bidder shall submit a bid for the whole of the works described in ITB 1.1 [Scope of Bid] by filling in prices for all items of the Works, as identified in Section V [Bidding Forms]. In case of admeasurement contracts, the Bidder shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items against which no rate or price is entered by the Bidder will not be paid for by the PE when executed and shall be deemed covered by the rates for other items and prices in the Bill of Quantities.
- 14.3 The price to be quoted in the Letter of Bid, in accordance with ITB 12.1 [Letter of Bid and Schedules], shall be the total price of the bid, excluding any discounts offered.
- 14.4 The Bidder shall quote any discounts and the methodology for their application in the Letter of Bid, in accordance with ITB 12.1 [Letter of Bid and Schedules].
- 14.5 **Unless otherwise provided in the BDS** and the Conditions of Contract, the prices quoted by the Bidder shall be fixed. If the prices quoted by the Bidder are subject to adjustment during the performance of the Contract in accordance with the provisions of the Conditions of

Contract, the Bidder shall furnish the indices and weightings for the price adjustment formulae in the Schedule of Adjustment Data in Section V- Bidding Forms and the PE may require the Bidder to justify its proposed indices and weightings.

14.6 If so specified in ITB 1.1 [Scope of Bid], bids are invited for individual lots (contracts) or for any combination of lots (packages). Bidders wishing to offer discounts for the award of more than one Contract shall specify in their bid the price reductions applicable to each package, or alternatively, to individual Contracts within the package. Discounts shall be submitted in accordance with ITB 14.4, provided the bids for all lots (contracts) are opened at the same time.

14.7 All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 28 days prior to the deadline for submission of bids, shall be included in the rates and prices⁹ and the total bid price submitted by the Bidder.

15. Currencies of Bid and Payment

15.1 The currency(ies) of the bid and the currency(ies) of payments shall be as **specified in the BDS**.

15.2 Bidders may be required by the PE to justify, to the PE's satisfaction, their local and foreign currency requirements, and to substantiate that the amounts included in the unit rates and prices and shown in the Schedule of Adjustment Data are reasonable¹⁰, in which case a detailed breakdown of the foreign currency requirements shall be provided by Bidders.

**16. Documents
Comprising the
Technical Proposal**

16.1 The Bidder shall furnish a Technical Proposal including a statement of work methods, equipment, personnel, schedule and any other information as stipulated in Section V, Bidding Forms, in sufficient detail to demonstrate the adequacy of the Bidders' proposal to meet the work requirements and the completion time.

**17. Documents
Establishing the
Qualifications of
the Bidder**

17.1 In accordance with Section IV [Evaluation and Qualification Criteria], to establish its qualifications to perform the Contract, the Bidder shall provide the information requested in the corresponding information sheets included in Section V [Bidding Forms].

17.2 If a margin of preference applies as specified in accordance with ITB 33.1[Margin of Preference], domestic Bidders, individually or in joint ventures, applying for eligibility for domestic preference shall supply all information required to satisfy the criteria for eligibility specified in accordance with ITB 33.1[Margin of Preference].

⁹ In lump sum contracts, delete "rates and prices and the."

¹⁰ For lump sum contracts, delete "unit rates and prices and shown in the Schedule of Adjustment Data are reasonable" and replace with "Lump Sum."

18. Period of Validity of Bids

18.1 Bids shall remain valid until the date specified **in the BDS** or any extended date if amended by the PE in accordance with ITB 8 [Amendment of Bidding Document]. A bid that is not valid until the date specified **in the BDS**, or any extended date if amended by the PE in accordance with ITB 8 [Amendment of Bidding Document], shall be rejected by the PE as nonresponsive.

18.2 In exceptional circumstances, prior to the date of expiry of the bid validity, the PE may request Bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. If a bid security is requested in accordance with ITB 19, it shall also be extended for twenty-eight (28) days beyond the extended date for bid validity. A Bidder may refuse the request without forfeiting its bid security or causing to be executed its bid securing declaration. A Bidder granting the request shall not be required or permitted to modify its bid, except as provided in ITB 18.3.

18.3 If the award is delayed by a period exceeding fifty-six (56) days beyond the expiry of the initial bid validity, the Contract price shall be determined as follows:

- (a) In the case of fixed price contracts, the Contract price shall be the bid price adjusted by the factor **specified in the BDS**.
- (b) In the case of adjustable price contracts, no adjustment shall be made.
- (c) In any case, bid evaluation shall be based on the bid price without taking into consideration the applicable correction from those indicated above.

19. Bid Security

19.1 The Bidder shall furnish as part of its bid, either a Bid-Securing Declaration or a bid security **as specified in the BDS**, in original form and, in the case of a bid security, in the amount and currency **specified in the BDS**.

19.2 A Bid Securing Declaration shall use the form included in Section V [Bidding Forms].

19.3 If a bid security is specified pursuant to ITB 19.1, the bid security shall be a demand guarantee in any of the following forms at the Bidder's option:

- (a) an unconditional guarantee issued by a bank or financial institution (such as an insurance, bonding or surety company);
- (b) an irrevocable letter of credit;
- (c) a cashier's or certified check; or

(d) any other security **specified in the BDS.**

In the case of a bank guarantee, the bid security shall be submitted either using the Bid Security Form included in Section IV, Bidding Forms, or in another substantially similar format approved by the PE prior to bid submission. The bid security shall be valid for twenty-eight (28) days beyond the original date of expiry of the bid validity, or beyond any extended date if requested under ITB 18.2 [Period of Validity of Bids].

19.4 If a bid security or Bid Securing Declaration is specified pursuant to ITB 19.1, any bid not accompanied by a substantially responsive bid security or Bid-Securing Declaration shall be rejected by the PE as non responsive.

19.5 If a bid security is specified pursuant to ITB 19.1, the bid security of unsuccessful Bidders shall be returned as promptly as possible upon the successful Bidder's signing the Contract and furnishing the performance security and if required in the BDS, the Environmental and Social (ES) Performance Security pursuant to ITB 45 [Performance Security].

19.6 The bid security of the successful Bidder shall be returned as promptly as possible once the successful Bidder has signed the Contract and furnished the required performance security and if required in the BDS, the Environmental and Social (ES) Performance Security.

19.7 The bid security may be forfeited:

(a) if a Bidder withdraws its bid prior to the expiry date of the bid validity specified by the Bidder on the Letter of Bid, or any extension thereto provided by the Bidder; or

(b) if the successful Bidder fails to:

(i) sign the Contract in accordance with ITB 44[Signing of Contract]; or

(ii) furnish a performance security and if required in the BDS, the Environmental and Social (ES) Performance Security in accordance with ITB 45 [Performance Security].

19.8 The bid security or the Bid Securing Declaration of a JV shall be in the name of the JV that submits the bid. If the JV has not been constituted into a legally-enforceable JV, at the time of bidding, the Bid Security or the Bid Securing Declaration shall be in the names of all future members as named in the letter of intent mentioned in ITB 4.1[Eligible Bidders] and ITB 11.2[Documents Comprising the Bid].

19.9 If a Bid Securing Declaration is required as stated in the BDS, pursuant to ITB 19.1, and

- (a) if a Bidder withdraws its Bid prior to the expiry date of the Bid validity specified by the Bidder on the Letter of Bid, or any extended date provided by the Bidder; or
- (b) if the successful Bidder fails to:
 - (i) sign the Contract in accordance with ITB 45 [Signing of Contract]; or
 - (ii) furnish a performance security in accordance with ITB 46 [Performance Security];

the PE shall notify the Authority the name of such a bidder, and the Authority upon receipt of such notification shall initiate debarment proceedings of the bidder in accordance with the provisions of the Act and the Regulations.

20. Format and Signing of Bid

20.1 The Bidder shall prepare one original of the documents comprising the bid as described in ITB 11[Documents Comprising the Bid] and clearly mark it "ORIGINAL". Alternative bids, if permitted in accordance with ITB 13[Alternative Bids], shall be clearly marked "ALTERNATIVE". In addition, the Bidder shall submit copies of the bid in the number **specified in the BDS**, and clearly mark each of them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.

20.2 The original and all copies of the bid shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder. This authorization shall consist of a written confirmation as **specified in the BDS** and shall be attached to the bid. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the bid where entries or amendments have been made shall be signed or initialed by the person signing the bid.

20.3 In case the Bidder is a JV, the Bid shall be signed by an authorized representative of the JV on behalf of the JV, and so as to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized representatives.

20.4 Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the bid.

D. Submission and Opening of Bids**21. Sealing and Marking of Bids**

21.1 The Bidder shall enclose the original and all copies of the bid, including alternative bids, if permitted in accordance with ITB 13[Alternative Bids], in separate sealed envelopes, duly marking the envelopes as “ORIGINAL”, “ALTERNATIVE” and “COPY.” These envelopes containing the original and the copies shall then be enclosed in one single envelope.

21.2 The inner and outer envelopes shall:

- (a) bear the name and address of the Bidder;
- (b) be addressed to the PE as **provided in the BDS** pursuant to ITB 22.1[Sealing and Marking of Bids];
- (c) bear the specific identification of this bidding process specified in accordance with BDS 1.1[Scope of Bid]; and
- (d) bear a warning not to open before the time and date for bid opening.

21.3 If all envelopes are not sealed and marked as required, the PE will assume no responsibility for the misplacement or premature opening of the bid.

22. Deadline for Submission of Bids

22.1 Bids must be received by the PE at the address and no later than the date and time **specified in the BDS**. When so **specified in the BDS**, bidders shall have the option of submitting their bids electronically. Bidders submitting bids electronically shall follow the electronic bid submission procedures **specified in the BDS**.

22.2 The PE may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Document in accordance with ITB 8[Amendment of Bidding Document], in which case all rights and obligations of the PE and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.

23. Late Bids

23.1 The PE shall not consider any bid that arrives after the deadline for submission of bids, in accordance with ITB 22[Deadline for Submission of Bids]. Any bid received by the PE after the deadline for submission of bids shall be declared late, rejected, and returned unopened to the Bidder.

24. Withdrawal, Substitution, and Modification of Bids

24.1 A Bidder may withdraw, substitute, or modify its bid after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITB 20.2[Format and Signing of Bid], (except that withdrawal notices do not require copies). The corresponding

substitution or modification of the bid must accompany the respective written notice. All notices must be:

- (a) prepared and submitted in accordance with ITB 20[Format and Signing of Bid] and ITB 21[Sealing and Marking of Bids] (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked “WITHDRAWAL,” “SUBSTITUTION,” “MODIFICATION;” and
- (b) received by the PE prior to the deadline prescribed for submission of bids, in accordance with ITB 22[Deadline for Submission of Bids].

24.2 Bids requested to be withdrawn in accordance with ITB 24.1 shall be returned unopened to the Bidders.

24.3 No bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Letter of Bid or any extension thereof.

25. Bid Opening

25.1 Except in the cases specified in ITB 23[Late Bids] and ITB 24[Withdrawal, Substitution and Modification of Bids], the PE shall publicly open and read out in accordance with ITB 25.3 all bids received by the deadline, at the date, time and place **specified in the BDS**, in the presence of Bidders` designated representatives and anyone who choose to attend. Any specific electronic bid opening procedures required if electronic bidding is permitted in accordance with ITB 22.1[Deadline for Submission of Bids], shall be **as specified in the BDS**.

25.2 First, envelopes marked “WITHDRAWAL” shall be opened and read out and the envelope with the corresponding bid shall not be opened, but returned to the Bidder. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at bid opening. Next, envelopes marked “SUBSTITUTION” shall be opened and read out and exchanged with the corresponding bid being substituted, and the substituted bid shall not be opened, but returned to the Bidder. No bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at bid opening. Envelopes marked “MODIFICATION” shall be opened and read out with the corresponding bid. No bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at bid opening. Only envelopes that are opened and read out at bid opening shall be considered further.

25.3 All other envelopes shall be opened one at a time, reading out: the name of the Bidder and whether there is a modification; the total Bid

Price, per lot (contract) if applicable, including any discounts and alternative bids; the presence or absence of a bid security, or Bid Securing Declaration, if required; and any other details as the PE may consider appropriate. Only discounts and alternative bids read out at bid opening shall be considered for evaluation. The Letter of Bid and the Bill of Quantities are to be initialed by representatives of the PE attending bid opening in the manner **specified in the BDS**. The PE shall neither discuss the merits of any bid nor reject any bid (except for late bids, in accordance with ITB 23.1[Late Bids]).

- 25.4 The PE shall prepare a record of the bid opening that shall include, as a minimum: the name of the Bidder and whether there is a withdrawal, substitution, or modification; the Bid Price, per lot (contract) if applicable, including any discounts and alternative bids; and the presence or absence of a bid security, if one was required. The Bidders' representatives who are present shall be requested to sign the record. The omission of a Bidder's signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Bidders.

E. Evaluation and Comparison of Bids

26. Confidentiality

- 26.1 Information relating to the evaluation of bids and recommendation of contract award, shall not be disclosed to Bidders or any other persons not officially concerned with the bidding process until information on Contract award is communicated to all Bidders in accordance with ITB 40[Notification of Award].
- 26.2 Any attempt by a Bidder to influence the PE in the evaluation of the bids or Contract award decisions may result in the rejection of its bid.
- 26.3 Notwithstanding ITB 26.2, from the time of bid opening to the time of Contract award, if a Bidder wishes to contact the PE on any matter related to the bidding process, it shall do so in writing.

27. Clarification of Bids

- 27.1 To assist in the examination, evaluation, and comparison of the bids, and qualification of the Bidders, the PE may, at its discretion, ask any Bidder for a clarification of its bid given a reasonable time for a response. Any clarification submitted by a Bidder that is not in response to a request by the PE shall not be considered. The PE's request for clarification and the response shall be in writing. No change, including any voluntary increase or decrease in the prices or substance of the bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the PE in the evaluation of the bids, in accordance with ITB 31[Correction of Arithmetic Errors].
- 27.2 If a Bidder does not provide clarifications of its bid by the date and time set in the PE's request for clarification, its bid may be rejected.

28. Deviations, Reservations, and Omissions

28.1 During the evaluation of bids, the following definitions apply:

- (a) “Deviation” is a departure from the requirements specified in the Bidding Document;
- (b) “Reservation” is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Document; and
- (c) “Omission” is the failure to submit part or all of the information or documentation required in the Bidding Document.

29. Determination of Responsiveness

29.1 The PE’s determination of a bid’s responsiveness is to be based on the contents of the bid itself, as defined in ITB11[Documents Comprising the Bid].

29.2 A substantially responsive bid is one that meets the requirements of the Bidding Document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that,

- (a) if accepted, would:
 - (i) affect in any substantial way the scope, quality, or performance of the Works specified in the Contract; or
 - (ii) limit in any substantial way, inconsistent with the Bidding Document, the PE’s rights or the Bidder’s obligations under the proposed Contract; or
- (b) if rectified, would unfairly affect the competitive position of other Bidders presenting substantially responsive bids.

29.3 The PE shall examine the technical aspects of the bid submitted in accordance with ITB 16, [Technical Proposal], in particular, to confirm that all requirements of Section VIII [Works Requirements] have been met without any material deviation, reservation or omission.

29.4 If a bid is not substantially responsive to the requirements of the Bidding Document, it shall be rejected by the PE and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.

30. Nonconformities, Errors, and Omissions

30.1 Provided that a bid is substantially responsive, the PE may waive any nonconformities in the bid.

30.2 Provided that a bid is substantially responsive, the PE may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities in the bid related to documentation requirements. Requesting information or documentation on such nonconformities shall not be

related to any aspect of the price of the Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid.

30.3 Provided that a bid is substantially responsive, the PE shall rectify quantifiable nonmaterial nonconformities related to the Bid Price. To this effect, the Bid Price shall be adjusted, for comparison purposes only to reflect the price of a missing or non-conforming item or component, by adding the average price of the item or component quoted by substantially responsive Bidders. If the price of the item or component cannot be derived from the price of other substantially responsive bids, the PE shall use its best estimate.

**31. Correction of
Arithmetical Errors**

31.1 Provided that the bid is substantially responsive, the PE shall correct arithmetical errors on the following basis:

- (a) only for admeasurement contracts, if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the PE there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;
- (b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
- (c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.

31.2 Bidders shall be requested to accept correction of arithmetical errors. Failure to accept the correction in accordance with ITB 31.1, shall result in the rejection of the Bid.

**32. Conversion to
Single Currency**

32.1 For evaluation and comparison purposes, the currency(ies) of the Bid shall be converted into a single currency as **specified in the BDS**.

**33. Margin of
Preference**

33.1 **Unless otherwise specified in the BDS**, a margin of preference for domestic bidders¹¹ shall not apply.

¹¹ An individual firm is considered a domestic bidder for purposes of the margin of preference if it is registered in the Republic of South Sudan, has more than 50 percent ownership by nationals of the Republic of South Sudan, and if it does not subcontract more than 10 percent of the contract price, excluding provisional sums, to foreign contractors. JVs are considered as domestic bidders and eligible for domestic preference only if the individual member firms are registered in the Republic of South Sudan or have more than 50 percent ownership by nationals of the Republic of South Sudan, and the JV shall be registered in the Republic of South Sudan. The JV shall not subcontract more than 10

34. Subcontractors

34.1 Unless otherwise stated in the BDS, the PE does not intend to execute any specific elements of the Works by sub-contractors selected in advance by the PE.

34.2 The PE may permit subcontracting for certain specialized works as indicated in Section IV [Evaluation and Qualification Criteria]. When subcontracting is permitted by the PE, the specialized sub-contractor's experience shall be considered for evaluation. Section IV describes the qualification criteria for sub-contractors

34.3 Bidders may propose subcontracting up to the percentage of total value of contracts or the volume of works as **specified in the BDS**.

35. Evaluation of Bids

35.1 The PE shall use the criteria and methodologies listed in this Clause. No other evaluation criteria or methodologies shall be permitted.

35.2 To evaluate a bid, the PE shall consider the following:

- (a) the bid price, excluding Provisional Sums and the provision, if any, for contingencies in the Summary Bill of Quantities¹² for admeasurement contracts, but including Daywork¹³ items, where priced competitively;
- (b) price adjustment for correction of arithmetic errors in accordance with ITB 31.1[Correction of Arithmetic Errors];
- (c) price adjustment due to discounts offered in accordance with ITB 14.4[Bid Prices and Discounts];
- (d) converting the amount resulting from applying (a) to (c) above, if relevant, to a single currency in accordance with ITB 32[Conversion to Single Currency];
- (e) price adjustment for nonconformities in accordance with ITB 30.3[Nonconformities, Errors, and Omissions];
- (f) the additional evaluation factors are specified in Section IV [Evaluation and Qualification Criteria];

35.3 The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be taken into account in bid evaluation.

percent of the contract price, excluding provisional sums, to foreign firms. JVs between foreign and national firms will not be eligible for domestic preference.

¹² In lump sum contracts, delete "Bill of Quantities" and replace with "Activity Schedule."

¹³ Daywork is work carried out following instructions of the Project Manager and paid for on the basis of time spent by workers, and the use of materials and the Contractor's equipment, at the rates quoted in the Bid. For Daywork to be priced competitively for Bid evaluation purposes, the PE must list tentative quantities for individual items to be costed against Daywork (e.g., a specific number of tractor driver staff-days, or a specific tonnage of Portland cement), to be multiplied by the bidders' quoted rates and included in the total Bid price.

- 35.4 If this Bidding Document allows Bidders to quote separate prices for different lots (contracts), the methodology to determine the lowest evaluated price of the contract combinations, including any discounts offered in the Letter of Bid, is specified in Section IV. [Evaluation and Qualification Criteria].
- 35.5 If the bid for an admeasurement contract, which results in the lowest Evaluated Bid Price, is seriously unbalanced or, front loaded in the opinion of the PE, the PE may require the Bidder to produce detailed price analyses for any or all items of the Bill of Quantities, to demonstrate the internal consistency of those prices with the construction methods and schedule proposed. After evaluation of the price analyses, taking into consideration the schedule of estimated Contract payments, the PE may require that the amount of the performance security be increased¹⁴ at the expense of the Bidder to a level sufficient to protect the PE against financial loss in the event of default of the successful Bidder under the Contract.
- 36. Comparison of Bids** 36.1 The PE shall compare the evaluated prices of all substantially responsive bids established in accordance with ITB 35.2[Evaluation of Bids] to determine the lowest evaluated bid.
- 37. Abnormally Low Bids** 37.1 An Abnormally Low Bid is one where the Bid price, in combination with other constituent elements of the Bid, appears unreasonably low to the extent that the Bid price raises material concerns as to the capability of the Bidder to perform the Contract for the offered Bid price.
- 37.2 In the event of identification of a potentially Abnormally Low Bid, the PE shall seek written clarifications from the Bidder, including detailed price analyses of its Bid price in relation to the subject matter of the contract, scope, proposed methodology, schedule, allocation of risks and responsibilities and any other requirements of the bidding document.
- 37.3 After evaluation of the price analyses, in the event that the PE determines that the Bidder has failed to demonstrate its capability to perform the Contract for the offered Bid Price, the PE shall reject the Bid.
- 38. Qualification of the Bidder** 38.1 The PE shall determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated and substantially responsive bid meets the qualifying criteria specified in Section IV. Evaluation and Qualification Criteria.
- 38.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB 17.1 [Documents Establishing the Qualifications

¹⁴ Normally it can be increased up to 20%.

of the Bidder]. The determination shall not take into consideration the qualifications of other firms such as the Bidder's subsidiaries, parent entities, affiliates, subcontractors or any other firm(s) different from the Bidder that submitted the Bid.

38.3 Prior to Contract award, the PE will verify that the successful Bidder (including each member of a JV) is not disqualified by the PE due to noncompliance with contractual SEA/SH prevention and response obligations. The PE will conduct the same verification for each subcontractor proposed by the successful Bidder. If any proposed subcontractor does not meet the requirement, the PE will require the Bidder to propose a replacement subcontractor.

38.4 An affirmative determination of qualification shall be a prerequisite for award of the Contract to the Bidder. A negative determination shall result in disqualification of the bid, in which event the PE shall proceed to the next lowest evaluated bid to make a similar determination of that Bidder's qualifications to perform satisfactorily.

**39. PE's Right to
Accept Any Bid,
and to Reject Any
or All Bids**

39.1 The PE reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to contract award, without thereby incurring any liability to Bidders. In case of annulment, all bids submitted and specifically, bid securities, shall be promptly returned to the Bidders.

40. Standstill Period

40.1 The Contract shall not be awarded earlier than the expiry of the Standstill Period. The Standstill Period shall be ten (10) Business Days unless extended in accordance with ITB 44. The Standstill Period commences the day after the date the PE has transmitted to each Bidder the Notification of Intention to Award the Contract. Where only one Bid is submitted, or if this contract is in response to an emergency situation, the Standstill Period shall not apply

**41. Notification of
Intention to Award**

41.1 The PE shall send to each Bidder, the Notification of Intention to Award the Contract, in the format provided in Section V-Bidding Forms, to the successful Bidder. The Notification of Intention to Award shall contain, at a minimum, the following information:

- (a) the name and address of the Bidder submitting the successful Bid;
- (b) the Contract price of the successful Bid;
- (c) the names of all Bidders who submitted Bids, and their Bid prices as readout and as evaluated;
- (d) a statement of the reason(s) the Bid (of the unsuccessful Bidder to whom the notification is addressed) was unsuccessful;
- (e) the expiry date of the Standstill Period; and

- (f) instructions on how to request a debriefing or submit a complaint during the standstill period.

F. Award of Contract

- 42. Award Criteria** 42.1 Subject to ITB 38.1[Qualification of the Bidder], the PE shall award the Contract to the Bidder whose bid has been determined to be the lowest evaluated bid and is substantially responsive to the Bidding Document, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.
- 43. Notification of Award** 43.1 Prior to the expiration of the bid validity, the PE shall notify the successful Bidder, in writing, via the Letter of Acceptance included in the Contract Forms, that its bid has been accepted. The notification of award (hereinafter and in the Conditions of Contract and Contract Forms called the “Letter of Acceptance”) shall specify the sum that the PE will pay the Service Provider in consideration of the execution of the Contract (hereinafter and in the Conditions of Contract and Contract Forms called “the Contract Price”).
- 43.2 Within ten (10) Business Days after the date of transmission of the Letter of Acceptance, the PE shall publish the Contract Award Notice which shall contain, at a minimum, the following information::
- (i) name of each Bidder who submitted a Bid;
 - (ii) bid prices as read out at Bid Opening;
 - (iii) name and evaluated prices of each Bid that was evaluated;
 - (iv) name of bidders whose bids were rejected and the reasons for their rejection; and
 - (v) name of the winning Bidder, and the Price it offered, as well as the duration and summary scope of the contract awarded
 - (vi) successful Bidder’s Beneficial Ownership Disclosure Form, if specified in BDS [Signing of Contract]..
- 43.3 The Contract Award Notice shall be published on the PE’s website with free access if available, or in at least one newspaper of national circulation in the Republic of South Sudan, or in the official gazette
- 43.4 Until a formal contract is prepared and executed, the notification of award shall constitute a binding Contract.
- 44. Debriefing by the PE** 44.1 On receipt of the PE’s Notification of Intention to Award referred to in ITB 41, an unsuccessful Bidder has three (3) Business Days to make a written request to the PE for a debriefing. The PE shall provide a

debriefing to all unsuccessful Bidders whose request is received within this deadline.

44.2 Where a request for debriefing is received within the deadline, the PE shall provide a debriefing within five (5) Business Days, unless the PE decides, for justifiable reasons, to provide the debriefing outside this timeframe. In that case, the standstill period shall automatically be extended until five (5) Business Days after such debriefing is provided. If more than one debriefing is so delayed, the standstill period shall not end earlier than five (5) Business Days after the last debriefing takes place. The PE shall promptly inform, by the quickest means available, all Bidders of the extended standstill period.

44.3 Where a request for debriefing is received by the PE later than the three (3)-Business Day deadline, the PE should provide the debriefing as soon as practicable, and normally no later than fifteen (15) Business Days from the date of publication of Public Notice of Award of contract. Requests for debriefing received outside the three (3)-day deadline shall not lead to extension of the standstill period.

44.4 Debriefings of unsuccessful Bidders may be done in writing or verbally. The Bidder shall bear their own costs of attending such a debriefing meeting.

45. Signing of Contract

45.1 Promptly upon notification, the *PE* shall send the successful Bidder the Contract Agreement.

45.2 Within twenty-eight (28) days of receipt of the Contract Agreement, the successful Bidder shall sign, date, and return it to the *PE*.

46. Performance Security

46.1 Within Fourteen (14) days of the receipt of notification of award from the Employer, the successful Bidder shall furnish the performance security and, if required in the BDS, the Environmental, Social, Health and Safety (ESHS) Performance Security in accordance with the conditions of contract, subject to ITB 35.5[Evaluation of Bids], using for that purpose the Performance Security and ESHS Performance Security Forms included in Section XI. Contract Forms, or another form acceptable to the PE. If the performance security furnished by the successful Bidder is in the form of a bond, it shall be issued by a bonding or insurance company that has been determined by the successful Bidder to be acceptable to the PE. A foreign institution providing a bond shall have a correspondent financial institution located in the Republic of South Sudan.

46.2 If the Performance Security, and if required in the **TDS**, the Environmental and Social (ES) Performance Security, is to be provided by the successful Tenderer, it shall be in the form specified in the **TDS** which shall be in any of the following

- a) cash, certified cheque, cashier's or manager's cheque, or bank draft;
- b) irrevocable letter of credit issued by a reputable commercial bank or in the case of an irrevocable letter of credit issued by a foreign bank, the letter shall be confirmed or authenticated by a reputable local bank;
- c) bank guarantee confirmed by a reputable local bank or, in the case of a successful foreign tenderer, bonded by a bonded by a local bank"; or
- d) Surety bond issued by any reputable surety or insurance company.

46.3 *Any Performance Security submitted shall be enforceable in the Republic of South Sudan*

46.4 In the case of Performance Securing Declaration, the successful Tenderer shall complete and submit a duly signed Declaration in the format provided in Section XI [Contract Forms- Performance Securing Declaration]

46.5 Failure of the successful Bidder to submit the above-mentioned Performance Security and, if required in the BDS, the Environmental, Social, Health and Safety (ESHS) Performance Security, or to sign the Contract Agreement shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security. In that event the Procuring Entity may award the Contract to the next lowest evaluated Bidder whose offer is substantially responsive and is determined by the PE to be qualified to perform the Contract satisfactorily.

47. Adjudicator

47.1 The PE proposes the person **named in the BDS** to be appointed as Adjudicator under the Contract, at the hourly fee **specified in the BDS**, plus reimbursable expenses. If the Bidder disagrees with this proposal, the Bidder should so state in his Bid. If, in the Letter of Acceptance, the PE does not agree on the appointment of the Adjudicator, the PE will request the Appointing Authority designated in the Particular Conditions of Contract (SCC) pursuant to Clause 23.1 of the General Conditions of Contract (GCC), to appoint the Adjudicator.

48. Procurement Related Complaint

48.1 The bidder have the right to seek for review of procurement decisions pursuant to the Public Procurement and Disposals of Assets Act 2018, and the Public Procurement and Disposal of Assets Regulations 2024, and as provided in the Letter of Intention to Award the Contract.

Section III - Bid Data Sheet (BDS)

A. Introduction

ITB 1.1	<p>The number of the Invitation for Bids is : <i>[insert number of the Invitation for Bids]</i></p> <p>The Employer is: <i>[insert complete name]</i></p>
ITB 1.1	<p>The name of the bidding process is: <i>[insert complete name]</i></p> <p>The identification number of the bidding process is: <i>[insert identification number]</i></p> <p>The number and identification of lots comprising this bidding process is: <i>[insert number of lots and identification number of each lot, if applicable]</i></p>
ITB 2.1	The Procuring Entity is: <i>[insert complete name]</i>
ITB 2.1	The name of the Project is: <i>[insert name of the Project]</i>
ITB 2.1	Loan or Financing Agreement amount: <i>[insert amount]</i>
ITB 4.1	Maximum number of members in the JV shall be: <i>[insert number]</i> .
ITB 4.4	A list of debarred firms and individuals is available on <i>(insert address in which a list can be obtained)</i>

B. Bidding Documents

ITB 7.1	<p>For <u>clarification purposes</u> only, the PE's address is:</p> <p>Attention: <i>[insert full name of person, if applicable]</i></p> <p>Street Address: <i>[insert street address and number]</i></p> <p>Floor/Room number: <i>[insert floor and room number, if applicable]</i></p> <p>City: <i>[insert name of city or town]</i></p> <p>ZIP Code: <i>[insert postal (ZIP) code, if applicable]</i></p> <p>Telephone : <i>[insert telephone number,]</i></p> <p>Facsimile number: <i>[insert phone number,]</i></p> <p>Electronic mail address: <i>[insert email address, if applicable]</i></p>
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	Requests for clarification should be received by the PE no later than: <i>[insert no. of days].</i>
ITB 7.1	Web page: <i>[insert web page address]</i>
ITB 7.4	<p>A Pre-Bid meeting <i>[insert “shall” or “shall not”]</i> take place. If a Pre-Bid meeting will take place, it will be at the following date, time and place: <i>[insert date, time & place below, if applicable]</i></p> <p>Time:</p> <p>Place:</p> <p>A site visit conducted by the PE <i>[insert “shall be” or “shall not be”]</i> organized.</p>

C. Preparation of Bids

ITB 10.1	The language of the bid is: <i>[insert language]</i>
ITB 11.1 (b)	The following schedules shall be submitted with the bid: <i>[insert schedules that must be submitted with the Bid, including the priced Bill of Quantities for admeasurement contracts or Activity Schedule for lump sum contracts]</i>
ITB 11.1 (h)	<p>The Bidder shall submit the following additional documents in its Bid: <i>[list any additional document not already listed in ITB 11.1 that must be submitted with the Bid. The list of additional documents should include the following:]</i></p> <p>Code of Conduct for Contractor’s Personnel (ES)</p> <p>The Bidder shall submit its Code of Conduct that will apply to Contractor’s Personnel (as defined in Sub- Clause 1 (ii) of the General Conditions of Contract), to ensure compliance with the Contractor’s Environmental and Social (ES) obligations under the Contract. The Bidder shall use for this purpose the Code of Conduct form provided in Section IV. No substantial modifications shall be made to this form, except that the Bidder may introduce additional requirements, including as necessary to take into account specific Contract issues/risks.</p> <p>Management Strategies and Implementation Plans (MSIP) to manage the (ES) risks</p> <p>The Bidder shall submit Management Strategies and Implementation Plans (MSIPs) to manage the following key Environmental and Social (ES) risks:</p> <p><i>[Note: insert name of any specific plan and risk/s informed by the relevant environmental and social assessment:]</i></p> <ul style="list-style-type: none"> <i>[e.g. Sexual Exploitation, and Abuse (SEA) prevention and response action plan]</i>

	<ul style="list-style-type: none"> • <i>[e.g. Traffic Management Plan to ensure safety of local communities from construction traffic];</i>
ITB 13.1	Alternative bids <i>[insert “shall be” or “shall not be”]</i> permitted.
ITB 13.2	<p>Alternative times for completion <i>[insert “shall be” or “shall not be”]</i> permitted.</p> <p>If alternative times for completion are permitted, the evaluation method will be as specified in Section III (Evaluation and Qualification Criteria).</p>
ITB 13.4	<p>Alternative technical solutions shall be permitted for the following parts of the Works: <i>[insert parts of the Works]</i></p> <p>If alternative technical solutions are permitted, the evaluation method will be as specified in Section III (Evaluation and Qualification Criteria).</p>
ITB 14.5	The prices quoted by the Bidder <i>[insert “shall be” or “shall not be”]</i> subject to adjustment during the performance of the Contract.
ITB 15.1	<i>[The prices shall be quoted by the bidder in: [insert the local currency]</i>
ITB 18.1	<i>The Bid shall be valid until:_____ [insert day, month and year, taking into account reasonable time needed to complete the bid evaluation, obtain necessary approvals..]</i>
ITB 18.3 (a)	<p>The bid price shall be adjusted by the following factor(s):_____</p> <p><i>[The local currency portion of the Contract price shall be adjusted by a factor reflecting local inflation during the period of extension, and the foreign currency portion of the Contract price shall be adjusted by a factor reflecting the international inflation (in the country of the foreign currency) during the period of extension.]</i></p>
ITB 19.1	<p><i>[If a Bid Security shall be required, a Bid-Securing Declaration shall not be required, and vice versa.]</i></p> <p>A Bid Security <i>[insert “shall be” or “shall not be”]</i> required. A Bid-Securing Declaration <i>[insert “shall be” or “shall not be”]</i> required.</p> <p>If a Bid Security shall be required, the amount and currency of the bid security shall be: <i>[If a bid security is required, insert amount and currency of the bid security. Otherwise insert “Not Applicable”.]</i></p> <p><i>[In case of lots, please insert amount and currency of the Bid Security for each lot.</i></p> <p><i>Note: Bid Security is required for each lot as per amounts indicated against each lot. Bidders have the option of submitting one Bid Security for all lots (for the combined total amount of all lots) for which Bids have been submitted, however</i></p>

	<i>if the amount of Bid Security is less than the total required amount, the Employer will determine for which lot or lots the Bid Security amount shall be applied.]</i>
ITB 19.3 (d)	Other types of acceptable securities: <i>[Insert names of other acceptable securities. Insert “None” if no bid security is required under provision ITB 19.1 or if bid security is required but no other forms of bid securities besides those listed in ITB 19.3 (a) through (c) are acceptable.]</i>
ITB 19.9	<i>[The following provision should be included and the required corresponding information inserted <u>only</u> if a bid security is not required under provision ITB 19.1 and the Employer wishes to declare the Bidder ineligible for a period of time should the Bidder incur in the actions mentioned in provision ITB 19.9. Otherwise omit.]</i> If the Bidder incurs any of the actions prescribed in subparagraphs (a) or (b) of this provision, the Employer will declare the Bidder ineligible to be awarded contracts by the Employer for a period of _____ <i>[insert period of time]</i> years.
ITB 20.1	In addition to the original of the bid, the number of copies is: <i>[insert number of copies required]</i> .
ITB 20.2	The written confirmation of authorization to sign on behalf of the Bidder shall consist of: <i>[insert the name and description of the documentation required to demonstrate the authority of the signatory to sign the bid]</i> .

D. Submission and Opening of Bids

ITB 22.1	Bidders <i>[insert “shall” or “shall not”]</i> have the option of submitting their bids electronically. If electronic bid submission is permitted in accordance with ITB 21.1, the specific bid opening procedures shall be: <i>[insert description of the procedures.]</i>
ITB 22.1	For <u>bid submission purposes</u> only, the Employer’s address is: <i>[insert all required and applicable information]</i> Attention: Street Address: Floor/Room number: City: ZIP Code:

	<p>The deadline for bid submission is:</p> <p>Date:</p> <p>Time:</p> <p>Bidders <i>[insert “shall” or “shall not”]</i> have the option of submitting their bids electronically.</p> <p><i>[The following provision should be included and the required corresponding information inserted only if Bidders have the option of submitting their bids electronically. Otherwise omit.]</i></p> <p>If bidders have the option of submitting their bids electronically, the electronic bidding submission procedures shall be: <i>[insert a description of the electronic bidding submission procedures]</i></p>
ITB 25.1	<p>The bid opening shall take place at: <i>[insert all required and applicable information]</i></p> <p>Street Address:</p> <p>Floor/Room number:</p> <p>City:</p> <p>Date:</p> <p>Time:</p>
ITB 25.3	<p>The Letter of Bid and Priced Bill of Quantities shall be initialed by _____ <i>[insert number]</i> representatives of the Employer conducting Bid opening.</p> <p>_____ <i>[Insert procedure: Example: Each Bid shall be initialed by all representatives and shall be numbered, any modification to the unit or total price shall be initialed by the Representative of the Employer, etc]</i></p>

E. Evaluation and Comparison of Bids

ITB 32.1	<p>The currency that shall be used for bid evaluation and comparison purposes to convert all bid prices expressed in various currencies into a single currency is:</p> <p><i>[insert the name of the currency]</i></p> <p>The source of exchange rate shall be: <i>[insert the name of the source of the exchange rates]</i>.</p> <p>The date for the exchange rate shall be: <i>[specify date (day/month/year)]</i></p>
ITB 33.1	<p>A margin of preference <i>[insert “shall” or “shall not”]</i> apply.</p> <p><i>[If a margin of preference applies insert “The application methodology shall be as stipulated in Section IV (Evaluation and Qualification Criteria)”]</i></p>

ITB 34.1	At this time the Procuring Entity_____to execute certain specific parts of the Works by sub-contractors selected in advance.
ITB 34.3	<p>Contractor's proposed subcontracting: Maximum percentage of subcontracting permitted is: _____% of the total contract amount or _____% of the volume of work_____.</p> <p>b) Bidders planning to subcontract more than 10% of total volume of work shall specify, in the Letter of Bid, the activity (ies) or parts of the works to be subcontracted along with complete details of the sub-contractors and their qualification and experience. The qualification and experience of the sub-contractors must meet the minimum criteria for the relevant work to be sub-contracted failing which such sub-contractors will not be permitted to participate.</p> <p>c) Sub-contractors' qualification and experience will not be considered for evaluation of the Bidder. The Bidder on its own (without taking into account the qualification and experience of the sub-contractor) should meet the qualification criteria.</p>

F. Award of Contract

ITB 42.1 and 42.2	<p>[Delete the following if not applicable]</p> <p>The successful Bidder shall be required to submit an Environmental, Social, Health and Safety (ESHS) Performance Security.</p> <p><i>[Note: The ESHS Performance Security shall normally be required where ESHS risks are significant.]</i></p>
ITB 43.1	<p>The Adjudicator proposed by the Procuring Entity is:_____ <i>[insert name and address of proposed Adjudicator]</i>. The hourly fee for this proposed Adjudicator shall be:_____ <i>[insert amount and currency]</i>. The biographical data of the proposed Adjudicator is as follows:</p> <p>_____</p> <p><i>[provide relevant information, such as education, experience, age, nationality, and present position; attach additional pages as necessary]</i></p>

Section IV - Evaluation and Qualification Criteria

This section contains all the criteria that the PE shall use to evaluate bids and qualify Bidders if the bidding was not preceded by a prequalification exercise and post-qualification is applied. In accordance with ITB 35[Evaluation of Bids] and ITB 37[Qualification of the Bidder], no other methods, criteria and factors shall be used. The Bidder shall provide all the information requested in the forms included in Section IV [Bidding Forms].

Wherever a Bidder is required to state a monetary amount, Bidders should indicate the SPP equivalent using the rate of exchange determined as follows:

- -For construction turnover or financial data required for each year - Exchange rate prevailing on the last day of the respective calendar year (in which the amounts for that year is to be converted) was originally established.
- -Value of single contract - Exchange rate prevailing on the date of the contract.

Exchange rates shall be taken from the publicly available source identified in the ITB 32.1[Conversion to Single Currency]. Any error in determining the exchange rates in the Bid may be corrected by the PE

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1. Margin of Preference

If a margin of preference shall apply under ITB 33.1[Margin of Preference], the procedure will be as follows as:

A margin of preference of 10% (Ten percent) shall be granted to domestic contractors, in accordance with, and subject to, the following provisions:

- (a) Contractors applying for such preference shall provide, as part of the data for qualification, such information, including details of ownership, as shall be required to determine whether, according to the classification established, a particular contractor or group of contractors qualifies for a domestic preference. The bidding documents shall clearly indicate the preference and the method that will be followed in the evaluation and comparison of bids to give effect to such preference.
- (b) After bids have been received and reviewed by the Employer, responsive bids shall be classified into the following groups:
 - (i) Group A: bids offered by domestic contractors eligible for the preference.
 - (ii) Group B: bids offered by other contractors.

All evaluated bids in each group shall, as a first evaluation step, be compared to determine the lowest bid, and the lowest evaluated bids in each group shall be further compared with each other. If, as a result of this comparison, a bid from Group A is the lowest, it shall be selected for the award. If a bid from Group B is the lowest, as a second evaluation step, all bids from Group B shall then be further compared with the lowest evaluated bid from Group A. For the purpose of this further comparison only, an amount equal to 10% (Ten percent) of the respective bid price corrected for arithmetical errors, including unconditional discounts and excluding provisional sums and the cost of day works, if any, shall be added to the evaluated price offered in each bid from Group B. If the bid from Group A is the lowest, it shall be selected for award. If not, the lowest evaluated bid from Group B based on the first evaluation step shall be selected

2. Evaluation

In addition to the criteria listed in ITB 35.2 (a) – (e) the following criteria shall apply:

.....

.....

2.1 Adequacy of Technical Proposal

Evaluation of the Bidder's Technical Proposal will include an assessment of the Bidder's technical capacity to mobilize key equipment and personnel for the contract consistent with its proposal regarding work methods, scheduling, and material

sourcing in sufficient detail and fully in accordance with the requirements stipulated in Section VIII [Works Requirements].

2.2 Multiple Contracts

Pursuant to Sub-Clause 35.4 of the Instructions to Bidders, if Works are grouped in multiple contracts, evaluation will be as follows:

Award Criteria for Multiple Contracts [ITB 35.4]:

Lots

Bidders have the option to Bid for any one or more lots. Bids will be evaluated lot-wise, taking into account discounts offered, if any, for combined lots. The contract(s) will be awarded to the Bidder or Bidders offering the lowest evaluated cost to the Employer for combined lots, subject to the selected Bidder(s) meeting the required qualification criteria for lot or combination of lots as the case may be.

Packages

Bidders have the option to Bid for any one or more packages and for any one or more lots within a package. Bids will be evaluated package-wise, taking into account discounts offered, if any, for combined packages and/or lots within a package. The contract(s) will be awarded to the Bidder or Bidders offering the lowest evaluated cost to the Employer for combined packages, subject to the selected Bidder(s) meeting the required qualification criteria for combination of packages and or lots as the case may be.

Qualification Criteria:

Section IV describes criteria for qualification for each lot (contract) for multiple lots (contracts). The criteria for qualification is aggregate minimum requirement for respective lots as specified under items 3.1, 3.2, 4.2(a) and 4.2(b). However, with respect to the specific experience under item 4.2 (a) of Section IV, the Employer will select any one or more of the options as identified below:

N is the minimum number of contracts

V is the minimum value of a single contract

(a) For one Contract:

Option 1:

(i) N contracts, each of minimum value V;

Or

Option 2:

(i) N contracts, each of minimum value V; or

- (ii) Less than or equal to N contracts, each of minimum value V, but with total value of all contracts equal or more than $N \times V$.

(b) For multiple Contracts

Option 1:

- (i) Minimum requirements for combined contract(s) shall be the aggregate requirements for each contract for which the bidder has submitted bids as follows, and N1, N2, N3, etc. shall be different contracts:

Lot 1: N1 contracts, each of minimum value V1;

Lot 2: N2 contracts, each of minimum value V2;

Lot 3: N3 contracts, each of minimum value V3;

----etc.

or

Option 2:

- (i) Minimum requirements for combined contract(s) shall be the aggregate requirements for each contract for which the bidder has submitted bids as follows, and N1,N2,N3, etc. shall be different contracts:

Lot 1: N1 contracts, each of minimum value V1;

Lot 2: N2 contracts, each of minimum value V2;

Lot 3: N3 contracts, each of minimum value V3;

----etc, **or**

- (ii) Lot 1: N1 contracts, each of minimum value V1; or number of contracts less than or equal to N1, each of minimum value V1, but with total value of all contracts equal or more than $N1 \times V1$.

Lot 2: N2 contracts, each of minimum value V2; or number of contracts less than or equal to N2, each of minimum value V2, but with total value of all contracts equal or more than $N2 \times V2$.

Lot 3: N3 contracts, each of minimum value V3; or number of contracts less than or equal to N3, each of minimum value V3, but with total value of all contracts equal or more than $N3 \times V3$.

----etc.

2.3 Alternative Completion Times

An alternative Completion Time, if permitted under ITB 13.2, will be evaluated as follows:

2.4 Technical Alternatives

Technical alternatives, if permitted under ITB 13.4, will be evaluated as follows:

2.5 Specialized Subcontractors

Only the specific experience of sub-contractors for specialized works permitted by the Employer will be considered. The general experience and financial resources of the specialized sub-contractors shall not be added to those of the Bidder for purposes of qualification of the Bidder.

The specialized sub-contractors proposed shall be fully qualified for their work proposed, and meet the following criteria:

3. Qualification

Eligibility and Qualification Criteria		Compliance Requirements					Documentation
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Parties Combined	Each Member	One Member	
1. Eligibility							
1.1	Nationality	Nationality in accordance with ITB 4.3	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Forms ELI – 1.1 and 1.2, with attachments
1.2	Conflict of Interest	No conflicts of interest in accordance with ITB 4.2	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Letter of Bid
1.3	Eligibility	Not having been declared ineligible, as described in ITB 4.4, 4.5, 4.6 and 4.7	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Letter of Bid
1.4	Government Owned Entity	Meets conditions of ITB 4.5	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Forms ELI – 1.1 and 1.2, with attachments
2. Historical Contract Non-Performance							
2.1	History of Non-Performing Contracts	Non-performance of a contract ¹⁵ did not occur as a result of contractor default since 1 st January [Insert year] .	Must meet requirement ¹²	Must meet requirements	Must meet requirement ¹⁶	N/A	Form CON-2
2.2	Suspension Based on Execution of Bid Securing Declaration by the Authority or withdrawal of the Bid within Bid validity	Not under suspension based on execution of a Bid Securing Declaration pursuant to ITB 4.6 or withdrawal of the Bid	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Bid Submission Form

¹⁵ Non performance, as decided by the PE, shall include all contracts where (a) non performance was not challenged by the contractor, including through referral to the dispute resolution mechanism under the respective contract, and (b) contracts that were so challenged but fully settled against the contractor. Non performance shall not include contracts where Employers decision was overruled by the dispute resolution mechanism. Non performance must be based on all information on fully settled disputes or litigation, i.e. dispute or litigation that has been resolved in accordance with the dispute resolution mechanism under the respective contract and where all appeal instances available to the Bidder have been exhausted.

¹⁶ This requirement also applies to contracts executed by the Bidder as JV member.

Eligibility and Qualification Criteria			Compliance Requirements			Documentation	
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Parties Combined	Each Member	One Member	
		pursuant ITB 19.9.					
2.3	Pending Litigation	Bidder's financial position and prospective long term profitability sound according to criteria established in 3.1 below and assuming that all pending litigation will be resolved against the Bidder	Must meet requirement	N/A	Must meet requirement	N/A	Form CON – 2

Eligibility and Qualification Criteria				Compliance Requirements			Documentation
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Parties Combined	Each Member	One Member	
2.4	Litigation History	No consistent history of court/arbitral award decisions against the Bidder ¹⁷ since 1 st January [insert year]	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Form CON – 2
2.5	Declaration: Environmental, Social, Health, and Safety (ESHS) past performance	Declare any civil work contracts that have been suspended or terminated and/or performance security called by an employer for breach of environmental or social (including Sexual Exploitation and Abuse)) contractual obligations in the past five years. ¹⁸	Must make the declaration. Where there are Specialized Sub-contractor/s, the Specialized Sub-contractor/s must also make the declaration	N/A	Each must make the declaration. Where there are Specialized Sub-contractor/s, the Specialized Sub-contractor/s must also make the declaration	N/A	Form CON-3 ESHS Performance Declaration

¹⁷ The Bidder shall provide accurate information on the letter of Bid about any litigation or arbitration resulting from contracts completed or ongoing under its execution over the last five years. A consistent history of court/arbitral awards against the Bidder or any member of a joint venture may result in disqualifying the Bidder.

¹⁸ The PE may use this information to seek further information or clarifications in carrying out its due diligence.

Eligibility and Qualification Criteria		Compliance Requirements				Documentation	
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Parties Combined	Each Member	One Member	
3. Financial Situation and Performance							
3.1	Financial Capabilities	(i) The Bidder shall demonstrate that it has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the construction cash flow requirements estimated SSP [REDACTED] for the subject contract(s) net of the Bidders other commitments (ii) The Bidders shall also demonstrate, to the satisfaction of the Employer, that it has adequate sources of finance to meet the cash flow requirements on works currently in progress and for future contract commitments. (iii) The audited balance sheets or, if not required by the laws of the Bidder's country, other financial statements acceptable to the Employer, for the last	Must meet requirement	Must meet Requirement	N/A	N/A	Form FIN – 3.1, with attachments
			Must meet requirement	Must meet requirement	N/A	N/A	

Eligibility and Qualification Criteria							
Eligibility and Qualification Criteria				Compliance Requirements			Documentation
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Parties Combined	Each Member	One Member	
		_____ years shall be submitted and must demonstrate the current soundness of the Bidder's financial position and indicate its prospective long-term profitability.	Must meet requirement	N/A	Must meet requirement	N/A	
3.2	Average Annual Construction Turnover	Minimum average annual construction turnover of SSP _____, calculated as total certified payments received for contracts in progress and/or completed within the last _____ years, divided by _____ years	Must meet requirement	Must meet requirement	Must meet _____%, _____ of the requirement	Must meet _____%, _____ of the requirement	Form FIN – 3.2
3.3	Current Commitments	The Service Provider shall also demonstrate that it has adequate sources of finance to meet the cash flow requirements on contracts currently in progress and for future contract commitments.	Must Meet Requirement	Must Meet the requirement	N/A	N/A	Form FIN-3

Eligibility and Qualification Criteria		Compliance Requirements				Documentation	
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Parties Combined	Each Member	One Member	
4. Experience							
4.1 (a)	General Construction Experience	Experience under construction contracts in the role of prime contractor, JV member, sub-contractor, or management contractor for at least the last _____ years, starting 1 st January ____.	Must meet requirement	N/A	Must meet requirement	N/A	Form EXP – 4.1
4.2 (a)	Specific Construction & Contract Management Experience	(i) A minimum number of similar ¹⁹ contracts specified below that have been satisfactorily and substantially ²⁰ completed as a prime contractor, joint venture member ²¹ , management contractor or sub-contractor ²¹ between 1st January [<i>insert year</i>] and application submission deadline: (i) N contracts, each of minimum value V;	Must meet requirement	Must meet requirement ²²	N/A	N/A	Form EXP 4.2(a)

¹⁹ The similarity shall be based on the physical size, complexity, methods/technology and/or other characteristics described in Section VII, Work's Requirements. Summation of number of small value contracts (less than the value specified under requirement) to meet the overall requirement will not be accepted.

²⁰ Substantial completion shall be based on 80% or more works completed under the contract.

²¹ For contracts under which the Bidder participated as a joint venture member or sub-contractor, only the Bidder's share, by value, shall be considered to meet this requirement.

²² In the case of JV, the value of contracts completed by its members shall not be aggregated to determine whether the requirement of the minimum value of a single contract has been met. Instead, each contract performed by each member shall satisfy the minimum value of a single contract as required for single entity. In determining whether the JV meets the requirement of total number of contracts, only the number of contracts completed by all members each of value equal or more than the minimum value required shall be aggregated.

Eligibility and Qualification Criteria			Compliance Requirements				Documentation
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Parties Combined	Each Member	One Member	
		Or (ii) Less than or equal to N contracts, each of minimum value V, but with total value of all contracts equal or more than N x V; [insert values of N & V, delete (ii) above if not applicable]. [In case the Works are to be bid as individual contracts under a slice and package (multiple contract) procedure, the minimum number of contracts required for purposes of evaluating qualification shall be selected from the options specified in ITB 35.4]					
		[Add the following if specialized sub-contractor is permitted and describe nature and characteristics of specialized works:] “(ii) For the following specialized works, the Employer permits specialized sub-contractors as per ITB	“Must meet requirement for one contract (Requirement can be met through a Specialized Sub-contractor)”	Must meet requirement	N/A	“Must meet requirement (Requirement can be met through a Specialized Sub-contractor)”	

Eligibility and Qualification Criteria			Compliance Requirements				Documentation
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Parties Combined	Each Member	One Member	
		34.3"					
4.2 (b)	Experience in Key Activities	For the above and any other contracts completed and under implementation as prime contractor, joint venture member, management contractor or sub-contractor ²³ on or after the first day of the calendar year during the period stipulated in 4.2 (a) above, a minimum construction experience in the following key activities successfully completed ²⁴ : <i>[list activities indicating volume, number or rate of production as applicable]</i> ²⁵	Must meet requirements	Must meet requirements	N/A	Must meet the following requirements for the key activities listed below ¹⁶ <i>[list key activities and the corresponding minimum requirements]</i>	Form EXP – 4.2 (b)
4.2 (c)	Specific Experience in managing ES aspects	For contracts [substantially completed and under implementation] as prime contractor, joint venture member, or Subcontractor between 1st January <i>[insert year]</i>	Must meet requirements	Must meet requirements	Must meet the following requirements: <i>[list key requirements to be met by each member otherwise state: "N/A"]</i>	Must meet the following requirements: <i>[list key requirements to be met by one member otherwise state: "N/A"]</i>	Form EXP – 4.2 (c)

²³ For contracts under which the Bidder participated as a joint venture member or sub-contractor, only the Bidder's share shall be counted to meet this requirement.

²⁴ Volume, number or rate of production of any key activity can be demonstrated in one or more contracts combined if executed during same time period. The rate of production shall be the annual production rate for the key construction activity (or activities).

²⁵ The minimum experience requirement for multiple contracts will be the sum of the minimum requirements for respective individual contracts, unless specified otherwise.

Eligibility and Qualification Criteria				Compliance Requirements			Documentation
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Parties Combined	Each Member	One Member	
		and Application submission deadline, experience in managing ES risks and impacts in the following aspects: <i>[Based on the ES assessment, specify, as appropriate, specific experience requirements to manage ES aspects.]</i>					

5 Key Personnel

The Bidder must demonstrate that it will have suitably qualified (and in adequate numbers) Key Personnel, as described in the Specifications.

The Bidder shall provide details of the Key Personnel and such other Key Personnel that the Bidder considers appropriate to perform the Contract, together with their academic qualifications and work experience. The Bidder shall complete the relevant Forms in Section V, Bidding Forms.

Item No.	Position/specialization	Relevant academic qualifications	Minimum years of relevant work experience
1			
2	...		
3		e.g. degree in relevant environmental subject	e.g. [years] working on road projects in similar work environments
4			
5			e.
6	[add others as appropriate]		

6. Equipment

The Bidder must demonstrate that it will have access to the key Contractor's equipment listed hereafter:

[Specify requirements for each lot as applicable]

No.	Equipment Type and Characteristics	Minimum Number required
1		
2		
3		
4		
5		

The Bidder shall provide further details of proposed items of equipment using the relevant Form in Section V.

Section V - Bidding Forms

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Letter of Bid

The Bidder must prepare the Letter of Bid on stationery with its letterhead clearly showing the Bidder's complete name and address.

Note: All italicized text is for use in preparing these form and shall be deleted from the final products.

Date: ***[insert date (as day, month and year) of Bid Submission]***

Bid No.: ***[insert number of bidding process]***

Invitation for Bid No.: ***[insert identification]***

Alternative No.: ***[insert identification No if this is a Bid for an alternative]***

To: ***[insert complete name of Procuring Entity]***

- (a) We have examined and have no reservations to the Bidding Documents, including Addenda issued in accordance with Instructions to Bidders (ITB 8)___;
- (b) We meet the eligibility requirements and have no conflict of interest in accordance with ITB 4;
- (c) We have not been suspended nor declared ineligible by the **Authority** based on execution of a Bid Securing Declaration in the Republic of South Sudan in accordance with ITB 4.6
- (d) We offer to execute in conformity with the Bidding Documents the following Works: ***[insert a brief description of the Works]***;
- (e) The total price of our Bid, excluding any discounts offered in item (f) below is:

In case of only one lot, total price of the Bid ***[insert the total price of the bid in words and figures, indicating the various amounts and the respective currencies]***;

In case of multiple lots, total price of each lot ***[insert the total price of each lot in words and figures, indicating the various amounts and the respective currencies]***;

In case of multiple lots, total price of all lots (sum of all lots) ***[insert the total price of all lots in words and figures, indicating the various amounts and the respective currencies]***;

- (f) The discounts offered and the methodology for their application are:
 - (i) The discounts offered are: ***[Specify in detail each discount offered.]***
 - (ii) The exact method of calculations to determine the net price after application of discounts is shown below: ***[Specify in detail the method that shall be used to apply the discounts]***;
- (g) Our bid shall be valid until ***[insert day, month and year in accordance with ITB 18.1]***, and it shall remain binding upon us and may be accepted at any time on or before this date;

- (h) If our bid is accepted, we commit to obtain a performance security [*and an Environmental, Social, Health and Safety (ESHS) Performance Security, Delete if not applicable*] in accordance with the Bidding Documents;
- (i) We are not participating, as a Bidder or as a subcontractor, in more than one bid in this bidding process in accordance with ITB 4.2(e), other than alternative bids submitted in accordance with ITB 13;
- (j) Our firm, its affiliates or subsidiaries, including any subcontractors or suppliers for any part of the contract has not been declared ineligible by the Government of South Sudan under South Sudan's laws or any other official regulations.
- (k) We are not a government owned entity/ We are a government owned entity but meet the requirements of ITB 4.5;²⁶
- (l) We have paid, or will pay the following commissions, gratuities, or fees with respect to the bidding process or execution of the Contract: ***[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity]***

Name of Recipient	Address	Reason	Amount
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(If none has been paid or is to be paid, indicate "none.")

- (m) We understand that this bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal contract is prepared and executed; and
- (n) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive.
- (o) We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf will engage in any type of fraud and corruption

Name of the Bidder* ***[insert name of the Bidder]***

Name of the person duly authorized to sign the Bid on behalf of the Bidder** ***[insert complete name of person duly authorized to sign the Bid]***

²⁶ Bidder to use as appropriate

Title of the person signing the Bid **[insert complete title of the person signing the Bid]**

Signature of the person named above **[insert signature of person whose name and capacity are shown above]**

Date signed **[insert date of signing]** day of **[insert month]**, **[insert year]**

*: In the case of the Bid submitted by joint venture specify the name of the Joint Venture as Bidder

**: Person signing the Bid shall have the power of attorney given by the Bidder to be attached with the Bid Schedules.

Schedules

1. Priced Bill of Quantities

The Bidder shall fill in rates and prices for all items of the Works described in the Bill of Quantities.

Items for which no rate or price is entered by the Bidder will not be paid for by the PE when executed and shall be deemed covered by the other rates and prices in the Bill of quantities. However, failure to quote for a major item in the tender will form a justifiable ground for rejection of tender.

On the other hand, if the Bidder introduces new Bill of Quantities items not specified in the Tendering documents the new items, corresponding quantities and prices shall not be accepted and the Tender may be disqualified as being substantially non responsive.

2. Schedule of Payment Currencies

Forinsert name of Section of the Works

Separate tables may be required if the various sections of the Works (or of the Bill of Quantities) will have substantially different foreign and local currency requirements. The Employer should insert the names of each Section of the Works.

	A	B	C	D
Name of Payment Currency	Amount of Currency	Rate of Exchange to Local Currency	Local Currency Equivalent $C = A \times B$	Percentage of Total Tender Price (TTP) $\frac{100 \times C}{TBP}$
Local currency _____		1.00		
Foreign Currency #1 _____				
Foreign Currency #2 _____				
Foreign Currency #3 _____				
Total Bid Price				100.00
Provisional Sums Expressed in Local Currency		1.00		
TOTAL TENDER PRICE (Including provisional sum)				

3. Schedule of Cost Indexation

[Note to PE: It is recommended that the PE is advised by a professional with experience in construction costs and the inflationary effect on construction costs when preparing the contents of the Schedule of Cost Indexation. In the case of very large and/or complex works contracts, it may be necessary to specify several families of price adjustment formulae corresponding to the different works involved]

[The formulae for price adjustment shall be of the following general type:]

$$P_n = a + b \frac{L_n}{L_o} + c \frac{E_n}{E_o} + d \frac{M_n}{M_o} + \dots$$

where:

“P_n” is the adjustment multiplier to be applied to the estimated contract value in the relevant currency of the work carried out in period “n”, this period being a month unless otherwise stated in the **SCC**;

“a” is a fixed coefficient, stated in the relevant table of adjustment data, representing the non-adjustable portion in contractual payments;

“b”, “c”, “d”, ... are coefficients representing the estimated proportion of each cost element related to the execution of the Works as stated in the relevant table of adjustment data; such tabulated cost elements may be indicative of resources such as labour, equipment and materials;

“L_n”, “E_n”, “M_n”, ... are the current cost indices or reference prices for period “n”, expressed in the relevant currency of payment, each of which is applicable to the relevant tabulated cost element on the date 49 days prior to the last day of the period (to which the particular Payment Certificate relates); and

“L_o”, “E_o”, “M_o”, are the base cost indices or reference prices, expressed in the relevant currency of payment, each of which is applicable to the relevant tabulated cost element on the Base Date.

The cost indices or reference prices stated in the Table of Adjustment Data shall be used. If their source is in doubt, it shall be determined by the Project Manager. For this purpose, reference shall be made to the values of the indices at stated dates (quoted in the fourth and fifth columns respectively of the table).

If the currency in which the Contract price is expressed is different from the currency of the country of origin of the indices, a correction factor will be applied to avoid incorrect adjustments of the Contract price. The correction factor shall be: Z_0 / Z_1 , where,

Z_0 = the number of units of currency of the origin of the indices which equal to one unit of the currency of the Contract Price on the Base date, and

Z_1 = the number of units of currency of the origin of the indices which equal to one unit of the currency of the Contract Price on the Date of Adjustment.

4. Schedule of Adjustment Data

[In Tables A, B, and C, below, the Bidder shall (a) indicate its amount of local currency payment, (b) indicate its proposed source and base values of indices for the different foreign currency elements of cost, (c) derive its proposed weightings for local and foreign currency payment, and (d) list the exchange rates used in the currency conversion. In the case of very large and/or complex works contracts, it may be necessary to specify several families of price adjustment formulae corresponding to the different works involved.]

Table A. Local Currency

Table A. Local Currency

Index code	Index description	Source of index	Base value and date	Bidder's related currency amount	Range of weighting Proposed by the Procuring Entity	Bidder's proposed weighting
	Non-adjustable	—	—	—	a: _____* b: ----- to -----* c: ----- to -----* d: ----- to -----* e: ----- to -----* etc.	a: _____* b: _____ c: _____ d: _____ e: _____ etc.
Total						1.00

[* To be entered by the PE. Whereas “a” should a fixed percentage, b, c, d and e should specify a range of values and the Bidder will be required to specify a value within the range such that the total weighting = 1.00]

Table B. Foreign Currency (FC)

State type: [If the Bidder is allowed to receive payment in foreign currencies this table shall be used. If Bidder wishes to quote in more than one foreign currency (up to three currencies permitted) then this table should be repeated for each foreign currency.]

Index code	Index description	Source of index	Base value and date	Bidder's related source currency in type/amount	Equivalent in Foreign Currency 1	Range of weighting Proposed by the Procuring Entity	Bidder's proposed weighting
	Non-adjustable	—	—	—		a: _____* b: ----- to -----* c: ----- to -----* d: ----- to -----* e: ----- to -----* etc.	a: _____* b: _____ c: _____ d: _____ e: _____ etc.

[* To be entered by the PE. Whereas "a" should a fixed percentage, b, c, d and e should specify a range of values and the Bidder will be required to specify a value within the range such that the total weighting = 1.00]

Form of Bid Security (Bank Guarantee)

[Guarantor letterhead or SWIFT identifier code]

Beneficiary:

[Insert name and address of the PE]

Invitation for Bids No: *[Insert reference number for the Invitation for Bids]*

Date: *[Insert date of issue]*

BID GUARANTEE No.: *[Insert guarantee reference number]*

Guarantor: *[Insert name and address of place of issue, unless indicated in the letterhead]*

We have been informed that *[insert name of the Bidder, which in the case of a joint venture shall be the name of the joint venture (whether legally constituted or prospective) or the names of all members thereof]* (hereinafter called "the Applicant") has submitted or will submit to the Beneficiary its bid (hereinafter called "the Bid") for the execution of *[insert description of contract]* under Invitation for Bids No. *[insert number]* ("the IFB").

Furthermore, we understand that, according to the Beneficiary's conditions, bids must be supported by a bid guarantee.

At the request of the Applicant, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of *[insert amount in letters]* (*insert amount in numbers*) upon receipt by us of the Beneficiary's complying supported by the Beneficiary's statement, whether in the demand itself or a separate signed document accompanying or identifying the demand, stating either that the Applicant:

- (a) has withdrawn its bid prior to the Bid validity expiry date specified by the Applicant in the Letter of Bid, or any extended date provided by the Applicant; or
- (b) having been notified of the acceptance of its Bid by the Beneficiary prior to the expiry date of the Bid validity or any extension thereto provided by the Applicant, (i) fails to execute the Contract Agreement or (ii) fails to furnish the performance security, and, if required, the Environmental and Social (ES) Performance Security, in accordance with the Instructions to Bidders ("ITB") of the Beneficiary's bidding document.

This guarantee will expire: (a) if the Applicant is the successful Bidder, upon our receipt of copies of the contract agreement signed by the Applicant and the performance security and, if required, the Environmental and Social, Safety (ES) Performance Security, issued to the Beneficiary upon the instruction of the Applicant; and (b) if the Applicant is not the successful Bidder, upon the earlier of (i) our receipt of

a copy of the Beneficiary's notification to the Applicant of the results of the bidding process; or (ii) twenty-eight days after the expiry date of the Bid validity.

Consequently, any demand for payment under this guarantee must be received by us at the office indicated above on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758.

[signature(s)]

Note: All italicized text is for use in preparing this form and shall be deleted from the final product.

Form of Bid Security (Bid Bond)

[The Surety shall fill in this Bid Bond Form in accordance with the instructions indicated.]

BOND NO. _____

BY THIS BOND *[name of Bidder]* as Principal (hereinafter called "the Principal"), and *[name, legal title, and address of surety]*, authorized to transact business in *the Republic of South Sudan*, as Surety (hereinafter called "the Surety"), are held and firmly bound unto *[name of Employer]* as Oblige (hereinafter called "the Employer") in the sum of *[amount of Bond]*²⁷ *[amount in words]*, for the payment of which sum, well and truly to be made, we, the said Principal and Surety, bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Principal has submitted a written Bid to the Employer dated the ____ day of _____, 20____, for the supply of *[name of Contract]* (hereinafter called the "Bid").

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal:

- (a) has withdrawn its Bid prior to the Bid validity expiry date set forth in the Principal's Letter of Bid or any extended date provided by the Principal; or
- (b) having been notified of the acceptance of its Bid by the Employer prior to the expiry date of the Bid validity or any extension thereto provided by the Principal: (i) failed to execute the contract agreement; or (ii) has failed to furnish the Performance Security and, if required, the Environmental and Social (ES) Performance Security, in accordance with the Instructions to Bidders ("ITB") of the Employer's bidding document.

then the Surety undertakes to immediately pay to the Employer up to the above amount upon receipt of the Employer's first written demand, without the Employer having to substantiate its demand, provided that in its demand the Employer shall state that the demand arises from the occurrence of any of the above events, specifying which event(s) has occurred.

The Surety hereby agrees that its obligation will remain in full force and effect up to and including the date 28 days after the date of expiration Bid validity set forth in the Principal's Letter of Bid or any extension thereto provided by the Principal.

IN TESTIMONY WHEREOF, the Principal and the Surety have caused these presents to be executed in their respective names this ____ day of _____ 20____.

Principal: _____ Surety: _____
Corporate Seal (where appropriate)

(Signature)
(Printed name and title)

(Signature)
(Printed name and title)

²⁷ The amount of the Bond shall be denominated in the currency of the Republic of South Sudan or the equivalent amount in a freely convertible currency.

Form of Bid-Securing Declaration

Date: *[insert date (as day, month and year)]*

Bid No.: *[insert number of bidding process]*

Alternative No.: *[insert identification No if this is a Bid for an alternative]*

To: *[insert complete name of Employer]*

We, the undersigned, declare that:

We understand that, according to your conditions, bids must be supported by a Bid-Securing Declaration.

We accept that we will automatically be suspended from being eligible for bidding or submitting proposals in any contract with the procuring entities in the Republic of South Sudan for the period of time of *[insert number of months or years]* starting on *[insert date]*, if we are in breach of our obligation(s) under the bid conditions, because we:

- (a) have withdrawn our Bid prior to the expiry date of the Bid validity specified in the Letter of Bid or any extended date provided by us; or
- (b) having been notified of the acceptance of our Bid by the Employer prior to the expiry date of the Bid validity in the Letter of Bid or any extended date provided by us, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the Performance Security and, if required, the Environmental and Social (ES) Performance Security, in accordance with the ITB.

We understand this Bid-Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of (i) our receipt of your notification to us of the name of the successful Bidder; or (ii) twenty-eight days after the expiry date of the Bid validity.

Name of the Bidder* _____ ***[insert complete name of the Bidder]***

Name of the person duly authorized to sign the Bid on behalf of the Bidder** ***[insert complete name of person duly authorized to sign the Bid]***

Title of the person signing the Bid ***[insert complete title of the person signing the Bid]***

Signature of the person named above _____ ***[insert signature of person whose name and capacity are shown above]***

Date signed ***[insert date of signing]*** day of ***[insert month]***, ***[insert year]***

*: In the case of the Bid submitted by joint venture specify the name of the Joint Venture as Bidder

** : Person signing the Bid shall have the power of attorney given by the Bidder to be attached with the Bid *[Note: In case of a Joint Venture, the Bid-Securing Declaration must be in the name of all members to the Joint Venture that submits the bid.]*

Technical Proposal

Technical Proposal Forms

- **Key Personnel Schedule**
-
- **Equipment**
-
- **Site Organization**
-
- **Method Statement**
-
- **Mobilization Schedule**
-
- **Construction Schedule**
-
- **ESHS Management Strategies and Implementation Plans**
-
- **Code of Conduct (ESHS)**
-
- **Others**

Form PER -1

Key Personnel Schedule

Bidders should provide the names and details of the suitably qualified Key Personnel to perform the Contract. The data on their experience should be supplied using the Form PER-2 below for each candidate.

Key Personnel

1.	Title of position:	
	Name of candidate:	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart)]</i>
2.	Title of position: <i>[Environmental Specialist]</i>	
	Name of candidate:	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart)]</i>
3.	Title of position: <i>[Health and Safety Specialist]</i>	
	Name of candidate:	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart)]</i>
4.	Title of position: <i>[Social Specialist]</i>	
	Name of candidate:	

	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment: for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart)]</i>
5.	Title of position: Sexual Exploitation, Abuse and Harassment Expert <i>[Where a Project SEA risks are assessed to be substantial or high, Key Personnel shall include an expert with relevant experience in addressing sexual exploitation, sexual abuse and sexual harassment cases]</i>	
	Name of candidate	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment: for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart)]</i>
6.	Title of position: <i>[insert title]</i>	
	Name of candidate	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment: for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart)]</i>

Form PER-2:

Resume and Declaration Key Personnel

Name of Bidder

Position [#1]: <i>[title of position from Form PER-1]</i>		
Personnel information	Name:	Date of birth:
	Address:	E-mail:
	Professional qualifications:	
	Academic qualifications:	
	Language proficiency: <i>[language and levels of speaking, reading and writing skills]</i>	
details	Address of employer:	
	Telephone:	Contact (manager / personnel officer):
	Fax:	
	Job title:	Years with present employer:

Summarize professional experience in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

Project	Role	Duration of involvement	Relevant experience
<i>[main project details]</i>	<i>[role and responsibilities on the project]</i>	<i>[time in role]</i>	<i>[describe the experience relevant to this position]</i>

Declaration

I, the undersigned Key Personnel, certify that to the best of my knowledge and belief, the information contained in this Form PER-2 correctly describes myself, my qualifications and my experience.

I confirm that I am available as certified in the following table and throughout the expected time schedule for this position as provided in the Bid:

Commitment	Details
Commitment to duration of contract:	<i>[insert period (start and end dates) for which this Key Personnel is available to work on this contract]</i>
Time commitment:	<i>[insert the number of days/week/months/ that this Key Personnel will be engaged]</i>

I understand that any misrepresentation or omission in this Form may:

- (a) be taken into consideration during Bid evaluation;
- (b) my disqualification from participating in the Bid;
- (c) my dismissal from the contract.

Name of Key Personnel: *[insert name]*

Signature: _____

Date: (day month year): _____

Countersignature of authorized representative of the Bidder:

Signature: _____

Date: (day month year): _____

Equipment

The Bidder shall provide adequate information to demonstrate clearly that it has the capability to meet the requirements for the key equipment listed in Section III (Evaluation and Qualification Criteria). A separate Form shall be prepared for each item of equipment listed, or for alternative equipment proposed by the Bidder. The Bidder shall provide all the information requested below, to the extent possible. Fields with asterisk (*) shall be used for evaluation.

Type of Equipment*		
Equipment Information	Name of manufacturer,	Model and power rating
	Capacity*	Year of manufacture*
Current Status	Current location	
	Details of current commitments	
Source	Indicate source of the equipment <input type="checkbox"/> Owned <input type="checkbox"/> Rented <input type="checkbox"/> Leased <input type="checkbox"/> Specially manufactured	

The following information shall be provided only for equipment not owned by the Bidder.

Owner	Name of owner	
	Address of owner	
	Telephone	Contact name and title
	Fax	Telex
Agreements	Details of rental / lease / manufacture agreements specific to the project	

Site Organization

[insert Site Organization information]

The Bidder shall include hereunder an organizational diagram indicating his proposed project organization, including Head Office management and possible sub-contractors.

The chart shall be sufficiently detailed to enable an assessment of the number of supervisory staff and foremen available on site to the extent that CVs requested under Personnel, such candidate shall be identifiable on the attached organization diagram.

Method Statement

[insert Method Statement]

The Bidder is expected hereunder to detail clearly how he intends to execute the works and complete the entire work in accordance with the proposed programme

Mobilization Schedule

[insert Mobilization Schedule]

The Bidder is required to present the timeline for establishing his site camp, Project Manager's fully equipped site office as well as fully laboratory for the sole use of the Project Manager, mobilization of resources i.e. personnel, equipment and materials.

Construction Schedule

[insert Construction Schedule]

The Bidder is required to submit Construction Schedule showing time taken and resources required in execution of various tasks, presented in bar chart, preferably, using Microsoft Project. The Construction Schedule must reflect construction period stipulated in the Tendering Documents.

ES Management Strategies and Implementation Plans

(ES-MSIP)

The Bidder shall submit comprehensive and concise Environmental and Social Management Strategies and Implementation Plans (ES-MSIP) as required by ITB 11.1 (h) of the Bid Data Sheet. These strategies and plans shall describe in detail the actions, materials, equipment, management processes etc. that will be implemented by the Contractor, and its subcontractors.

In developing these strategies and plans, the Bidder shall have regard to the ES provisions of the contract including those as may be more fully described in the Works Requirements in Section VIII.

Code of Conduct for Contractor's Personnel (ES) Form

Note to the Employer:

The following minimum requirements shall not be modified. The Employer may add additional requirements to address identified issues, informed by relevant environmental and social assessment.

The types of issues identified could include risks associated with: labor influx, spread of communicable diseases, and Sexual Exploitation and Abuse (SEA), Sexual Harassment (SH)etc.

Delete this Box prior to issuance of the bidding documents.

Note to the Bidder:

The minimum content of the Code of Conduct form as set out by the Employer shall not be substantially modified. However, the Bidder may add requirements as appropriate, including to take into account Contract-specific issues/risks.

The Bidder shall initial and submit the Code of Conduct form as part of its bid.

CODE OF CONDUCT FOR CONTRACTOR'S PERSONNEL

We are the Contractor, [enter name of Contractor]. We have signed a contract with [enter name of Employer] for [enter description of the Works]. These Works will be carried out at [enter the Site and other locations where the Works will be carried out]. Our contract requires us to implement measures to address environmental and social risks related to the Works, including the risks of sexual exploitation, sexual abuse and sexual harassment.

This Code of Conduct is part of our measures to deal with environmental and social risks related to the Works. It applies to all our staff, laborers and other employees at the Works Site or other places where the Works are being carried out. It also applies to the personnel of each subcontractor and any other personnel assisting us in the execution of the Works. All such persons are referred to as “**Contractor's Personnel**” and are subject to this Code of Conduct.

This Code of Conduct identifies the behavior that we require from all Contractor's Personnel.

Our workplace is an environment where unsafe, offensive, abusive or violent behavior will not be tolerated and where all persons should feel comfortable raising issues or concerns without fear of retaliation.

REQUIRED CONDUCT

Contractor's Personnel shall:

1. carry out his/her duties competently and diligently;
2. comply with this Code of Conduct and all applicable laws, regulations and other requirements, including requirements to protect the health, safety and well-being of other Contractor's Personnel and any other person;
3. maintain a safe working environment including by:
 - a. ensuring that workplaces, machinery, equipment and processes under each person's control are safe and without risk to health;
 - b. wearing required personal protective equipment;
 - c. using appropriate measures relating to chemical, physical and biological substances and agents; and
 - d. following applicable emergency operating procedures.
4. report work situations that he/she believes are not safe or healthy and remove himself/herself from a work situation which he/she reasonably believes presents an imminent and serious danger to his/her life or health;
5. treat other people with respect, and not discriminate against specific groups such as women, people with disabilities, migrant workers or children;
6. not engage in Sexual Harassment, which means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature with other Contractor's or Employer's Personnel;
7. not engage in Sexual Exploitation, which means any actual or attempted abuse of position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another;
8. not engage in Sexual Abuse, which means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions;
9. not engage in any form of sexual activity with individuals under the age of 18, except in case of pre-existing marriage;
10. complete relevant training courses that will be provided related to the environmental and social aspects of the Contract, including on health and safety matters, and Sexual Exploitation and Abuse (SEA), and Sexual Harassment (SH);
11. report violations of this Code of Conduct; and
12. not retaliate against any person who reports violations of this Code of Conduct, whether to us or the Employer, or who makes use of the grievance mechanism for Contractor's Personnel or the project's Grievance Redress Mechanism.

RAISING CONCERNS

If any person observes behavior that he/she believes may represent a violation of this Code of Conduct, or that otherwise concerns him/her, he/she should raise the issue promptly. This can be done in either of the following ways:

1. Contact [enter name of the Contractor's Social Expert with relevant experience in handling gender-based violence, or if such person is not required under the Contract, another individual designated by the Contractor to handle these matters] in writing at this address [] or by telephone at [] or in person at []; or
2. Call [] to reach the Contractor's hotline (if any) and leave a message.

The person's identity will be kept confidential, unless reporting of allegations is mandated by the law. Anonymous complaints or allegations may also be submitted and will be given all due and appropriate consideration. We take seriously all reports of possible misconduct and will investigate and take appropriate action. We will provide warm referrals to service providers that may help support the person who experienced the alleged incident, as appropriate.

There will be no retaliation against any person who raises a concern in good faith about any behavior prohibited by this Code of Conduct. Such retaliation would be a violation of this Code of Conduct.

CONSEQUENCES OF VIOLATING THE CODE OF CONDUCT

Any violation of this Code of Conduct by Contractor's Personnel may result in serious consequences, up to and including termination and possible referral to legal authorities.

FOR CONTRACTOR'S PERSONNEL:

I have received a copy of this Code of Conduct written in a language that I comprehend. I understand that if I have any questions about this Code of Conduct, I can contact [enter name of Contractor's contact person with relevant experience] requesting an explanation.

Name of Contractor's Personnel: [insert name]

Signature: _____

Date: (day month year): _____

Countersignature of authorized representative of the Contractor:

Signature: _____

Date: (day month year): _____

ATTACHMENT 1: Behaviors constituting Sexual Exploitation and Abuse (SEA) and behaviors constituting Sexual Harassment (SH)

ATTACHMENT 1 TO THE CODE OF CONDUCT FORM**BEHAVIORS CONSTITUTING SEXUAL EXPLOITATION AND ABUSE (SEA) AND BEHAVIORS CONSTITUTING SEXUAL HARASSMENT (SH)**

The following non-exhaustive list is intended to illustrate types of prohibited behaviors:

(1) Examples of sexual exploitation and abuse include, but are not limited to:

- A Contractor's Personnel tells a member of the community that he/she can get them jobs related to the work site (e.g. cooking and cleaning) in exchange for sex.
- A Contractor's Personnel that is connecting electricity input to households says that he can connect women headed households to the grid in exchange for sex.
- A Contractor's Personnel rapes, or otherwise sexually assaults a member of the community.
- A Contractor's Personnel denies a person access to the Site unless he/she performs a sexual favor.
- A Contractor's Personnel tells a person applying for employment under the Contract that he/she will only hire him/her if he/she has sex with him/her.

(2) Examples of sexual harassment in a work context

- Contractor's Personnel comment on the appearance of another Contractor's Personnel (either positive or negative) and sexual desirability.
- When a Contractor's Personnel complains about comments made by another Contractor's Personnel on his/her appearance, the other Contractor's Personnel comment that he/she is "asking for it" because of how he/she dresses.
- Unwelcome touching of a Contractor's or Employer's Personnel by another Contractor's Personnel.
- A Contractor's Personnel tells another Contractor's Personnel that he/she will get him/her a salary raise, or promotion if he/she sends him/her naked photographs of himself/herself.

Others

Bidder's Qualification

To establish its qualifications to perform the contract in accordance with Section IV (Evaluation and Qualification Criteria) the Bidder shall provide the information requested in the corresponding Information Sheets included hereunder

Form ELI -1.1: Bidder Information Form

Date: _____
 Bid No. and title: _____
 Page _____ of _____ pages

Bidder's name
In case of Joint Venture (JV), name of each member:
Bidder's actual or intended country of registration: <i>[indicate country of Constitution]</i>
Bidder's actual or intended year of incorporation:
Bidder's legal address [in country of registration]:
Bidder's authorized representative information Name: _____ Address: _____ Telephone/Fax numbers: _____ E-mail address: _____
1. Attached are copies of original documents of <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITB 4.3. <input type="checkbox"/> In case of JV, letter of intent to form JV or JV agreement, in accordance with ITB 4.1. <input type="checkbox"/> In case of Government-owned enterprise or institution, in accordance with ITB 4.5 documents establishing: <ul style="list-style-type: none"> • Legal and financial autonomy • Operation under commercial law • Establishing that the Bidder is not dependent agency of the Employer 2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

Form ELI -1.2: Information Form for JV Bidders

(to be completed for each member of Joint Venture)

Date: _____

Bid No. and title: _____

Page _____ of _____ pages

Bidder's Joint Venture name:

JV member's name:

JV member's country of registration:

JV member's year of constitution:

JV member's legal address in country of constitution:

JV member's authorized representative information

Name: _____

Address: _____

Telephone/Fax numbers: _____

E-mail address: _____

1. Attached are copies of original documents of

- ☐ Articles of Incorporation (or equivalent documents of constitution or association), and/or registration documents of the legal entity named above, in accordance with ITB 4.3.
- ☐ In case of a Government-owned enterprise or institution, documents establishing legal and financial autonomy, operation in accordance with commercial law, and absence of dependent status, in accordance with ITB 4.5.

2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

Form CON – 2: Historical Contract Non-Performance, Pending Litigation and Litigation History

Bidder's Name: _____

Date: _____

Joint Venture Member's Name _____

Bid No. and title: _____

Page _____ of _____ pages

Non-Performed Contracts in accordance with Section IV, Evaluation and Qualification Criteria			
<input type="checkbox"/> Contract non-performance did not occur since 1 st January <i>[insert year]</i> specified in Section IV, Evaluation and Qualification Criteria, Sub-Factor 2.1.			
<input type="checkbox"/> Contract(s) not performed since 1 st January <i>[insert year]</i> specified in Section IV, Evaluation and Qualification Criteria, requirement 2.1			
Year	Non-performed portion of contract	Contract Identification	Total Contract Amount (current value, currency, exchange rate and SPP equivalent)
<i>[insert year]</i>	<i>[insert amount and percentage]</i>	Contract Identification: <i>[indicate complete contract name/ number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Reason(s) for nonperformance: <i>[indicate main reason(s)]</i>	<i>[insert amount]</i>
Pending Litigation, in accordance with Section IV, Evaluation and Qualification Criteria			
<input type="checkbox"/> No pending litigation in accordance with Section IV, Evaluation and Qualification Criteria, Sub-Factor 2.3.			
<input type="checkbox"/> Pending litigation in accordance with Section IV, Evaluation and Qualification Criteria, Sub-Factor 2.3 as indicated below.			

Year of dispute	Amount in dispute (currency)	Contract Identification	Total Contract Amount (currency), SPP Equivalent (exchange rate)
		Contract Identification: _____ Name of Employer: _____ Address of Employer: _____ Matter in dispute: _____ Party who initiated the dispute: _____ Status of dispute: _____	
		Contract Identification: Name of Employer: Address of Employer: Matter in dispute: Party who initiated the dispute: Status of dispute:	
Litigation History in accordance with Section IV, Evaluation and Qualification Criteria			
<input type="checkbox"/> No Litigation History in accordance with Section IV, Evaluation and Qualification Criteria, Sub-Factor 2.4.			
<input type="checkbox"/> Litigation History in accordance with Section IV, Evaluation and Qualification Criteria, Sub-Factor 2.4 as indicated below.			
Year of award	Outcome as percentage of Net Worth	Contract Identification	Total Contract Amount (currency), SPP Equivalent (exchange rate)
<i>[insert year]</i>	<i>[insert percentage]</i>	Contract Identification: <i>[indicate complete contract name, number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Matter in dispute: <i>[indicate main issues in dispute]</i> Party who initiated the dispute: <i>[indicate "Employer" or "Contractor"]</i> Reason(s) for Litigation and award decision <i>[indicate main reason(s)]</i>	<i>[insert amount]</i>

Form CON – 3:Environmental and Social Performance Declaration

[The following table shall be filled in for the Bidder, each member of a Joint Venture and each Specialized Subcontractor]

Bidder's Name: *[insert full name]*

Date: *[insert day, month, year]*

Joint Venture Member's or Specialized Subcontractor's Name: *[insert full name]*

Bid No. and title: *[insert Bid number and title]*

Page *[insert page number]* of *[insert total number]* pages

Environmental and Social Performance Declaration in accordance with Section IV, Qualification Criteria, and Requirements			
<input type="checkbox"/> No suspension or termination of contract: An employer has not suspended or terminated a contract and/or called the performance security for a contract for reasons related to Environmental, or Social (ES) performance since the date specified in Section IV, Qualification Criteria, and Requirements, Sub-Factor 2.5.			
<input type="checkbox"/> Declaration of suspension or termination of contract: The following contract(s) has/have been suspended or terminated and/or Performance Security called by an employer(s) for reasons related to Environmental or Social (ES) performance since the date specified in Section IV, Qualification Criteria, and Requirements, Sub-Factor 2.5. Details are described below:			
Year	Suspended or terminated portion of contract	Contract Identification	Total Contract Amount (current value, currency, exchange rate and SPP equivalent)
<i>[insert year]</i>	<i>[insert amount and percentage]</i>	Contract Identification: <i>[indicate complete contract name/ number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Reason(s) for suspension or termination: <i>[indicate main reason(s) e.g. for gender-based violence; sexual exploitation or sexual abuse breaches]</i>	<i>[insert amount]</i>
<i>[insert year]</i>	<i>[insert amount and percentage]</i>	Contract Identification: <i>[indicate complete contract name/ number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i>	<i>[insert amount]</i>

		Reason(s) for suspension or termination: <i>[indicate main reason(s)]</i>	
...	...	<i>[list all applicable contracts]</i>	...
Performance Security called by an employer(s) for reasons related to ESHS performance			
Year	Contract Identification		Total Contract Amount (current value, currency, exchange rate and SPP equivalent)
<i>[insert year]</i>	Contract Identification: <i>[indicate complete contract name/ number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Reason(s) for calling of performance security: <i>[indicate main reason(s) e.g. for gender-based violence; sexual exploitation, or sexual abuse breaches]</i>		<i>[insert amount]</i>

Form FIN – 3.1: Financial Situation and Performance

Bidder's Name: _____

Date: _____

Joint Venture Member's Name _____

Bid No. and title: _____

Page _____ of _____ pages

1. Financial data

Type of Financial information in (currency)	Historic information for previous _____ years, _____ (amount in currency, currency, exchange rate, SPP equivalent)				
	Year 1	Year 2	Year 3	Year 4	Year 5
Statement of Financial Position (Information from Balance Sheet)					
Total Assets (TA)					
Total Liabilities (TL)					
Total Equity/Net Worth (NW)					
Current Assets (CA)					
Current Liabilities (CL)					
Working Capital (WC)					
Information from Income Statement					
Total Revenue (TR)					
Profits Before Taxes (PBT)					
Cash Flow Information					
Cash Flow from Operating Activities					

2. Sources of Finance

Specify sources of finance to meet the cash flow requirements on works currently in progress and for future contract commitments.

No.	Source of finance	Amount (SPP equivalent)
1		
2		
3		

2. Financial documents

The Bidder and its parties shall provide copies of financial statements for _____ years pursuant Section III, Evaluation and Qualifications Criteria, Sub-factor 3.2. The financial statements shall:

- (a) reflect the financial situation of the Bidder or in case of JV member , and not an affiliated entity (such as parent company or group member).
- (b) be independently audited or certified in accordance with local legislation.
- (c) be complete, including all notes to the financial statements.
- (d) correspond to accounting periods already completed and audited.

☐ Attached are copies of financial statements²⁸ for the _____ years required above; and complying with the requirements

²⁸ If the most recent set of financial statements is for a period earlier than 12 months from the date of bid, the reason for this should be justified.

Form FIN - 3.2: Average Annual Construction Turnover

Bidder's Name: _____

Date: _____

Joint Venture Member's Name _____

Bid No. and title: _____

Page _____ of _____ pages

		Annual turnover data (construction only)	
Year	Amount Currency	Exchange rate	SPP equivalent
<i>[indicate year]</i>	<i>[insert amount and indicate currency]</i>		
Average Annual Construction Turnover *			

* See Section III, Evaluation and Qualification Criteria, Sub-Factor 3.2.

Form FIN-3: Current Contract Commitments / Works in Progress

Bidders and each partner to a JV should provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

Name of contract	Employer, contact address/tel/fax	Value of outstanding work (current SPP equivalent)	Estimated completion date	Average monthly invoicing over last six months (SPP/month)
1.				
2.				
3.				
4.				
5.				
etc.				

Form EXP - 4.1: General Construction Experience

Bidder's Name: _____

Date: _____

Joint Venture Member's Name _____

Bid No. and title: _____

Page _____ of _____ pages

Starting Year	Ending Year	Contract Identification	Role of Bidder
		Contract name: _____ Brief Description of the Works performed by the Bidder: _____ Amount of contract: _____ Name of Employer: _____ Address: _____	
		Contract name: _____ Brief Description of the Works performed by the Bidder: _____ Amount of contract: _____ Name of Employer: _____ Address: _____	
		Contract name: _____ Brief Description of the Works performed by the Bidder: _____ Amount of contract: _____ Name of Employer: _____ Address: _____	

Form EXP - 4.2(a): Specific Construction and Contract Management Experience

Bidder's Name: _____

Date: _____

Joint Venture Member's Name _____

Bid No. and title: _____

Page _____ of _____ pages

Similar Contract No.	Information			
Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contractor <input type="checkbox"/>	Member in JV <input type="checkbox"/>	Management Contractor <input type="checkbox"/>	Sub- contractor <input type="checkbox"/>
Total Contract Amount			SPP *	
If member in a JV or sub-contractor, specify participation in total Contract amount			*	
Employer's Name:				
Address:				
Telephone/fax number				
E-mail:				

Form EXP - 4.2(a) (cont.)
Specific Construction and Contract Management Experience (cont.)

Similar Contract No.	Information
Description of the similarity in accordance with Sub-Factor 4.2(a) of Section III:	
1. Amount	
2. Physical size of required works items	
3. Complexity	
4. Methods/Technology	
5. Construction rate for key activities	
6. Other Characteristics	

Form EXP - 4.2(b): Construction Experience in Key Activities

Bidder's Name: _____

Date: _____

Joint Venture Member's Name _____

Sub-contractor's Name²⁹ (as per ITB 34.2 and 34.3): _____

Bid No. and title: _____

Page _____ of _____ pages

Sub-contractor's Name (as per ITB 34.2 and 34.3): _____

All Sub-contractors for key activities must complete the information in this form as per ITB 34.2 and 34.3 and Section III, Qualification Criteria and Requirements, Sub-Factor 4.2.

1. Key Activity No One: _____

	Information			
Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contractor <input type="checkbox"/>	Member in JV <input type="checkbox"/>	Management Contractor <input type="checkbox"/>	Sub-contractor <input type="checkbox"/>
Total Contract Amount			SPP	
Quantity (Volume, number or rate of production, as applicable) performed under the contract per year or part of the year	Total quantity in the contract (i)	Percentage participation (ii)		Actual Quantity Performed (i) x (ii)
Year 1				
Year 2				
Year 3				
Year 4				
Employer's Name:				

²⁹ If applicable.

Address:	
Telephone/fax number	
E-mail:	

2. Activity No. Two

.....

	Information
Description of the key activities in accordance with Sub-Factor 4.2(b) of Section III:	

Form EXP - 4.2(c): Specific Experience in Managing ES aspects

[The following table shall be filled in for contracts performed by the Bidder, and each member of a Joint Venture]

Bidder's Name: _____

Date: _____

Bidder's JV Member Name: _____

Bid No. and title: _____

Page _____ of _____ pages

1. Key Requirement no 1 in accordance with 4.2 (c): _____

Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contractor <input type="checkbox"/>	Member in JV <input type="checkbox"/>	Management Contractor <input type="checkbox"/>	Subcontractor <input type="checkbox"/>
Total Contract Amount			SPP	
Details of relevant experience				

2. Key Requirement no 2 in accordance with 4.2 (c): _____

3. Key Requirement no 3 in accordance with 4.2 (c): _____

Section VI - Eligible Countries

Eligibility for the Provision of Goods, Works and Services

1. In reference to ITB 4.7, and 5.1, for the information of the Bidders, at the present time firms, goods and services from the following countries are excluded from this bidding process:

Under ITB 4.7 (a) and 5.1	<i>[insert a list of the countries to apply the restriction or state “none”]</i>
Under ITB 4.7 (b) and 5.1	<i>[insert a list of the countries to apply the restriction or state “none”]</i>

Section VII. Corrupt and Fraudulent Practices

UNDERTAKING BY BIDDER ON ANTI – BRIBERY POLICY / CODE OF CONDUCT AND COMPLIANCE PROGRAMME

Each Bidder must submit a statement, as part of the bid documents, in either of the two given formats which must be signed personally by the Chief Executive Officer or other appropriate senior corporate officer of the tendering company and, where relevant, of its subsidiary in the United Republic of South Sudan. If a tender is submitted by a subsidiary, a statement to this effect will also be required of the parent company, signed by its Chief Executive Officer or other appropriate senior corporate officer.

MEMORANDUM (Format 1)

This company _____ *[name of company]* places importance on competitive tendering taking place on a basis that is free, fair, competitive and not open to abuse. It is pleased to confirm that it will not offer or facilitate, directly or indirectly, any improper inducement or reward to any public officer their relatives or business associates, in connection with its bid, or in the subsequent performance of the contract if it is successful.

This company has an Anti-Bribery Policy/Code of Conduct and a Compliance Program which includes all reasonable steps necessary to assure that the No-bribery commitment given in this statement will be complied with by its managers and employees, as well as by all third parties working with this company on the public sector projects, or contract including agents, consultants, consortium partners, sub- contractors and suppliers. Copies of our Anti-Bribery Policy/Code of Conduct and Compliance Program are attached³⁰.

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Bidder: _____

Address: _____

³⁰Signing of this memorandum is not sufficient if it is not accompanied by the Anti-bribery Policy/Code of Conduct and Compliance programme of the Bidder. For bids submitted by the JVCA each member must submit its Anti-bribery Policy/Code of Conduct and Compliance programme

MEMORANDUM (Format 2)

This company _____ *[name of company]* has issued, for the purposes of this tender, a Compliance Program copy attached³¹ - which includes all reasonable steps necessary to assure that the No-bribery commitment given in this statement will be complied with by its managers and employees, as well as by all third parties working with this company on the public sector projects or contract including agents, consultants, consortium partners, subcontractors and suppliers.

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Bidder: _____

Address: _____

³¹Signing of this memorandum is not sufficient if it is not accompanied by the Anti-bribery Policy/Code of Conduct and Compliance programme of the Bidder. For bids submitted by the JVCA each member must submit its Anti-bribery Policy/Code of Conduct and Compliance programme.

PART 2 – Procuring Entity’s Requirements

Section VIII - Works Requirements

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Bill of Quantities

Objectives

The objectives of the Bill of Quantities are:

- (a) to provide sufficient information on the quantities of Works to be performed to enable bids to be prepared efficiently and accurately; and*
- (b) when a Contract has been entered into, to provide a priced Bill of Quantities for use in the periodic valuation of Works executed.*

In order to attain these objectives, Works should be itemized in the Bill of Quantities in sufficient detail to distinguish between the different classes of Works, or between Works of the same nature carried out in different locations or in other circumstances which may give rise to different considerations of cost. Consistent with these requirements, the layout and contents of the Bill of Quantities should be as simple and brief as possible.

Daywork Schedule

A Daywork Schedule should be included only if the probability of unforeseen work, outside the items included in the Bill of Quantities, is high. To facilitate checking by the Employer of the realism of rates quoted by the bidders, the Daywork Schedule should normally comprise the following:

- (a) A list of the various classes of labor, materials, and Constructional Plant for which basic daywork rates or prices are to be inserted by the Bidder, together with a statement of the conditions under which the Contractor shall be paid for work executed on a daywork basis.*
- (b) Nominal quantities for each item of daywork, to be priced by each Bidder at daywork rates as Bid. The rate to be entered by the Bidder against each basic daywork item should include the Contractor's profit, overheads, supervision, and other charges.*

Provisional Sums

A general provision for physical contingencies (quantity overruns) may be made by including a provisional sum in the Summary Bill of Quantities. Similarly, a contingency allowance for possible price increases should be provided as a provisional sum in the Summary priced Bill of Quantities. The inclusion of such provisional sums often facilitates budgetary approval by avoiding the need to request periodic supplementary approvals as the future need arises. Where such provisional sums or contingency allowances are used, the Special Conditions of Contract should state the manner in which they shall be used, and under whose authority (usually the Project Manager's).

The estimated cost of specialized work to be carried out, or of special goods to be supplied, by other contractors should be indicated in the relevant part of the Bill of Quantities as a particular provisional sum with an appropriate brief description. A separate procurement procedure is normally carried out by the Employer to select such specialized contractors. To provide an element of competition among the bidders in respect of any facilities, amenities, attendance, etc., to be provided by the successful Bidder as prime Contractor for the use and convenience of the specialist

Sample Activity Schedule

<i>Item no.</i>	<i>Description</i>	<i>Unit</i>	<i>Amount</i>
	<i>[To be entered by the Employer; Delete if not applicable:]</i> Provisional sums for additional ES outcomes		

Specifications

A set of precise and clear Specifications is a prerequisite for bidders to respond realistically and competitively to the requirements of the Employer without qualifying or conditioning their bids. In the context of international competitive bidding, the Specifications must be drafted to permit the widest possible competition and, at the same time, present a clear statement of the required standards of workmanship, materials, and performance of the goods and services to be procured. Only if this is done shall the objectives of economy, efficiency, and fairness in procurement be realized, responsiveness of bids be ensured, and the subsequent task of Bid evaluation facilitated. The Specifications should require that all goods and materials to be incorporated in the Works be new, unused, of the most recent or current models, and incorporate all recent improvements in design and materials unless provided otherwise in the Contract.

Samples of Specifications from previous similar projects in the same country are useful in to prepare Specifications. The use of metric units is recommended. Most Specifications are normally written specially by the Employer or Project Manager to suit the Contract Works in hand. There is no standard set of Specifications for universal application in all sectors in all countries, but there are established principles and practices, which are reflected in these documents.

There are considerable advantages in standardizing General Specifications for repetitive Works in recognized public sectors, such as highways, ports, railways, urban housing, irrigation, and water supply, in the same country or region where similar conditions prevail. The General Specifications should cover all classes of workmanship, materials, and equipment commonly involved in construction, although not necessarily to be used in a particular Works Contract. Deletions or addendums should then adapt the General Specifications to apply them to the particular Works.

Care must be taken in drafting Specifications to ensure that they are not restrictive. In the Specifications of standards for goods, materials, and workmanship, recognized international standards should be used as much as possible. Where other particular standards are used, the Specifications should state that goods, materials, and workmanship that meet other authoritative standards, and which ensure substantially equal or higher quality than the standards mentioned, shall also be acceptable. To that effect, the following sample clause may be inserted in the Special Conditions or Specifications.

“Equivalency of Standards and Codes

Wherever reference is made in the Contract to specific standards and codes to be met by the goods and materials to be furnished, and work performed or tested, the provisions of the latest current edition or revision of the relevant standards and codes in effect shall apply, unless otherwise expressly stated in the Contract. Where such standards and codes are national, or relate to a particular country or region, other authoritative standards that ensure a substantially equal or higher quality than the standards and codes specified shall be accepted subject to the Project Manager’s prior review and written consent. Differences between the standards specified and the proposed alternative standards shall be fully described in writing by the Contractor and submitted to the Project Manager at least 28 days prior to the date when the Contractor desires the Project Manager’s consent. In the event the Project Manager determines that such proposed deviations do not ensure substantially equal or higher quality, the Contractor shall comply with the standards specified in the documents.”

These Notes for Preparing Specifications are intended only as information for the Employer or the person drafting the bidding documents. They should not be included in the final documents.

Environmental, social, health and safety requirements

The Employer should include a suitably qualified Environmental and Social specialist/s.

The Employer should attach or refer to the Employer’s environmental and social, policies that will apply to the project. If these are not available, the Employer should use the following guidance in drafting an appropriate policy for the Works.]

SUGGESTED CONTENT FOR AN ENVIRONMENTAL AND SOCIAL POLICY (STATEMENT)

The Works’ policy goal, as a minimum, should be stated to integrate environmental protection, occupational and community health and safety, gender, equality, child protection, vulnerable people (including those with disabilities), sexual harassment, gender-based violence, Sexual Exploitation and Abuse (SEA), HIV/AIDS awareness and prevention and wide stakeholder engagement in the planning processes, programs, and activities of the parties involved in the execution of the Works. The policy should set the frame for monitoring, continuously improving processes and activities and for reporting on the compliance with the policy.

The policy shall include a statement that, for the purpose of the policy and/or code of conduct, the term “child” / “children” means any person(s) under the age of 18 years.

The policy should, as far as possible, be brief but specific and explicit, and measurable, to enable reporting of compliance with the policy in accordance with Sub-Clause 30.3 of the General Conditions of Contract.

As a minimum, the policy is set out to the commitments to:

- 1. apply good international industry practice to protect and conserve the natural environment and to minimize unavoidable impacts;*
- 2. provide and maintain a healthy and safe work environment and safe systems of work;*
- 3. protect the health and safety of local communities and users, with particular concern for those who are disabled, elderly, or otherwise vulnerable;*
- 4. be intolerant of, and enforce disciplinary measures for illegal activities. To be intolerant of, and enforce disciplinary measures for gender-based violence, inhumane treatment, sexual exploitation, rape, sexual abuse, sexual activity with children, and sexual harassment;*
- 5. incorporate a gender perspective and provide an enabling environment where women and men have equal opportunity to participate in, and benefit from, planning and development of the Works;*
- 6. work co-operatively, including with end users of the Works, relevant authorities, contractors and local communities;*
- 7. engage with and listen to affected persons and organizations and be responsive to their concerns, with special regard for vulnerable, disabled, and elderly people;*
- 8. provide an environment that fosters the exchange of information, views, and ideas that is free of any fear of retaliation, and protects whistleblowers;*
- 9. minimize the risk of communicable diseases and to mitigate the effects of communicable diseases associated with the execution of the Works;*

The policy should be signed by the senior manager of the Employer. This is to signal the intent that it will be applied rigorously.

MINIMUM CONTENT OF ES REQUIREMENTS

In preparing detailed specifications for ES requirements, the specialists should refer to and consider:

- *project reports e.g. ESIA/ESMP*
- *consent/permit conditions*
- *required standards including World Bank Group EHS Guidelines*
- *relevant international conventions or treaties etc., national legal and/or regulatory requirements and standards (where these represent higher standards than the WBG EHS Guidelines)*
- *relevant international standards e.g. WHO Guidelines for Safe Use of Pesticides*
- *relevant sector standards e.g. EU Council Directive 91/271/EEC Concerning Urban Waste Water Treatment*
- *grievance redress mechanism including types of grievances to be recorded and how to protect confidentiality e.g. of those reporting allegations of SEA.*
- *SEA prevention and management.*

The detail specification for ES should, to the extent possible, describe the intended outcome rather than the method of working. The ES requirements should be prepared in manner that does not conflict with the relevant General Conditions of Contract and Particular Conditions of Contract.

PAYMENT FOR ES REQUIREMENTS

The Employer's ES and procurement specialists should consider how the Contractor will cost the delivery of the ES requirements. In the majority of cases, the payment for the delivery of ES requirements shall be a subsidiary obligation of the Contractor covered under the prices quoted for other Bill of Quantity items or activities. For example, normally the cost of implementing work place safe systems of work, including the measures necessary for ensuring traffic safety, shall be covered by the Bidder's rates for the relevant works. Alternatively, provisional sums could be set aside for discrete activities for example for HIV counselling service, and, and, GBV/SEA awareness and sensitization awareness and sensitization or to encourage the contractor to deliver additional ES outcomes beyond the requirement of the Contract.

Key Personnel

[Note: Insert in the following table, the minimum key specialists required to execute the contract, taking into account the nature, scope, complexity and risks of the contract.]

Contractor's Representative and Key Personnel

Item No.	Position/specialization	Relevant academic qualifications	Minimum years of relevant work experience
1	Contractor's Representative		
2	<i>[Environmental]</i>	<i>[e.g. degree in relevant environmental subject]</i>	<i>[e.g. [years] working on road contracts in similar work environments]</i>
3	<i>[Health and Safety]</i>		
4	<i>[Social]</i>		
5	Sexual Exploitation, Abuse and Harassment <i>[Where a Project SEA risks are assessed to be substantial or high, Key Personnel shall include an expert(s) with relevant experience in addressing sexual exploitation, sexual abuse and sexual harassment cases]</i>		<i>[e.g. 5 years of monitoring and managing risks related to gender-based violence, out of which 3 years of relevant experience in addressing issues related to sexual exploitation, sexual abuse and sexual harassment]</i>
6	<i>modify as appropriate</i>		

Drawings

Insert here a list of Drawings. The actual Drawings, including site plans, should be attached to this section or annexed in a separate folder.

Supplementary Information

PART 3 – Conditions of Contract and Contract Forms

Section IX. General Conditions of Contract

These General Conditions of Contract (GCC), read in conjunction with the Particular Conditions of Contract (SCC) and other documents listed therein, should be a complete document expressing fairly the rights and obligations of both parties.

These General Conditions of Contract have been developed on the basis of considerable international experience in the drafting and management of contracts, bearing in mind a trend in the construction industry towards simpler, more straightforward language.

The GCC can be used for both smaller admeasurement contracts and lump sum contracts.

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General Conditions of Contract

A. General

1. Definitions

Boldface type is used to identify defined terms.

- (a) The **“Accepted Contract Amount”** means the amount accepted in the Letter of Acceptance for the execution and completion of the Works and the remedying of any defects.
- (b) The **“Activity Schedule”** is a schedule of the activities comprising the construction, installation, testing, and commissioning of the Works in a lump-sum contract. It includes a lump-sum price for each activity, which is used for valuations and for assessing the effects of Variations and Compensation Events.
- (c) The **“Adjudicator”** is the person appointed jointly by the Employer and the Contractor to resolve disputes in the first instance, as provided for in GCC Clause 23.
- (d) **“Bill of Quantities”** means the priced and completed Bill of Quantities forming part of the Bid.
- (e) **“Compensation Events”** are those defined in GCC Clause 44 hereunder.
- (f) The **“Completion Date”** is the date of completion of the Works as certified by the Project Manager, in accordance with GCC Sub-Clause 55.1.
- (g) The **“Contract”** is the Contract between the Employer and the Contractor to execute, complete, and maintain the Works. It consists of the documents listed in GCC Sub-Clause 2.3 below.
- (h) The **“Contractor”** is the party whose Bid to carry out the Works has been accepted by the Employer.
- (i) The **“Contractor’s Bid”** is the completed bidding document submitted by the Contractor to the Employer.
- (j) The **“Contract Price”** is the Accepted Contract Amount stated in the Letter of Acceptance and thereafter as adjusted in accordance with the Contract.
- (k) **“Days”** are calendar days; months are calendar months.
- (l) **“Dayworks”** are varied work inputs subject to payment on a time basis for the Contractor’s employees and Equipment, in addition to payments for associated Materials and Plant.
- (m) A **“Defect”** is any part of the Works not completed in accordance with the Contract.

- (n) The “**Defects Liability Certificate**” is the certificate issued by Project Manager upon correction of defects by the Contractor.
- (o) The “**Defects Liability Period**” is the period **named in the SCC** pursuant to GCC Sub-Clause 36.1 and calculated from the Completion Date.
- (p) “**Drawings**” means the drawings of the Works, as included in the Contract, and any additional and modified drawings issued by (or on behalf of) the Employer in accordance with the Contract, include calculations and other information provided or approved by the Project Manager for the execution of the Contract.
- (q) The “**Employer**” is the party who employs the Contractor to carry out the Works, **as specified in the SCC**.
- (r) “**Equipment**” is the Contractor’s machinery and vehicles brought temporarily to the Site to construct the Works.
- (s) “**In writing**” or “**written**” means hand-written, type-written, printed or electronically made, and resulting in a permanent record;
- (t) The “**Initial Contract Price**” is the Contract Price listed in the Employer’s Letter of Acceptance.
- (u) The “**Intended Completion Date**” is the date on which it is intended that the Contractor shall complete the Works. The Intended Completion Date is **specified in the SCC**. The Intended Completion Date may be revised only by the Project Manager by issuing an extension of time or an acceleration order.
- (v) “**Materials**” are all supplies, including consumables, used by the Contractor for incorporation in the Works.
- (w) “**Plant**” is any integral part of the Works that shall have a mechanical, electrical, chemical, or biological function.
- (x) The “**Project Manager**” is the person **named in the SCC** (or any other competent person appointed by the Employer and notified to the Contractor, to act in replacement of the Project Manager) who is responsible for supervising the execution of the Works and administering the Contract.
- (y) “**SCC**” means Particular Conditions of Contract.
- (z) The “**Site**” is the area **defined as such in the SCC**.
- (aa) “**Site Investigation Reports**” are those that were included in the bidding document and are factual and interpretative reports about the surface and subsurface conditions at the Site.

- (bb) **“Specifications”** means the Specifications of the Works included in the Contract and any modification or addition made or approved by the Project Manager.
- (cc) The **“Start Date”** is **given in the SCC**. It is the latest date when the Contractor shall commence execution of the Works. It does not necessarily coincide with any of the Site Possession Dates.
- (dd) A **“Subcontractor”** is a person or corporate body who has a Contract with the Contractor to carry out a part of the work in the Contract, which includes work on the Site.
- (ee) **“Temporary Works”** are works designed, constructed, installed, and removed by the Contractor that are needed for construction or installation of the Works.
- (ff) A **“Variation”** is an instruction given by the Project Manager which varies the Works.
- (gg) The **“Works”** are what the Contract requires the Contractor to construct, install, and turn over to the Employer, **as defined in the SCC**.
- (hh) **“Contractor’s Personnel”** refers to all personnel whom the Contractor utilizes on the Site or other places where the Works are carried out, including the staff, labor and other employees of each Subcontractor.
- (ii) **“Key Personnel”** means the positions (if any) of the Contractor’s personnel that are stated in the Specifications.
- (jj) **“ES”** means Environmental and Social (including Sexual Exploitation and Abuse (SEA) and Sexual Harassment (SH);
- (kk) **“Sexual Exploitation and Abuse” “(SEA)”** means the following:

“Sexual Exploitation” is defined as any actual or attempted abuse of position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another;

“Sexual Abuse” is defined as the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions;
- (ll) **“Sexual Harassment” “(SH)”** is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by the Contractor’s Personnel with other Contractor’s or Employer’s Personnel; and

(mm) **“Employer’s Personnel”** refers to the Project Manager and all other staff, labor and other employees (if any) of the Project Manager and of the Employer engaged in fulfilling the Employer’s obligations under the Contract; and any other personnel identified as Employer’s Personnel, by a notice from the Employer or the Project Manager to the Contractor.

- 2. Interpretation**
- 2.1 In interpreting these GCC, words indicating one gender include all genders. Words indicating the singular also include the plural and words indicating the plural also include the singular. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Project Manager shall provide instructions clarifying queries about these GCC.
- 2.2 If sectional completion is **specified in the SCC**, references in the GCC to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).
- 2.3 The documents forming the Contract shall be interpreted in the following order of priority:
- (a) Agreement,
 - (b) Letter of Acceptance,
 - (c) Minutes of Negotiation;
 - (d) Contractor’s Bid,
 - (e) Special Conditions of Contract,
 - (f) General Conditions of Contract, including Appendices,
 - (g) Specifications,
 - (h) Drawings,
 - (i) Bill of Quantities,³³ and
 - (j) any other document **listed in the SCC** as forming part of the Contract.
- 3. Language and Law**
- The language of the Contract and the law governing the Contract are **stated in the SCC**.
- 4. Project Manager’s Decisions**
- 4.1 Except where otherwise specifically stated, the Project Manager shall decide contractual matters between the Employer and the Contractor in the role representing the Employer.
- 5. Delegation**
- 5.1 Otherwise **specified in the SCC**, the Project Manager may delegate any of his duties and responsibilities to other people, except to the

³³ In lump-sum contracts, delete “Bill of Quantities” and replace with “Activity Schedule.”

Adjudicator, after notifying the Contractor, and may revoke any delegation after notifying the Contractor.

- | | | |
|-----------------------------------|-----|---|
| 6. Communications | 6.1 | Communications between parties that are referred to in the Conditions shall be effective only when in writing. A notice shall be effective only when it is delivered. |
| 7. Subcontracting | 7.1 | The Contractor may subcontract with the approval of the Project Manager, but may not assign the Contract without the approval of the Employer in writing. Subcontracting shall not alter the Contractor's obligations. The Contractor shall require that its Subcontractors execute the Works in accordance with the Contract, including complying with the relevant ES requirements and the obligations set out in GCC Sub-Clause 26.1 of the General Conditions of Contract. |
| 8. Other Contractors | 8.1 | The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the Employer between the dates given in the Schedule of Other Contractors, as referred to in the SCC . The Contractor shall also provide facilities and services for them as described in the Schedule. The Employer may modify the Schedule of Other Contractors and shall notify the Contractor of any such modification. |
| 9. Personnel and Equipment | 9.1 | The Contractor shall employ the Key Personnel and use the Equipment identified in its Bid, to carry out the Works or other personnel and Equipment approved by the Project Manager. The Project Manager shall approve any proposed replacement of Key Personnel and Equipment only if their relevant qualifications or characteristics are substantially equal to or better than those proposed in the Bid. |
| | 9.2 | <p>The Project Manager may require the Contractor to remove (or cause to be removed) any person employed on the Site or Works, including the Key Personnel (if any), who:</p> <ul style="list-style-type: none"> (a) persists in any misconduct or lack of care; (b) carries out duties incompetently or negligently; (c) fails to comply with any provision of the Contract; (d) persists in any conduct which is prejudicial to safety, health, or the protection of the environment; (e) based on reasonable evidence, is determined to have engaged in Fraud and Corruption during the execution of the Works; (f) has been recruited from the Employer's Personnel; (g) undertakes behavior which breaches the Code of Conduct for Contractor's Personnel (ES). |

If appropriate, the Contractor shall then promptly appoint (or cause to be appointed) a suitable replacement with equivalent skills and experience.

Notwithstanding any requirement from the Project Manager to remove or cause to remove any person, the Contractor shall take immediate action as appropriate in response to any violation of (a) through (g) above. Such immediate action shall include removing (or causing to be removed) from the Site or other places where the Works are being carried out, any Contractor's Personnel who engages in (a), (b), (c), (d), (e) or (g) above or has been recruited as stated in (f) above."

9.3 Labor

9.3.1 *Engagement of Staff and Labor.* The Contractor shall provide and employ on the Site for the execution of the Works such skilled, semi-skilled and unskilled labor as is necessary for the proper and timely execution of the Contract. The Contractor is encouraged, to the extent practicable and reasonable, to employ staff and labor with appropriate qualifications and experience from sources within the Republic of South Sudan.

Unless otherwise provided in the Contract, the Contractor shall be responsible for the recruitment, transportation, accommodation and welfare facilities in accordance with GCC Sub-Clause 9.3.6, of the Contractor's Personnel, and for all payments in connection therewith.

9.3.2 *Conditions of Labor.* The Contractor shall pay rates of wages, and observe conditions of labor, which comply with all applicable laws. The Contractor shall inform the Contractor's Personnel about their liability to pay personal income taxes in the Republic of South Sudan in respect of such of their salaries, wages, allowances and any benefits as are subject to tax under the Law for the time being in force, and the Contractor shall perform such duties in regard to such deductions thereof as may be imposed on him by such Laws.

9.3.3 The Contractor may bring in to the Republic of South Sudan any foreign personnel who are necessary for the execution of the Works to the extent allowed by the applicable Laws. The Contractor shall ensure that these personnel are provided with the required residence visas and work permits. The Employer will, if requested by the Contractor, use its best endeavors in a timely and expeditious manner to assist the Contractor in obtaining any local, state, national, or government permission required for bringing in the Contractor's personnel.

- 9.3.4 The Contractor shall at its own expense provide the means of repatriation to and the Contractor's Personnel employed on the Contract at the Site to their various home countries. It shall also provide suitable temporary maintenance of all such persons from the cessation of their employment on the Contract to the date programmed for their departure. In the event that the Contractor defaults in providing such means of transportation and temporary maintenance, the Employer may provide the same to such personnel and recover the cost of doing so from the Contractor.
- 9.3.5 *Disorderly conduct.* The Contractor shall at all times during the progress of the Contract use its best endeavors to prevent any unlawful, riotous or disorderly conduct or behavior by or amongst the Contractor's Personnel.
- 9.3.6 *Facilities for Staff and Labor.* Except as otherwise stated in the Specifications, the Contractor shall provide and maintain all necessary accommodation and welfare facilities for the Contractor's Personnel. The Contractor shall also provide facilities for the Employer's Personnel as stated in the Specification.
- 9.3.7 The Contractor shall, in all dealings with the Contractor's Personnel, pay due regard to all recognized festivals, official holidays, religious or other customs and all local laws and regulations pertaining to the employment of labor. The Contractor shall provide the Contractor's Personnel annual holiday and sick, maternity and family leave, as required by applicable laws or as stated in the Specification.
- 9.3.8 *Supply of Foodstuffs.* The Contractor shall arrange for the provision of a sufficient supply of suitable food as may be stated in the Specification at reasonable prices for the Contractor's Personnel for the purposes of or in connection with the Contract.
- 9.3.9 *Supply of Water.* The Contractor shall, having regard to local conditions, provide on the Site an adequate supply of drinking and other water for the use of the Contractor's Personnel.
- 9.3.10 *Measures against Insect and Pest Nuisance.* The Contractor shall at all times take the necessary precautions to protect the Contractor's Personnel employed on the Site from insect and pest nuisance, and to reduce the danger to their health. The Contractor shall comply with all the regulations of the local health authorities, including use of appropriate insecticide.

- 9.3.11 *Alcoholic Liquor or Drugs.* The Contractor shall not, otherwise than in accordance with the laws of the Republic of South Sudan, import, sell, give, barter or otherwise dispose of any alcoholic liquor or drugs, or permit or allow importation, sale, gift, barter or disposal thereto by Contractor's Personnel.
- 9.3.12 *Arms and Ammunition.* The Contractor shall not give, barter, or otherwise dispose of, to any person, any arms or ammunition of any kind, or allow Contractor's Personnel to do so.
- 9.3.13 *Funeral Arrangements.* The Contractor shall be responsible, to the extent required by local regulations, for making any funeral arrangements for any of its local employees who may die while engaged upon the Works.
- 9.3.14 *Forced Labor.* The Contractor, including its Subcontractors, shall not employ or engage forced labor. Forced labor consists of any work or service, not voluntarily performed, that is exacted from an individual under threat of force or penalty, and includes any kind of involuntary or compulsory labor, such as indentured labor, bonded labor or similar labor-contracting arrangements.

No persons shall be employed or engaged who have been subject to trafficking. Trafficking in persons is defined as the recruitment, transportation, transfer, harboring or receipt of persons by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power, or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purposes of exploitation.

- 9.3.15 *Child Labor.* The Contractor, including its Subcontractors, shall not employ or engage a child under the age of 14 unless the national law specifies a higher age (the minimum age).

The Contractor, including its Subcontractors, shall not employ or engage a child between the minimum age and the age of 18 in a manner that is likely to be hazardous, or to interfere with, the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development.

The Contractor including its Subcontractors, shall only employ or engage children between the minimum age and the age of 18 after an appropriate risk assessment has been conducted by the Contractor with the Project Manager's approval. The Contractor shall be subject to regular

monitoring by the Project Manager that includes monitoring of health, working conditions and hours of work.

Work considered hazardous for children is work that, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety, or morals of children. Such work activities prohibited for children include work:

- (a) with exposure to physical, psychological or sexual abuse;
- (b) underground, underwater, working at heights or in confined spaces;
- (c) with dangerous machinery, equipment or tools, or involving handling or
- (d) transport of heavy loads;
- (e) in unhealthy environments exposing children to hazardous substances, agents, or processes, or to temperatures, noise or vibration damaging to health; or
- (f) under difficult conditions such as work for long hours, during the night or in confinement on the premises of the employer.

9.3.16 *Employment Records of Workers.* The Contractor shall keep complete and accurate records of the employment of labor at the Site. The records shall include the names, ages, genders, hours worked, and wages paid to all workers. These records shall be summarized on a monthly basis and submitted to the project Manager.

9.3.17 *Workers' Organizations.* In countries where the relevant labor laws recognize workers' rights to form and to join workers' organizations of their choosing and to bargain collectively without interference, the Contractor shall comply with such laws. In such circumstances, the role of legally established workers' organizations and legitimate workers' representatives will be respected, and they will be provided with information needed for meaningful negotiation in a timely manner. Where the relevant labor laws substantially restrict workers' organizations, the Contractor shall enable alternative means for the Contractor's Personnel to express their grievances and protect their rights regarding working conditions and terms of employment. The Contractor shall not seek to influence or control these alternative means. The Contractor shall not discriminate or retaliate against the Contractor's Personnel who participate, or seek to participate, in such organizations and collective bargaining or

alternative mechanisms. Workers' organizations are expected to fairly represent the workers in the workforce.

- 9.3.18 *Non-Discrimination and Equal Opportunity.* The Contractor shall not make decisions relating to the employment or treatment of Contractor's Personnel on the basis of personal characteristics unrelated to inherent job requirements. The Contractor shall base the employment of Contractor's Personnel on the principle of equal opportunity and fair treatment, and shall not discriminate with respect to any aspects of the employment relationship, including recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, job assignment, promotion, termination of employment or retirement, and disciplinary practices.

Special measures of protection or assistance to remedy past discrimination or selection for a particular job based on the inherent requirements of the job shall not be deemed discrimination. The Contractor shall provide protection and assistance as necessary to ensure non-discrimination and equal opportunity, including for specific groups such as women, people with disabilities, migrant workers and children (of working age in accordance with GCC Sub-Clause 9.3.15).

- 9.3.19 *Contractor's Personnel Grievance Mechanism.* The Contractor shall have a grievance mechanism for Contractor's Personnel, and where relevant the workers' organizations stated in GCC Sub-Clause 9.3.17, to raise workplace concerns. The grievance mechanism shall be proportionate to the nature, scale, risks and impacts of the Contract. The mechanism shall address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned in a language they understand, without any retribution, and shall operate in an independent and objective manner.

The Contractor's Personnel shall be informed of the grievance mechanism at the time of engagement for the Contract, and the measures put in place to protect them against any reprisal for its use. Measures will be put in place to make the grievance mechanism easily accessible to all Contractor's Personnel.

The grievance mechanism shall not impede access to other judicial or administrative remedies that might be available, or substitute for grievance mechanisms provided through collective agreements.

The grievance mechanism may utilize existing grievance mechanisms, providing that they are properly designed and implemented, address concerns promptly, and are readily accessible to Contractor's Personnel. Existing grievance mechanisms may be supplemented as needed with Contract-specific arrangements.

- 9.3.20 *Training of Contractor's Personnel.* The Contractor shall provide appropriate training to relevant Contractor's Personnel on ES aspects of the Contract, including appropriate sensitization on prohibition of SEA and SH, and health and safety training.

As stated in the Specification or as instructed by the Project Manager, the Contractor shall also allow appropriate opportunities for the relevant Contractor's Personnel to be trained on ES aspects of the Contract by the Employer's Personnel.

The Contractor shall provide training on SEA, including its prevention, to any of its personnel who has a role to supervise other Contractor's Personnel.

10. Employer's and Contractor's Risks

- 10.1 The Employer carries the risks which this Contract states are Employer's risks, and the Contractor carries the risks which this Contract states are Contractor's risks.

11. Employer's Risks

- 11.1 From the Start Date until the Defects Liability Certificate has been issued, the following are Employer's risks:

- (a) The risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to
 - (i) use or occupation of the Site by the Works or for the purpose of the Works, which is the unavoidable result of the Works or
 - (ii) negligence, breach of statutory duty, or interference with any legal right by the Employer or by any person employed by or contracted to him except the Contractor.
- (b) The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the Employer or in the Employer's design, or due to war or radioactive contamination directly affecting the place where the Works are to be executed.

- 11.2 From the Completion Date until the Defects Liability Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is an Employer's risk except loss or damage due to

- (a) a Defect which existed on the Completion Date,

- (b) an event occurring before the Completion Date, which was not itself an Employer's risk, or
 - (c) the activities of the Contractor on the Site after the Completion Date.
- 12. Contractor's Risks**
 - 12.1 From the Starting Date until the Defects Liability Certificate has been issued, the risks of personal injury, death, and loss of or damage to property (including, without limitation, the Works, Plant, Materials, and Equipment) which are not Employer's risks are Contractor's risks.
- 13. Insurance**
 - 13.1 The Contractor shall provide, in the joint names of the Employer and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles **stated in the SCC** for the following events which are due to the Contractor's risks:
 - (a) loss of or damage to the Works, Plant, and Materials;
 - (b) loss of or damage to Equipment;
 - (c) loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract; and
 - (d) personal injury or death.
 - 13.2 Policies and certificates for insurance shall be delivered by the Contractor to the Project Manager for the Project Manager's approval before the Start Date. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.
 - 13.3 If the Contractor does not provide any of the policies and certificates required, the Employer may effect the insurance which the Contractor should have provided and recover the premiums the Employer has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.
 - 13.4 Alterations to the terms of an insurance shall not be made without the approval of the Project Manager.
 - 13.5 Both parties shall comply with any conditions of the insurance policies.
- 14. Site Data**
 - 14.1 The Contractor shall be deemed to have examined any Site Data **referred to in the SCC**, supplemented by any information available to the Contractor.
- 15. Contractor to Construct the Works**
 - 15.1 The Contractor shall construct and install the Works in accordance with the Specifications and Drawings.
- 16. The Works to Be Completed by**
 - 16.1 The Contractor may commence execution of the Works on the Start Date and shall carry out the Works in accordance with the Program

the Intended Completion Date	submitted by the Contractor, as updated with the approval of the Project Manager, and complete them by the Intended Completion Date.
	<p>16.2 The Contractor shall not carry out mobilization to the Site unless the Project Manager gives approval, an approval that shall not be unreasonably delayed, to the measures the Contractor proposes to address environmental and social risks and impacts, which at a minimum shall include applying the Management Strategies and Implementation Plans (MSIPs) and Code of Conduct for Contractor's Personnel submitted as part of the Bid and agreed as part of the Contract.</p> <p>The Contractor shall submit, to the Project Manager for its approval any additional MSIPs as are necessary to manage the ES risks and impacts of ongoing Works. These MSIPs collectively comprise the Contractor's Environmental and Social Management Plan (C-ESMP). The Contractor shall review the C-ESMP, periodically (but not less than every six (6) months), and update it as required to ensure that it contains measures appropriate to the Works. The updated C-ESMP shall be submitted to the Project Manager for its approval.</p>
17. Approval by the Project Manager	<p>17.1 The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Project Manager, for his approval.</p> <p>17.2 The Contractor shall be responsible for design of Temporary Works.</p> <p>17.3 The Project Manager's approval shall not alter the Contractor's responsibility for design of the Temporary Works.</p> <p>17.4 The Contractor shall obtain approval of third parties to the design of the Temporary Works, where required.</p> <p>17.5 All Drawings prepared by the Contractor for the execution of the temporary or permanent Works, are subject to prior approval by the Project Manager before this use.</p>
18. Health, Safety and Protection of the Environment	<p>18.1 The Contractor shall be responsible for the safety of all activities on the Site.</p> <p>18.2 The Contractor shall:</p> <ul style="list-style-type: none"> (a) comply with all applicable health and safety regulations and Laws; (b) comply with all applicable health and safety obligations specified in the Contract; (c) take care for the health and safety of all persons entitled to be on the Site and other places, if any, where the Works are being executed; (d) keep the Site and Works clear of unnecessary obstruction so as to avoid danger to these persons;

- (e) provide fencing, lighting, safe access, guarding and watching of:
 - (i) the Works until the Works are taken over by the Employer; and
 - (ii) any part of the Works where the Contractor is executing outstanding works or remedying any defects during the Defects Liability Period; and
- (f) provide any Temporary Works (including roadways, footways, guards and fences) which may be necessary, because of the execution of the Works, for the use and protection of the public and of owners and occupiers of adjacent land.

18.3 Protection of the environment

The Contractor shall take all necessary measures to:

- (a) protect the environment (both on and off the Site); and
- (b) limit damage and nuisance to people and property resulting from pollution, noise and other results of the Contractor's operations and/ or activities.

The Contractor shall ensure that emissions, surface discharges, effluent and any other pollutants from the Contractor's activities shall exceed neither the values indicated in the Specification, nor those prescribed by applicable laws.

In the event of damage to the environment, property and/or nuisance to people, on or off Site as a result of the Contractor's operations, the Contractor shall agree with the Project Manager the appropriate actions and time scale to remedy, as practicable, the damaged environment to its former condition. The Contractor shall implement such remedies at its cost to the satisfaction of the Project Manager

19. Archaeological and Geological Findings

- 19.1 All fossils, coins, articles of value or antiquity, structures, groups of structures, and other remains or items of geological, archaeological, paleontological, historical, architectural or religious interest found on the Site shall be placed under the care and custody of the Employer. The Contractor shall:
- (a) take all reasonable precautions, including fencing-off the area or site of the finding, to avoid further disturbance and prevent Contractor's Personnel or other persons from removing or damaging any of these findings;
 - (b) train relevant Contractor's Personnel on appropriate actions to be taken in the event of such findings; and
 - (c) implement any other action consistent with the requirements of the Specification and relevant laws.

The Contractor shall, as soon as practicable after discovery of any such finding, notify the Project Manager of such discoveries and carry out the Project Manager's instructions for dealing with them..

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| 20. Possession of the Site | 20.1 The Employer shall give possession of all parts of the Site to the Contractor. If possession of a part is not given by the date stated in the SCC , the Employer shall be deemed to have delayed the start of the relevant activities, and this shall be a Compensation Event. |
| 21. Access to the Site | 21.1 The Contractor shall allow the Project Manager and any person authorized by the Project Manager access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out. |
| 22. Instructions, Inspections and Audits | <p>22.1 The Contractor shall carry out all instructions of the Project Manager which comply with the applicable laws where the Site is located.</p> <p>22.2 The Contractor shall keep, and shall make all reasonable efforts to cause its Subcontractors and subconsultants to keep, accurate and systematic accounts and records in respect of the Works in such form and details as will clearly identify relevant time changes and costs.</p> |
| 23. Appointment of the Adjudicator | <p>23.1 The Adjudicator shall be appointed jointly by the Employer and the Contractor, at the time of the Employer's issuance of the Letter of Acceptance. If, in the Letter of Acceptance, the Employer does not agree on the appointment of the Adjudicator, the Employer will request the Appointing Authority designated in the SCC, to appoint the Adjudicator within 14 days of receipt of such request.</p> <p>23.2 Should the Adjudicator resign or die, or should the Employer and the Contractor agree that the Adjudicator is not functioning in accordance with the provisions of the Contract, a new Adjudicator shall be jointly appointed by the Employer and the Contractor. In case of disagreement between the Employer and the Contractor, within 30 days, the Adjudicator shall be designated by the Appointing Authority designated in the SCC at the request of either party, within 14 days of receipt of such request.</p> |
| 24. Procedure for Disputes | <p>24.1 In the event of any dispute arising out of this contract, either party shall issue a notice of dispute to settle the dispute amicably. The parties hereto shall, within twenty eight (28) days from the notice date, use their best efforts to settle the dispute amicably through mutual consultations and negotiation. Any unsolved dispute may be referred by either party to an adjudicator named in the SCC.</p> <p>The Adjudicator shall give a decision in writing within 28 days of receipt of a notification of a dispute.</p> <p>24.2 The Adjudicator shall be paid by the hour at the rate specified in the SCC, together with reimbursable expenses of the types specified in</p> |

the SCC, and the cost shall be divided equally between the Employer and the Contractor, whatever decision is reached by the Adjudicator. Either party may refer a decision of the Adjudicator to an Arbitrator within 28 days of the Adjudicator's written decision. If neither party refers the dispute to arbitration within the above 28 days, the Adjudicator's decision shall be final and binding.

24.3 The arbitration shall be conducted in accordance with the arbitration procedures published by the institution named and in the place **specified in the SCC**.

25. Fraud and Corruption

25.1 The Employer requires the Contractor to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the bidding process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee.

26. Code of Conduct

26.1 The Contractor shall have a Code of Conduct for the Contractor's Personnel.

The Contractor shall take all necessary measures to ensure that each Contractor's Personnel is made aware of the Code of Conduct including specific behaviors that are prohibited, and understands the consequences of engaging in such prohibited behaviors.

These measures include providing instructions and documentation that can be understood by the Contractor's Personnel and seeking to obtain that person's signature acknowledging receipt of such instructions and/or documentation, as appropriate.

The Contractor shall also ensure that the Code of Conduct is visibly displayed in multiple locations on the Site and any other place where the Works will be carried out, as well as in areas outside the Site accessible to the local community and project affected people. The posted Code of Conduct shall be provided in languages comprehensible to Contractor's Personnel, Employer's Personnel and the local community.

The Contractor's Management Strategy and Implementation Plans shall include appropriate processes for the Contractor to verify compliance with these obligations.

27. Security of the Site

27.1 The Contractor shall be responsible for the security of the Site, and:

- (a) for keeping unauthorized persons off the Site;
- (b) authorized persons shall be limited to the Contractor's Personnel, the Employer's personnel, and to any other personnel identified as authorized personnel (including the Employer's other contractors on the Site), by a notice from the Employer or the Project Manager to the Contractor.

The Contractor shall (i) conduct appropriate background checks on any personnel retained to provide security; (ii) train the security personnel adequately (or determine that they are properly trained) in the use of force (and where applicable, firearms), and appropriate conduct towards Contractor's Personnel, Employer's Personnel and affected communities; and (iii) require the security personnel to act within the applicable Laws and any requirements set out in the Specification.

The Contractor shall not permit any use of force by security personnel in providing security except when used for preventive and defensive purposes in proportion to the nature and extent of the threat.

In making security arrangements, the Contractor shall also comply with any additional requirements stated in the Specification."

B. Time Control

28. Program

- 28.1 Within the time **stated in the SCC**, after the date of the Letter of Acceptance, the Contractor shall submit to the Project Manager for approval a Program showing the general methods, arrangements, order, and timing for all the activities in the Works. In the case of a lump-sum contract, the activities in the Program shall be consistent with those in the Activity Schedule. The Project Manager's approval of the Program shall not alter the Contractor's obligations. The Contractor may revise the Program and submit it to the Project Manager again at any time. A revised Program shall show the effect of Variations and Compensation Events.
- 28.2 An update of the Program shall be a program showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining work, including any changes to the sequence of the activities.
- 28.3 The Contractor shall monitor progress of the Works and submit to the Project manager progress report and any updated Program showing the actual progress achieved and the effect of the progress achieved on the timing of the remaining Works, including any changes to the sequence of the activities, at intervals no longer than the period **stated in the SCC**. If the Contractor does not submit an updated Program within this period, the Project Manager may withhold the amount **stated in the SCC** from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Program has been submitted. In the case of lump-sum Contract, the Contractor shall provide an updated Activity Schedule within 14 days of being instructed to by the Project Manager.
- 28.4 Unless otherwise stated in the Specification, each progress report shall include the Environmental and Social (ES) metrics set out in Appendix B

28.5 In addition to the progress report, the Contractor shall inform the Project Manager immediately of any allegation, incident or accident in the Site, which has or is likely to have a significant adverse effect on the environment, the affected communities, the public, Employer's Personnel, or Contractor's Personnel. This includes, but is not limited to, any incident or accident-causing fatality or serious injury; significant adverse effects or damage to private property; or any allegation of SEA and/or SH. In case of SEA and/or SH, while maintaining confidentiality as appropriate, the type of allegation (sexual exploitation, sexual abuse or sexual harassment), gender and age of the person who experienced the alleged incident should be included in the information.

The Contractor, upon becoming aware of the allegation, incident or accident, shall also immediately inform the Project Manager of any such incident or accident on the Subcontractors' or suppliers' premises relating to the Works which has or is likely to have a significant adverse effect on the environment, the affected communities, the public, Employer's Personnel, or Contractor's, its Subcontractors' and suppliers' personnel. The notification shall provide sufficient detail regarding such incidents or accidents. The Contractor shall provide full details of such incidents or accidents to the Project Manager within the timeframe agreed with the Project Manager.

The Contractor shall require its Subcontractors and suppliers (other than Subcontractors) to immediately notify the Contractor of any incidents or accidents referred to in this Subclause.

29. Extension of the Intended Completion Date

- 29.1 The Project Manager shall extend the Intended Completion Date if a Compensation Event occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Intended Completion Date without the Contractor taking steps to accelerate the remaining work, which would cause the Contractor to incur additional cost.
- 29.2 The Project Manager, in consultation with the Employer, shall decide whether and by how much to extend the Intended Completion Date within 21 days of the Contractor asking the Project Manager for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Intended Completion Date.

30. Acceleration

- 30.1 When the Employer wants the Contractor to finish before the Intended Completion Date, the Project Manager shall obtain priced proposals for achieving the necessary acceleration from the Contractor. If the Employer accepts these proposals, the Intended Completion Date shall be adjusted accordingly and confirmed by both the Employer and the Contractor.

- 30.2 If the Contractor's priced proposals for an acceleration are accepted by the Employer, they are incorporated in the Contract Price and treated as a Variation.
- 31. Delays Ordered by the Project Manager**
- 31.1 The Project Manager may instruct the Contractor to delay the start or progress of any activity within the Works.
- 32. Management Meetings**
- 32.1 Either the Project Manager or the Contractor may require the other to attend a management meeting. The business of a management meeting shall be to review the plans for remaining work and to deal with matters raised in accordance with the early warning procedure.
- 32.2 The Project Manager shall record the business of management meetings and provide copies of the record to those attending the meeting and to the Employer. The responsibility of the parties for actions to be taken shall be decided by the Project Manager either at the management meeting or after the management meeting and stated in writing to all who attended the meeting.
- 33. Early Warning**
- 33.1 The Contractor shall warn the Project Manager at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work, increase the Contract Price, or delay the execution of the Works. The Project Manager may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate shall be provided by the Contractor as soon as reasonably possible.
- 33.2 The Contractor shall cooperate with the Project Manager in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instruction of the Project Manager.

C. Quality Control

- 34. Identifying Defects**
- 34.1 The Project Manager shall check the Contractor's work and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractor's responsibilities. The Project Manager may instruct the Contractor to search for a Defect and to uncover and test any work that the Project Manager considers may have a Defect.
- 35. Tests**
- 35.1 If the Project Manager instructs the Contractor to carry out a test not specified in the Specifications to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect, the test shall be a Compensation Event.

- 36. Correction of Defects**
- 36.1 The Project Manager shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion, and is **defined in the SCC**. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.
- 36.2 Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Project Manager's notice.
- 37. Uncorrected Defects**
- 37.1 If the Contractor has not corrected a Defect within the time specified in the Project Manager's notice, the Project Manager shall assess the cost of having the Defect corrected, and the Contractor shall pay this amount.

D. Cost Control

- 38. Contract Price³⁴**
- 38.1 The Bill of Quantities shall contain priced items for the Works to be performed by the Contractor. The Bill of Quantities is used to calculate the Contract Price. The Contractor will be paid for the quantity of the work accomplished at the rate in the Bill of Quantities for each item.
- 39. Changes in the Contract Price³⁵**
- 39.1 If the final quantity of the work done differs from the quantity in the Bill of Quantities for the particular item by more than 25 percent, provided the change exceeds 1 percent of the Initial Contract Price, the Project Manager shall adjust the rate to allow for the change. The Project Manager shall not adjust rates from changes in quantities if thereby the Initial Contract Price is exceeded by more than 15 percent, except with the prior approval of the Employer.
- 39.2 If requested by the Project Manager, the Contractor shall provide the Project Manager with a detailed cost breakdown of any rate in the Bill of Quantities.
- 40. Variations**
- 40.1 All Variations shall be included in updated Programs³⁶ produced by the Contractor.
- 40.2 The Contractor shall provide the Project Manager with a quotation for carrying out the Variation when requested to do so by the Project Manager. The Contractor shall also provide information of any ES risks

³⁴ In lump-sum contracts, replace GCC Sub-Clauses 38.1 as follows:

38.1 The Contractor shall provide updated Activity Schedules within 14 days of being instructed to by the Project Manager. The Activity Schedule shall contain the priced activities for the Works to be performed by the Contractor. The Activity Schedule is used to monitor and control the performance of activities on which basis the Contractor will be paid. If payment for materials on site shall be made separately, the Contractor shall show delivery of Materials to the Site separately on the Activity Schedule.

³⁵ In lump-sum contracts, replace entire GCC Clause 39 with new GCC Sub-Clause 39.1, as follows:

39.1 The Activity Schedule shall be amended by the Contractor to accommodate changes of Program or method of working made at the Contractor's own discretion. Prices in the Activity Schedule shall not be altered when the Contractor makes such changes to the Activity Schedule.

³⁶ In lump-sum contracts, add "and Activity Schedules" after "Programs."

and impacts of the Variation. The Project Manager shall assess the quotation, which shall be given within seven (7) days of the request or within any longer period stated by the Project Manager and before the Variation is ordered.

- 40.3 If the Contractor's quotation is unreasonable, the Project Manager may order the Variation and make a change to the Contract Price, which shall be based on the Project Manager's own forecast of the effects of the Variation on the Contractor's costs.
- 40.4 If the Project Manager decides that the urgency of varying the work would prevent a quotation being given and considered without delaying the work, no quotation shall be given and the Variation shall be treated as a Compensation Event.
- 40.5 The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning.
- 40.6 If the work in the Variation corresponds to an item description in the Bill of Quantities and if, in the opinion of the Project Manager, the quantity of work above the limit stated in GCC Sub-Clause 39.1 or the timing of its execution do not cause the cost per unit of quantity to change, the rate in the Bill of Quantities shall be used to calculate the value of the Variation. If the cost per unit of quantity changes, or if the nature or timing of the work in the Variation does not correspond with items in the Bill of Quantities, the quotation by the Contractor shall be in the form of new rates for the relevant items of work.³⁷

41. Cash Flow Forecasts

- 41.1 When the Program,³⁸ is updated, the Contractor shall provide the Project Manager with an updated cash flow forecast. The cash flow forecast shall include different currencies, as defined in the Contract, converted as necessary using the Contract exchange rates.

42. Payment Certificates

- 42.1 The Contractor shall submit to the Project Manager monthly statements of the estimated value of the work executed less the cumulative amount certified previously.
- 42.2 The Project Manager shall check the Contractor's monthly statement and certify the amount to be paid to the Contractor.
- 42.3 The value of work executed shall be determined by the Project Manager.
- 42.4 The value of work executed shall comprise the value of the quantities of work in the Bill of Quantities that have been completed.³⁹
- 42.5 The value of work executed shall include the valuation of Variations and Compensation Events.

³⁷ In lump-sum contracts, delete this paragraph.

³⁸ In lump-sum contracts, add "or Activity Schedule" after "Program."

³⁹ In lump-sum contracts, replace this paragraph with the following: "The value of work executed shall comprise the value of completed activities in the Activity Schedule."

- 42.6 The Project Manager may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information.
- 42.7 If the Contractor was, or is, failing to perform any ES obligations or work under the Contract, the value of this work or obligation, as determined by the Project Manager, may be withheld until the work or obligation has been performed, and/or the cost of rectification or replacement, as determined by the Project Manager, may be withheld until rectification or replacement has been completed. Failure to perform includes, but is not limited to the following:
- (a) failure to comply with any ES obligations or work described in the Works' Requirements which may include: working outside site boundaries, excessive dust, failure to keep public roads in a safe usable condition, damage to offsite vegetation, pollution of water courses from oils or sedimentation, contamination of land e.g. from oils, human waste, damage to archeology or cultural heritage features, air pollution as a result of unauthorized and/or inefficient combustion;
 - (b) failure to regularly review C-ESMP and/or update it in a timely manner to address emerging ES issues, or anticipated risks or impacts;
 - (c) failure to implement the C-ESMP e.g. failure to provide required training or sensitization;
 - (d) failing to have appropriate consents/permits prior to undertaking Works or related activities;
 - (e) failure to submit ES report/s (as described in Appendix B), or failure to submit such reports in a timely manner;
- failure to implement remediation as instructed by the Project Manager within the specified timeframe (e.g. remediation addressing non-compliance/s).

43. Payments

- 43.1 Payments shall be adjusted for deductions for advance payments and retention. The Employer shall pay the Contractor the amounts certified by the Project Manager within 28 days of the date of each certificate. If the Employer makes a late payment, the Contractor shall be paid interest on the late payment in the next payment. Interest shall be calculated from the date by which the payment should have been made up to the date when the late payment is made at the prevailing rate of interest for commercial borrowing for each of the currencies in which payments are made.
- 43.2 If an amount certified is increased in a later certificate or as a result of an award by the Adjudicator or an Arbitrator, the Contractor shall be paid interest upon the delayed payment as set out in this clause.

Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute.

43.3 Unless otherwise stated, all payments and deductions shall be paid or charged in the proportions of currencies comprising the Contract Price.

43.4 Items of the Works for which no rate or price has been entered in shall not be paid for by the Employer and shall be deemed covered by other rates and prices in the Contract.

44. Compensation Events

44.1 The following shall be Compensation Events:

- (a) The Employer does not give access to a part of the Site by the Site Possession Date pursuant to GCC Sub-Clause 20.1.
- (b) The Employer modifies the Schedule of Other Contractors in a way that affects the work of the Contractor under the Contract.
- (c) The Project Manager orders a delay or does not issue Drawings, Specifications, or instructions required for execution of the Works on time.
- (d) The Project Manager instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects.
- (e) The Project Manager unreasonably does not approve a subcontract to be let.
- (f) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Letter of Acceptance from the information issued to bidders (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site.
- (g) The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the Employer, or additional work required for safety or other reasons.
- (h) Other contractors, public authorities, utilities, or the Employer does not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor.
- (i) The advance payment is delayed.
- (j) The effects on the Contractor of any of the Employer's Risks.
- (k) The Project Manager unreasonably delays issuing a Certificate of Completion.

44.2 If a Compensation Event would cause additional cost or would prevent the work being completed before the Intended Completion Date, the Contract Price shall be increased and/or the Intended Completion Date shall be extended. The Project Manager shall decide whether

and by how much the Contract Price shall be increased and whether and by how much the Intended Completion Date shall be extended.

44.3 As soon as information demonstrating the effect of each Compensation Event upon the Contractor's forecast cost has been provided by the Contractor, it shall be assessed by the Project Manager, and the Contract Price shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable, the Project Manager shall adjust the Contract Price based on the Project Manager's own forecast. The Project Manager shall assume that the Contractor shall react competently and promptly to the event.

44.4 The Contractor shall not be entitled to compensation to the extent that the Employer's interests are adversely affected by the Contractor's not having given early warning or not having cooperated with the Project Manager.

45. Tax

45.1 The Project Manager shall adjust the Contract Price if taxes, duties, and other levies are changed between the date 28 days before the submission of bids for the Contract and the date of the last Completion certificate. The adjustment shall be the change in the amount of tax payable by the Contractor, provided such changes are not already reflected in the Contract Price or are a result of GCC Clause 47.

46. Currencies

46.1 Where payments are made in currencies other than the currency **specified in the SCC**, the exchange rates used for calculating the amounts to be paid shall be the exchange rates stated in the Contractor's Bid.

47. Price Adjustment

47.1 Prices shall be adjusted for fluctuations in the cost of inputs only if **provided for in the SCC**. If so provided, the amounts certified in each payment certificate, before deducting for Advance Payment, shall be adjusted by applying the respective price adjustment factor to the payment amounts due in each currency. A separate formula of the type specified below applies to each Contract currency:

$$P_c = A_c + B_c \frac{I_{m_c}}{I_{o_c}}$$

where:

P_c is the adjustment factor for the portion of the Contract Price payable in a specific currency "c."

A_c and B_c are coefficients⁴⁰ **specified in the SCC**, representing the nonadjustable and adjustable portions, respectively, of the Contract Price payable in that specific currency “c,” and

I_{m_c} is the index prevailing at the end of the month being invoiced and I_{o_c} is the index prevailing 28 days before Bid opening for inputs payable; both in the specific currency “c.”

- 47.2 If the value of the index is changed after it has been used in a calculation, the calculation shall be corrected and an adjustment made in the next payment certificate. The index value shall be deemed to take account of all changes in cost due to fluctuations in costs.

48. Retention

- 48.1 The Employer shall retain from each payment due to the Contractor the proportion **stated in the SCC** until Completion of the whole of the Works.
- 48.2 Upon the issue of a Certificate of Completion of the Works by the Project Manager, in accordance with GCC Sub-Clause 55.1, half the total amount retained shall be repaid to the Contractor and half when the Defects Liability Period has passed and the Project Manager has certified that all Defects notified by the Project Manager to the Contractor before the end of this period have been corrected. The Contractor may substitute retention money with an “on demand” Bank guarantee in the format provided in Section XI- Contract Forms.

49. Liquidated Damages

- 49.1 The Contractor shall pay liquidated damages to the Employer at the rate per day **stated in the SCC** for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount **defined in the SCC**. The Employer may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor’s liabilities.
- 49.2 If the Intended Completion Date is extended after liquidated damages have been paid, the Project Manager shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate. The Contractor shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rates specified in GCC Sub-Clause 43.1.

50. Bonus

- 50.1 The Contractor shall be paid a Bonus calculated at the rate per calendar day **stated in the SCC** for each day (less any days for which the Contractor is paid for acceleration) that the Completion is earlier than the Intended Completion Date. The Project Manager shall certify

⁴⁰ The sum of the two coefficients A_c and B_c should be 1 (one) in the formula for each currency. Normally, both coefficients shall be the same in the formulae for all currencies, since coefficient A, for the nonadjustable portion of the payments, is a very approximate figure (usually 0.15) to take account of fixed cost elements or other nonadjustable components. The sum of the adjustments for each currency are added to the Contract Price.

that the Works are complete, although they may not be due to be complete.

51. Advance Payment

- 51.1 The Employer shall make advance payment to the Contractor of the amounts **stated in the SCC** by the date **stated in the SCC**, against provision by the Contractor of an Unconditional Bank Guarantee in a form and by a bank acceptable to the Employer in amounts and currencies equal to the advance payment. The Guarantee shall remain effective until the advance payment has been repaid, but the amount of the Guarantee shall be progressively reduced by the amounts repaid by the Contractor. Interest shall not be charged on the advance payment.
- 51.2 The Contractor is to use the advance payment only to pay for Equipment, Plant, Materials, and mobilization expenses required specifically for execution of the Contract. The Contractor shall demonstrate that advance payment has been used in this way by supplying copies of invoices or other documents to the Project Manager.
- 51.3 The advance payment shall be repaid by deducting proportionate amounts from payments otherwise due to the Contractor, following the schedule of completed percentages of the Works on a payment basis. No account shall be taken of the advance payment or its repayment in assessing valuations of work done, Variations, price adjustments, Compensation Events, Bonuses, or Liquidated Damages.

52. Securities

- 52.1 The Performance Security shall be provided to the Employer no later than the date specified in the Letter of Acceptance and shall be issued in an amount **specified in the SCC**, by a bank or surety acceptable to the Employer, and denominated in the types and proportions of the currencies in which the Contract Price is payable. The Performance Security shall be valid until a date 28 days from the date of issue of the Certificate of Completion in the case of a Bank Guarantee, and until one year from the date of issue of the Certificate of Completion in the case of a Performance Bond.

Or in the case of Performance Securing Declaration

If required as **specified in the SCC**, the Service Provider shall provide to the Employer a Performance Securing Declaration in the format provided in the bidding documents and no later than the date specified in the Letter of acceptance.

The Performance Securing Declaration, shall remain in force until the completion of the execution of the services, and in the event the Service Provider failing to execute the services, the Employer, following the termination of the contract, shall initiate the blacklisting process with the Public Procurement and Disposal Authority.

- 53. Dayworks**
- 53.1 If applicable, the Dayworks rates in the Contractor's Bid shall be used only when the Project Manager has given written instructions in advance for additional work to be paid for in that way.
- 53.2 All work to be paid for as Dayworks shall be recorded by the Contractor on forms approved by the Project Manager. Each completed form shall be verified and signed by the Project Manager within two days of the work being done.
- 53.3 The Contractor shall be paid for Dayworks subject to obtaining signed Dayworks forms.

- 54. Cost of Repairs**
- 54.1 Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Correction periods shall be remedied by the Contractor at the Contractor's cost if the loss or damage arises from the Contractor's acts or omissions.

E. Finishing the Contract

- 55. Completion**
- 55.1 The Contractor shall request the Project Manager to issue a Certificate of Completion of the Works, and the Project Manager shall do so upon deciding that the whole of the Works is completed.

- 56. Taking Over**
- 56.1 The Employer shall take over the Site and the Works within seven days of the Project Manager's issuing a certificate of Completion.

- 57. Final Account**
- 57.1 The Contractor shall supply the Project Manager with a detailed account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period. The Project Manager shall issue a Defects Liability Certificate and certify any final payment that is due to the Contractor within 56 days of receiving the Contractor's account if it is correct and complete. If it is not, the Project Manager shall issue within 56 days a schedule that states the scope of the corrections or additions that are necessary. If the Final Account is still unsatisfactory after it has been resubmitted, the Project Manager shall decide on the amount payable to the Contractor and issue a payment certificate.

- 58. Operating and Maintenance Manuals**
- 58.1 If "as built" Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates **stated in the SCC**.
- 58.2 If the Contractor does not supply the Drawings and/or manuals by the dates **stated in the SCC** pursuant to GCC Sub-Clause 58.1, or they do not receive the Project Manager's approval, the Project Manager shall withhold the amount **stated in the SCC** from payments due to the Contractor.

59. Termination

59.1 The Employer or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.

59.2 Fundamental breaches of Contract shall include, but shall not be limited to, the following:

- (a) the Contractor stops work for 28 days when no stoppage of work is shown on the current Program and the stoppage has not been authorized by the Project Manager;
- (b) the Project Manager instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within 28 days;
- (c) the Employer or the Contractor is made bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
- (d) a payment certified by the Project Manager is not paid by the Employer to the Contractor within 84 days of the date of the Project Manager's certificate;
- (e) the Project Manager gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Project Manager;
- (f) the Contractor does not maintain a Security, which is required;
- (g) the Contractor has delayed the completion of the Works by the number of days for which the maximum amount of liquidated damages can be paid, as **defined in the SCC**; or
- (h) if the Contractor, in the judgment of the Employer has engaged in Fraud and Corruption, as defined in paragraph 1.16 of Appendix A to the GCC, in competing for or in executing the Contract, then the Employer may, after giving fourteen (14) days written notice to the Contractor, terminate the Contract and expel him from the Site.

59.3 Notwithstanding the above, the Employer may terminate the Contract for convenience.

59.4 If the Contract is terminated, the Contractor shall stop work immediately, make the Site safe and secure, and leave the Site as soon as reasonably possible.

59.5 When either party to the Contract gives notice of a breach of Contract to the Project Manager for a cause other than those listed under GCC Sub-Clause 59.2 above, the Project Manager shall decide whether the breach is fundamental or not.

60. Payment upon Termination

60.1 If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Project Manager shall issue a

certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as **specified in the SCC**. Additional Liquidated Damages shall not apply. If the total amount due to the Employer exceeds any payment due to the Contractor, the difference shall be a debt payable to the Employer.

60.2 If the Contract is terminated for the Employer's convenience or because of a fundamental breach of Contract by the Employer, the Project Manager shall issue a certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Contractor's personnel employed solely on the Works, and the Contractor's costs of protecting and securing the Works, and less advance payments received up to the date of the certificate.

61. Property

61.1 All Materials on the Site, Plant, Equipment, Temporary Works, and Works shall be deemed to be the property of the Employer if the Contract is terminated because of the Contractor's default.

62. Release from Performance

62.1 If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the Employer or the Contractor, the Project Manager shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all work carried out before receiving it and for any work carried out afterwards to which a commitment was made.

63. Suspension of Funds

In the event that the source of financing is suspended to the Employer, from which part of the payments to the Contractor are being made:

- (a) The Employer shall notify the Contractor of such suspension within seven (7) days of having received the financing agency's suspension notice.
- (b) After the Notice has been issued and within fourteen (14) days, the Parties shall mutually agree on the future events of the Contract

APPENDIX A

Environmental, Social, Health and Safety (ESHS)

Metrics for Progress Reports

[Note to Employer: the following metrics may be amended to reflect the specifics of the Contract. The Employer shall ensure that the metrics provided are appropriate for the Works and impacts/key issues identified in the environmental and social assessment]

Metrics for regular reporting:

- a. *environmental incidents or non-compliances with contract requirements, including contamination, pollution or damage to ground or water supplies;*
- b. *health and safety incidents, accidents, injuries that require treatment and all fatalities;*
- c. *interactions with regulators: identify agency, dates, subjects, outcomes (report the negative if none);*
- d. *status of all permits and agreements:*
 - i. *work permits: number required, number received, actions taken for those not received;*
 - ii. *status of permits and consents:*
 - *list areas/facilities with permits required (quarries, asphalt & batch plants), dates of application, dates issued (actions to follow up if not issued), dates submitted to resident engineer (or equivalent), status of area (waiting for permits, working, abandoned without reclamation, decommissioning plan being implemented, etc.);*
 - *list areas with landowner agreements required (borrow and spoil areas, camp sites), dates of agreements, dates submitted to resident engineer (or equivalent);*
 - *identify major activities undertaken in each area in the reporting period and highlights of environmental and social protection (land clearing, boundary marking, topsoil salvage, traffic management, decommissioning planning, decommissioning implementation);*
 - *for quarries: status of relocation and compensation (completed, or details of activities and current status in the reporting period).*
- e. *health and safety supervision:*
 - i. *safety officer: number days worked, number of full inspections & partial inspections, reports to construction/project management;*
 - ii. *number of workers, work hours, metric of PPE use (percentage of workers with full personal protection equipment (PPE), partial, etc.), worker violations observed (by type of violation, PPE or otherwise), warnings given, repeat warnings given, follow-up actions taken (if any);*
- f. *worker accommodations:*

- i. number of expats housed in accommodations, number of locals;
 - ii. date of last inspection, and highlights of inspection including status of accommodations' compliance with national and local law and good practice, including sanitation, space, etc.;
 - iii. actions taken to recommend/require improved conditions, or to improve conditions.
- g. *Health services: provider of health services, information and/or training, location of clinic, number of non-safety disease or illness treatments and diagnoses (no names to be provided);*
- h. *gender (for expats and locals separately): number of female workers, percentage of workforce, gender issues raised and dealt with (cross-reference grievances or other sections as needed);*
- i. *training:*
 - i. number of new workers, number receiving induction training, dates of induction training;
 - ii. number and dates of toolbox talks, number of workers receiving Occupational Health and Safety (OHS), environmental and social training;
 - iii. number and dates of communicable diseases (including STDs) sensitization and/or training, no. workers receiving training (in the reporting period and in the past); same questions for gender sensitization, flag person training.
 - iv. number and date of SEA and SH prevention sensitization and/or training events, including number of workers receiving training on Code of Conduct for Contractor's Personnel (in the reporting period and in the past), etc.
- j. *environmental and social supervision:*
 - i. environmentalist: days worked, areas inspected and numbers of inspections of each (road section, work camp, accommodations, quarries, borrow areas, spoil areas, swamps, forest crossings, etc.), highlights of activities/findings (including violations of environmental and/or social best practices, actions taken), reports to environmental and/or social specialist/construction/site management;
 - ii. sociologist: days worked, number of partial and full site inspections (by area: road section, work camp, accommodations, quarries, borrow areas, spoil areas, clinic, HIV/AIDS center, community centers, etc.), highlights of activities (including violations of environmental and/or social requirements observed, actions taken), reports to environmental and/or social specialist/construction/site management; and
 - iii. community liaison person(s): days worked (hours community center open), number of people met, highlights of activities (issues raised, etc.), reports to environmental and/or social specialist /construction/site management.
- k. *Grievances: list new grievances (e.g. number of allegations of SEA and SH) received in the reporting period and number of unresolved past grievances by date received, complainant's age and sex, how received, to whom referred to for action, resolution and date (if*

completed), data resolution reported to complainant, any required follow-up (Cross-reference other sections as needed).

- i. Worker grievances;
- ii. Community grievances

l. Traffic, road safety and vehicles/equipment:

- i. traffic and road safety incidents and accidents involving project vehicles & equipment: provide date, location, damage, cause, follow-up;
- ii. traffic and road safety incidents and accidents involving non-project vehicles or property (also reported under immediate metrics): provide date, location, damage, cause, follow-up;
- iii. overall condition of vehicles/equipment (subjective judgment by environmentalist); non-routine repairs and maintenance needed to improve safety and/or environmental performance (to control smoke, etc.).

m. Environmental mitigations and issues (what has been done):

- i. dust: number of working bowsters, number of waterings/day, number of complaints, warnings given by environmentalist, actions taken to resolve; highlights of quarry dust control (covers, sprays, operational status); % of rock/spoil lorries with covers, actions taken for uncovered vehicles;
- ii. erosion control: controls implemented by location, status of water crossings, environmentalist inspections and results, actions taken to resolve issues, emergency repairs needed to control erosion/sedimentation;
- iii. quarries, borrow areas, spoil areas, asphalt plants, batch plants: identify major activities undertaken in the reporting period at each, and highlights of environmental and social protection: land clearing, boundary marking, topsoil salvage, traffic management, decommissioning planning, decommissioning implementation;
- iv. blasting: number of blasts (and locations), status of implementation of blasting plan (including notices, evacuations, etc.), incidents of off-site damage or complaints (cross-reference other sections as needed);
- v. spill cleanups, if any: material spilled, location, amount, actions taken, material disposal (report all spills that result in water or soil contamination);
- vi. waste management: types and quantities generated and managed, including amount taken offsite (and by whom) or reused/recycled/disposed on-site;
- vii. details of tree plantings and other mitigations required undertaken in the reporting period;
- viii. details of water and swamp protection mitigations required undertaken in the reporting period.

n. compliance:

- i. compliance status for conditions of all relevant consents/permits, for the Work, including quarries, etc.): statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance;
- ii. compliance status of C-ESMP/ESIP requirements: statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance
- iii. compliance status of SEA and SH prevention and response action plan: statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance
- iv. compliance status of Health and Safety Management Plan re: statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance
- v. other unresolved issues from previous reporting periods related to environmental and social: continued violations, continued failure of equipment, continued lack of vehicle covers, spills not dealt with, continued compensation or blasting issues, etc. Cross-reference other sections as needed.

Section IX. Special Conditions of Contract

Except where otherwise specified, all SCC should be filled in by the Employer prior to issuance of the Bidding Documents. Schedules and reports to be provided by the Employer should be annexed.

A. General	
GCC 1.1 (d)	The financing institution is:
GCC 1.1 (r)	The Employer is <i>[insert name, address, and name of authorized representative]</i> .
GCC 1.1 (v)	The Intended Completion Date for the whole of the Works shall be <i>[insert date]</i> <i>[If different dates are specified for completion of the Works by section (“sectional completion” or milestones), these dates should be listed here]</i>
GCC 1.1 (y)	The Project Manager is <i>[insert name, address, and name of authorized representative]</i> .
GCC 1.1 (aa)	The Site is located at <i>[insert address of Site]</i> and is defined in drawings No. <i>[insert numbers]</i>
GCC 1.1 (dd)	The Start Date shall be <i>[insert date]</i> .
GCC 1.1 (hh)	The Works consist of <i>[insert brief summary, including relationship to other contracts under the Project]</i> .
GCC 2.2	Sectional Completions are: <i>[insert nature and dates, if appropriate]</i>
GCC 2.3(i)	The following documents also form part of the Contract: <i>[List any other relevant document not listed in the Contract Agreement]</i>
GCC 3.1	The language of the contract is <i>[insert name of the language. The language shall be that of the bid]</i> . The law that applies to the Contract is the law of <i>the Republic of South Sudan</i> .
GCC 5.1	The Project manager <i>[may or may not]</i> delegate any of his duties and responsibilities.
GCC 8.1	Schedule of other contractors: <i>[insert Schedule of Other Contractors, if appropriate]</i>
GCC 13.1	The minimum insurance amounts and deductibles shall be: (a) for loss or damage to the Works, Plant and Materials: <i>[insert amounts]</i> .

	<p>(b) For loss or damage to Equipment: <i>[insert amounts]</i>.</p> <p>(c) for loss or damage to property (except the Works, Plant, Materials, and Equipment) in connection with Contract <i>[insert amounts]</i>.</p> <p>(d) for personal injury or death: _____</p> <p>(i) of the Contractor's employees: <i>[amount]</i>.</p> <p>(ii) of other people: <i>[amount]</i>.</p>
GCC 14.1	Site Data are: <i>[list Site Data]</i>
GCC 20.1	The Site Possession Date(s) shall be: <i>[insert location(s) and date(s)]</i>
GCC 23.1 & GCC 23.2	Appointing Authority for the Adjudicator: <i>[insert name of Authority]</i> .
GCC 24.3	Hourly rate and types of reimbursable expenses to be paid to the Adjudicator: <i>[insert hourly fees and reimbursable expenses]</i> .
GCC 24.4	<p><i>[For smaller contracts, the institution shall be from Republic of South Sudan. For larger contracts, and contracts that are likely to be awarded to international contractors, it is recommended that the arbitration procedure of an international institution]</i></p> <p>Institution whose arbitration procedures shall be used:</p> <p><i>[For larger contracts with international contractors, it is recommended to select one institution among those listed below; insert the corresponding wording]</i></p> <p><i>“United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules:</i></p> <p>Any dispute, controversy, or claim arising out of or relating to this Contract, or breach, termination, or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force.”</p> <p>or</p> <p><i>“Rules of Conciliation and Arbitration of the International Chamber of Commerce (ICC):</i></p> <p>All disputes arising out of or in connection with the present Contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with said Rules.”</p> <p>or</p> <p><i>“Rules of Arbitration Institute of the Stockholm Chamber of Commerce:</i></p> <p>Any dispute, controversy, or claim arising out of or in connection with this Contract, or the breach, termination, or invalidity thereof, shall be finally settled</p>

	<p>by arbitration in accordance with the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce.”</p> <p>or</p> <p><i>“Rules of the London court of International Arbitration:</i></p> <p>Any dispute arising out of or in connection with this Contract, including any question regarding its existence, validity, or termination shall be referred to and finally resolved by arbitration under the LCIA Rules, which Rules are deemed to be incorporated by reference to this clause.”</p> <p>The place of arbitration shall be: <i>[Insert city and country]</i></p>
B. Time Control	
GCC 28.1	(a) The Contractor shall submit for approval a Program for the Works within <i>[number]</i> days from the date of the Letter of Acceptance.
GCC 28.3	<p>The period between Program updates is <i>[insert number]</i> days.</p> <p>The amount to be withheld for late submission of an updated Program is <i>[insert amount]</i>.</p> <p>The period for submission of progress reports is <i>[insert number]</i> days.</p>
C. Quality Control	
GCC 36.1	<p>The Defects Liability Period is: <i>[insert number]</i> days.</p> <p><i>[The Defects Liability Period is usually limited to 12 months, but could be less in very simple cases]</i></p>
D. Cost Control	
GCC 46.1	The currency of the Contract is: <i>[insert name of currency]</i> .
GCC 47.1	<p>The Contract <i>[insert “is” or “is not”]</i> subject to price adjustment in accordance with GCC Clause 45, and the following information regarding coefficients <i>[specify “does” or “does not”]</i> apply.</p> <p><i>[Price adjustment is mandatory for contracts which provide for time of completion exceeding 18 months]</i></p> <p>The coefficients for adjustment of prices are:</p> <p>(a) For currency <i>[insert name of currency]</i>:</p> <p>(i) <i>[insert percentage]</i> percent non adjustable element (coefficient A).</p> <p>(ii) <i>[insert percentage]</i> percent adjustable element (coefficient B).</p>

	<p>(b) For currency <i>[insert name of currency]</i>:</p> <p>(i) <i>[insert percentage]</i> percent non adjustable element (coefficient A).</p> <p>(ii) <i>[insert percentage]</i> percent adjustable element (coefficient B).</p> <p>The Index I for local currency shall be <i>[insert index]</i>.</p> <p>The Index I for the specified international currency shall be <i>[insert index]</i>.</p> <p><i>[These proxy indices shall be proposed by the Contractor, subject to acceptance by the Employer]</i></p> <p>The Index I for currencies other than the local currency and the specified international currency shall be <i>[insert index]</i>.</p> <p><i>[These proxy indices shall be proposed by the Contractor, subject to acceptance by the Employer.]</i></p>
GCC 48.1	<p>The proportion of payments retained is: <i>[insert percentage]</i></p> <p><i>[The retention amount is usually close to 5 percent and in no case exceeds 10 percent.]</i></p>
GCC 49.1	<p>The liquidated damages for the whole of the Works are <i>[insert percentage of the final Contract Price]</i> per day. The maximum amount of liquidated damages for the whole of the Works is <i>[insert percentage]</i> of the final Contract Price.</p> <p><i>[Usually liquidated damages are set between 0.05 percent and 0.10 percent per day, and the total amount is not to exceed between 5 percent and 10 percent of the Contract Price. If Sectional Completion and Damages per Section have been agreed, the latter should be specified here]</i></p>
GCC 50.1	<p>The Bonus for the whole of the Works is <i>[insert percentage of final Contract Price]</i> per day. The maximum amount of Bonus for the whole of the Works is <i>[insert percentage]</i> of the final Contract Price.</p> <p><i>[If early completion would provide benefits to the Employer, this clause should remain; otherwise delete. The Bonus is usually numerically equal to the liquidated damages.]</i></p>
GCC 51.1	<p>The Advance Payments shall be: <i>[insert amount(s)]</i> and shall be paid to the Contractor no later than <i>[insert date(s)]</i>.</p>
GCC 52.1	<p>An Environmental and Social (ES) Performance Security [<i>'shall' or 'shall not', choose either option consistent with the BDS</i>] be provided to the Employer.]</p> <p>[If an ES Security is required, replace GCC 5Sub-Clause 52.1 with the following otherwise delete.]</p> <p>"GCC Sub-Clause 52.1 is replaced with the following</p>

	<p>The Performance Security and an Environmental and Social (ES) Performance Security shall be provided to the Employer no later than the date specified in the Letter of Acceptance and shall be issued in an amount specified in the SCC (for GCC Sub-Clause 52.1).</p> <p>The Performance Security shall be issued by a bank or surety acceptable to the Employer, and denominated in the types and proportions of the currencies in which the Contract Price is payable. The ES Performance Security shall be issued by a bank acceptable to the Employer and denominated in the types and proportions of the currencies in which the Contract Price is payable. The Performance Security and, if applicable, the ES Performance Security, shall be valid until a date 28 days from the date of issue of the Certificate of Completion in the case of a Bank Guarantee, and until one year from the date of issue of the Certificate of Completion in the case of a Performance Bond.”</p>
GCC 52.1	<p>The Performance Security amount is <i>[insert amount(s) denominated in the types and proportions of the currencies in which the Contract Price is payable, or in a freely convertible currency acceptable to the Employer]</i></p> <p>(a) Performance Security – Bank Guarantee: in the amount(s) of <i>[insert related figure(s)]</i> percent of the Accepted Contract Amount and in the same currency(ies) of the Accepted Contract Amount.</p> <p>(b) Performance Security – Performance Bond: in the amount(s) of <i>[insert related figure(s)]</i> percent of the Accepted Contract Amount and in the same currency(ies) of the Accepted Contract Amount.</p> <p>(c) Environmental and Social (ES) Performance Security - Bank Guarantee: in the amount(s) of <i>[insert related figure(s)]</i> percent of the Accepted Contract Amount and in the same currency(ies) of the Accepted Contract Amount]. [delete if not applicable].</p> <p><i>[A Bank Guarantee shall be unconditional (on demand) (see Section X, Contract Forms). The E Performance Security will normally be in the amount(s) of between 1% to 3% of the Accepted Contract Amount. The sum of the total “demand guarantees” (Performance Security and ESHS Performance Security) shall normally not exceed 10% of the Accepted Contract Amount. A Performance Bond is an undertaking by a bonding or insurance company (surety) to complete the construction in the event of default by the Contractor, or to pay the amount of the Bond to the Employer. An amount of 30 percent of the contract price is commonly used internationally for this type of security (see Section X, Contract Forms).]</i></p>
E. Finishing the Contract	
GCC 58.1	<p>The date by which operating and maintenance manuals are required is <i>[insert date]</i>.</p> <p>The date by which “as built” drawings are required is <i>[insert date]</i>.</p>

GCC 58.2	The amount to be withheld for failing to produce “as built” drawings and/or operating and maintenance manuals by the date required in GCC Sub-Clause 58.1 is <i>[insert amount in local currency]</i> .
GCC 59.2 (g)	The maximum number of days is: <i>[insert number; consistent with GCC Sub-Clause 49.1 on liquidated damages]</i> .
GCC 60.1	The percentage to apply to the value of the work not completed, representing the Employer’s additional cost for completing the Works, is <i>[insert percentage]</i> .

Section XI - Contract Forms

This Section contains forms which, once completed, will form part of the Contract. The forms for Performance Security and Advance Payment Security, when required, shall only be completed by the successful Bidder after contract award.

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Notification of Intention to Award

[This Notification of Intention to Award shall be sent to each Bidder that submitted a Bid.]
[Send this Notification to the Bidder's Authorized Representative named in the Bidder Information Form]

For the attention of Bidder's Authorized Representative

Name: *[insert Authorized Representative's name]*

Address: *[insert Authorized Representative's Address]*

Telephone/Fax numbers: *[insert Authorized Representative's telephone/fax numbers]*

Email Address: *[insert Authorized Representative's email address]*

[IMPORTANT: insert the date that this Notification is transmitted to Bidders. The Notification must be sent to all Bidders simultaneously. This means on the same date and as close to the same time as possible.]

DATE OF TRANSMISSION: This Notification is sent by: *[email/fax]* on *[date]* (local time)

Notification of Intention to Award

Employer: *[insert the name of the Employer]*

Project: *[insert name of project]*

Contract title: *[insert the name of the contract]*

RFB No: *[insert RFB reference number from Procurement Plan]*

This Notification of Intention to Award (Notification) notifies you of our decision to award the above contract. The transmission of this Notification begins the Standstill Period. During the Standstill Period you may:

- a) request a debriefing in relation to the evaluation of your Bid, and/or
- b) submit a Procurement-related Complaint in relation to the decision to award the contract.

1. The successful Bidder

Name:	<i>[insert name of successful Bidder]</i>
Address:	<i>[insert address of the successful Bidder]</i>
Contract price:	<i>[insert contract price of the successful Bid]</i>

2. Other Bidders **[INSTRUCTIONS: insert names of all Bidders that submitted a Bid. If the Bid's price was evaluated include the evaluated price as well as the Bid price as read out.]**

Name of Bidder	Bid price	Evaluated Bid price (if applicable)
<i>[insert name]</i>	<i>[insert Bid price]</i>	<i>[insert evaluated price]</i>

[insert name]	[insert Bid price]	[insert evaluated price]
[insert name]	[insert Bid price]	[insert evaluated price]

3. Reason/s why your Bid was unsuccessful

[INSTRUCTIONS: State the reason/s why this Bidder's Bid was unsuccessful. Do NOT include: (a) a point by point comparison with another Bidder's Bid or (b) information that is marked confidential by the Bidder in its Bid.]

4. How to request a debriefing

DEADLINE: The deadline to request a debriefing expires at midnight on [insert date] (local time).

You may request a debriefing in relation to the results of the evaluation of your Bid. If you decide to request a debriefing your written request must be made within three (3) Business Days of receipt of this Notification of Intention to Award.

Provide the contract name, reference number, name of the Bidder, contact details; and address the request for debriefing as follows:

Attention: [insert full name of person, if applicable]

Title/position: [insert title/position]

Agency: [insert name of Employer]

Email address: [insert email address]

Fax number: [insert fax number] **delete if not used**

If your request for a debriefing is received within the 3 Business Days deadline, we will provide the debriefing within five (5) Business Days of receipt of your request. If we are unable to provide the debriefing within this period, the Standstill Period shall be extended by five (5) Business Days after the date that the debriefing is provided. If this happens, we will notify you and confirm the date that the extended Standstill Period will end.

The debriefing may be in writing, by phone, video conference call or in person. We shall promptly advise you in writing how the debriefing will take place and confirm the date and time.

If the deadline to request a debriefing has expired, you may still request a debriefing. In this case, we will provide the debriefing as soon as practicable, and normally no later than fifteen (15) Business Days from the date of publication of the Contract Award Notice.

5. How to make a complaint

Period: Procurement-related Complaint challenging the decision to award shall be submitted by midnight, [insert date] (local time).

Provide the contract name, reference number, name of the Bidder, contact details; and address the Procurement-related Complaint as follows:

Attention: *[insert full name of person, if applicable]*

Title/position: *[insert title/position]*

Procuring Entity: *[insert name of Employer]*

Email address: *[insert email address]*

Fax number: *[insert fax number] delete if not used*

At this point in the procurement process, you may submit a Procurement-related Complaint challenging the decision to award the contract. You do not need to have requested, or received, a debriefing before making this complaint. Your complaint must be submitted within the Standstill Period and received by us before the Standstill Period ends.

In summary, there are four essential requirements:

1. You must be an 'interested party'. In this case, that means a Bidder who submitted a Bid in this bidding process, and is the recipient of a Notification of Intention to Award.
2. The complaint can only challenge the decision to award the contract.
3. You must submit the complaint within the period stated above.
4. You must include, in your complaint, all of the information required by the Procurement Regulations.

6. Standstill Period

DEADLINE: The Standstill Period is due to end at midnight on *[insert date]* (local time).

The Standstill Period lasts ten (10) Business Days after the date of transmission of this Notification of Intention to Award.

The Standstill Period may be extended as stated in Section 4 above.

If you have any questions regarding this Notification please do not hesitate to contact us.

On behalf of the Employer:

Signature: _____

Name: _____

Title/position: _____

Telephone: _____

Email: _____

Letter of Acceptance

[on letterhead paper of the Employer]

..... *[date]*

To: *[name and address of the Contractor]*

Subject: *[Notification of Award Contract No]*.

This is to notify you that your Bid dated *[insert date]* for execution of the
[insert name of the contract and identification number, as given in the SCC] for the
 Accepted Contract Amount of *[insert amount in numbers and words and name of
 currency]*, as corrected and modified in accordance with the Instructions to Bidders is hereby
 accepted by our Agency.

You are requested to furnish the Performance Security and an Environmental, Social, Health and
 Safety Performance Security *[Delete ESHS Performance Security if it is not required under the
 contract]* within 28 days in accordance with the Conditions of Contract, using for that purpose
 the of the Performance Security Form and the ES Performance Security Form, *[Delete reference
 to the ESHS Performance Security Form if it is not required under the contract]* included in
 Section X - Contract Forms, of the bidding document.

OR

You are requested to furnish the Performance Securing Declaration within seven days in
 accordance with the Conditions of Contract, using for that purpose the Performance Securing
 Declaration Form included in Section XI, - Contract Forms, of the bidding document.

[Choose one of the following statements:]

We accept that _____ *[insert the name of Adjudicator proposed by the
 Bidder]* be appointed as the Adjudicator.

[or]

We do not accept that _____ *[insert the name of the Adjudicator
 proposed by the Bidder]* be appointed as the Adjudicator, and by sending a copy of this Letter
 of Acceptance to _____ *[insert name of the
 Appointing Authority]*, the Appointing Authority, we are hereby requesting such Authority to
 appoint the Adjudicator in accordance with ITB 43.1 and GCC 23.1.

Authorized Signature:

Name and Title of Signatory:

Name of Agency:

Attachment: Contract Agreement

Contract Agreement

THIS AGREEMENT made theday of,, between ***[name of the Employer]***. (hereinafter “the Employer”), of the one part, and ***[name of the Contractor]***. (hereinafter “the Contractor”), of the other part:

WHEREAS the Employer desires that the Works known as ***[name of the Contract]***. should be executed by the Contractor, and has accepted a Bid by the Contractor for the execution and completion of these Works and the remedying of any defects therein,

The Employer and the Contractor agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.
 - (a) the Letter of Acceptance
 - (b) the Letter of Bid
 - (c) the addenda Nos _____ (if any)
 - (d) the Particular Conditions
 - (e) the General Conditions of Contract, including Appendices;
 - (f) the Specification
 - (g) the Drawings
 - (h) Bill of Quantities;⁴¹ and
 - (i) any other document listed in the SCC as forming part of the Contract, but not limited to;
 - i. the ES Management Strategies and Implementation Plans; and
 - ii. Code of Conduct for Contractor’s Personnel (ES;
3. In consideration of the payments to be made by the Employer to the Contractor as specified in this Agreement, the Contractor hereby covenants with the Employer to execute the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein, the Contract Price or such

⁴¹ In lump sum contracts, delete “Bill of Quantities” and replace with “Activity Schedule.”

other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of .Republic of South Sudan on the day, month and year specified above.

Signed by: _____
for and on behalf of the Employer

in the
presence of: _____
Witness, Name, Signature, Address, Date

Signed by: _____
for and on behalf the Contractor

in the
presence of: _____
Witness, Name, Signature, Address, Date

Performance Security (Bank Guarantee)

Option 1: (Bank Guarantee)

[Guarantor letterhead or SWIFT identifier code]

Beneficiary: *[insert name and Address of Employer]*

Date: *_ [Insert date of issue]*

PERFORMANCE GUARANTEE No.: *[Insert guarantee reference number]*

Guarantor: *[Insert name and address of place of issue, unless indicated in the letterhead]*

We have been informed that *_ [insert name of Contractor, which in the case of a joint venture shall be the name of the joint venture]* (hereinafter called "the Applicant") has entered into Contract No. *[insert reference number of the contract]* dated *[insert date]* with the Beneficiary, for the execution of *_ [insert name of contract and brief description of Works]* (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of *[insert amount in figures]* (_____) *[insert amount in words]*,¹ such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire, no later than the Day of, 2...², and any demand for payment under it must be received by us at this office indicated above on or before that date.

¹ The Guarantor shall insert an amount representing the percentage of the Accepted Contract Amount specified in the Letter of Acceptance, less provisional sums, if any, and denominated either in the currency(cies) of the Contract or a freely convertible currency acceptable to the Beneficiary.

² Insert the date twenty-eight days after the expected completion date as described in GC Sub-Clause 55.1. The Employer should note that in the event of an extension of this date for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

[signature(s)]

Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.

Performance Security (Performance Bond)

Option 2: Performance Bond

By this Bond *[insert name of Principal]* as Principal (hereinafter called "the Contractor") and *[insert name of Surety]* as Surety (hereinafter called "the Surety"), are held and firmly bound unto *[insert name of Employer]* as Obligee (hereinafter called "the Employer") in the amount of *[insert amount in words and figures]*, for the payment of which sum well and truly to be made in the types and proportions of currencies in which the Contract Price is payable, the Contractor and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Contractor has entered into a written Agreement with the Employer dated the ____ day of _____, 20_____, for *[name of contract and brief description of Works]* in accordance with the documents, plans, specifications, and amendments thereto, which to the extent herein provided for, are by reference made part hereof and are hereinafter referred to as the Contract.

NOW, THEREFORE, the Condition of this Obligation is such that, if the Contractor shall promptly and faithfully perform the said Contract (including any amendments thereto), then this obligation shall be null and void; otherwise, it shall remain in full force and effect. Whenever the Contractor shall be, and declared by the Employer to be, in default under the Contract, the Employer having performed the Employer's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

- (1) complete the Contract in accordance with its terms and conditions; or
- (2) obtain a Bid or bids from qualified Bidders for submission to the Employer for completing the Contract in accordance with its terms and conditions, and upon determination by the Employer and the Surety of the lowest responsive Bidder, arrange for a Contract between such Bidder and Employer and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the Balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "Balance of the Contract Price," as used in this paragraph, shall mean the total amount payable by Employer to Contractor under the Contract, less the amount properly paid by Employer to Contractor; or
- (3) pay the Employer the amount required by Employer to complete the Contract in accordance with its terms and conditions up to a total not exceeding the amount of this Bond.

The Surety shall not be liable for a greater sum than the specified penalty of this Bond.

Any suit under this Bond must be instituted before the expiration of one year from the date of issue of the Certificate of Completion.

No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Employer named herein or the heirs, executors, administrators, successors, and assigns of the Employer.

In testimony whereof, the Contractor has hereunto set his hand and affixed his seal, and the Surety has caused these presents to be sealed with his corporate seal duly attested by the signature of his legal representative, this _____ day of _____ 20_____
_____.

SIGNED ON _____ on behalf of _____

By _____ in the capacity of _____

In the presence of _____

SIGNED ON _____ on behalf of _____

By _____ in the capacity of _____

In the presence of _____

Performance Securing Declaration

Date: *[insert **date** (as day, month and year)]*

Contract No.: *[insert **Contract number**]*

To: *[insert **complete name of Employer**]*

I/We, the undersigned, declare that:

1. I/We understand that, according to your conditions, to guarantee the faithful performance by the Contractor of its obligations under the Contract, I/we shall submit this form of Performance Securing Declaration within a maximum period of fourteen (14) calendar days from the date of the Letter of Acceptance and prior to the signing of the Contract.
2. I/We accept that: I/we will be disqualified from tendering for any procurement contract with any procuring entity in the Republic of South Sudan for the period of time determined by the Public Procurement and Disposal of Assets Authority in accordance with the procedures stipulated in the Public Procurement and Disposal Act PPDA 2018 and Public Procurement Regulations 2022 if I/We have failed to execute the Contract.

I/We understand that this Performance Securing Declaration shall cease to be valid upon satisfactory performance and final acceptance of the works by the Employer.

Signed: *[insert signature of person whose name and capacity are shown]* in the capacity of *[insert legal capacity of person signing the Performance Securing Declaration]*

Name: *[insert **complete name of person signing the Performance Securing Declaration**]*

Duly authorized to sign the Contract for and on behalf of: *[insert **complete name of Contractor**]*

Dated on _____ day of _____, _____ *[insert **date of signing**]*

Corporate Seal (where appropriate)

Environmental and Social(ES) Performance Security

ESHS Demand Guarantee

Guarantor letterhead or SWIFT identifier code]

Beneficiary: *[insert name and Address of Employer]*

Date: *_ [Insert date of issue]*

ESHS PERFORMANCE GUARANTEE No.: *[Insert guarantee reference number]*

Guarantor: *[Insert name and address of place of issue, unless indicated in the letterhead]*

We have been informed that _____ (hereinafter called "the Applicant") has entered into Contract No. _____ dated _____ with the Beneficiary, for the execution of _____ (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of _____ (_____),¹ such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its Environmental and/or Social (ES) obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire, no later than the Day of, 2...², and any demand for payment under it must be received by us at this office indicated above on or before that date.

¹ *The Guarantor shall insert an amount representing the percentage of the Accepted Contract Amount specified in the Letter of Acceptance, less provisional sums, if any, and denominated either in the currency (cies) of the Contract or a freely convertible currency acceptable to the Beneficiary.*

² *Insert the date twenty-eight days after the expected completion date as described in GC Clause 55.1. The Employer should note that in the event of an extension of this date for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."*

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

[signature(s)]

Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.

Advance Payment Security

[Guarantor letterhead or SWIFT identifier code]

Beneficiary: *[Insert name and Address of Employer]*

Date: *[Insert date of issue]*

ADVANCE PAYMENT GUARANTEE No.: *[Insert guarantee reference number]*

Guarantor: *[Insert name and address of place of issue, unless indicated in the letterhead]*

We have been informed that *[insert name of Contractor, which in the case of a joint venture shall be the name of the joint venture]* (hereinafter called "the Applicant") has entered into Contract No. *[insert reference number of the contract]* dated *[insert date]* with the Beneficiary, for the execution of *[insert name of contract and brief description of Works]* (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum *[insert amount in figures]* () *[insert amount in words]* is to be made against an advance payment guarantee.

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of *[insert amount in figures]* () *[insert amount in words]*¹ upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating either that the Applicant:

(a) has used the advance payment for purposes other than the costs of mobilization in respect of the Works; or

(b) has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount which the Applicant has failed to repay.

A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the advance payment referred to above has been

¹ *The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency(ies) of the advance payment as specified in the Contract, or in a freely convertible currency acceptable to the Employer.*

credited to the Applicant on its account number *[insert number]* at *[insert name and address of Applicant's bank]*..

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Applicant as specified in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that ninety (90) percent of the Accepted Contract Amount, less provisional sums, has been certified for payment, or on the *[insert day]* day of *[insert month]*, 2 *[insert year]*,² whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

[signature(s)]

Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.

² *Insert the expected completion date as described in GC Clause 55.1. The Employer should note that in the event of an extension of the expected completion date, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."*

Retention Money Security

Demand Guarantee

_____ [Guarantor letterhead or SWIFT identifier code]

Beneficiary: _____ [Insert name and Address of Employer]

Date: _____ [Insert date of issue]

RETENTION MONEY GUARANTEE No.: _____ [Insert guarantee reference number]

Guarantor: [Insert name and address of place of issue, unless indicated in the letterhead]

We have been informed that _____ [insert name of Contractor, which in the case of a joint venture shall be the name of the joint venture] (hereinafter called "the Applicant") has entered into Contract No. _____ [insert reference number of the contract] dated _____ with the Beneficiary, for the execution of _____ [insert name of contract and brief description of Works] (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, the Beneficiary retains moneys up to the limit set forth in the Contract ("the Retention Money"), and that when the Taking-Over Certificate has been issued under the Contract and the first half of the Retention Money has been certified for payment, payment of [insert the second half of the Retention Money or if the amount guaranteed under the Performance Guarantee when the Taking-Over Certificate is issued is less than half of the Retention Money, the difference between half of the Retention Money and the amount guaranteed under the Performance Security and, if required, the ES Performance Security] is to be made against a Retention Money guarantee.

At the request of the Applicant, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of _____ [insert amount in figures] (_____) [amount in words]¹ upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without your needing to prove or show grounds for your demand or the sum specified therein.

A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the second half of the Retention Money as referred to above has been

¹ The Guarantor shall insert an amount representing the amount of the second half of the Retention Money or if the amount guaranteed under the Performance Guarantee when the Taking-Over Certificate is issued is less than half of the Retention Money, the difference between half of the Retention Money and the amount guaranteed under the Performance Security and denominated either in the currency(ies) of the second half of the Retention Money as specified in the Contract, or in a freely convertible currency acceptable to the Beneficiary.

credited to the Applicant on its account number _____ at _____ *[insert name and address of Applicant's bank]*.

This guarantee shall expire no later than the day of, 2...², and any demand for payment under it must be received by us at the office indicated above on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

[signature(s)]

Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.

² *Insert the same expiry date as set forth in the performance security, representing the date twenty-eight days after the completion date described in GC Clause 11.9. The Employer should note that in the event of an extension of this date for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."*