

GOVERNMENT OF THE REPUBLIC OF
SOUTH SUDAN



STANDARD BIDDING DOCUMENTS

Procurement of Goods

Trial Edition, Nov. 2024

Preface

Procurement of goods under public financed projects is carried out in accordance with policies and procedures laid down in the Public Procurement and Disposal of Assets Act, 2018 (hereinafter called PPDA Act 2018) and Public Procurement and Disposal of Assets Regulations, 2024 (hereinafter called PPDA Regulation 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 Goods through International Competitive Bidding (ICB) and 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 procurement of goods that are financed in whole or in part by Government funds in accordance with the provisions of the PPDA Act 2018 and PPDA Regulations, 2024.

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

Executive Director
South Sudan Public Procurement and Disposal of Assets Authority

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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 Bid 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 to assist Procuring Entities (PEs) and bidders to understand the content and the provisions of the Standard Bidding Document for Procurement of Goods under National Competitive Bidding method and other procedures as appropriate. The PE should also refer to PPDA Act 2018 and PPDA 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 VIII- Schedule of 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 Goods 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 goods/services to be provided 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 – SUPPLY REQUIREMENTS

Section VIII. Schedule of Requirements

This Section includes the List of Goods and Related Services, the Delivery and Completion Schedules, the Technical Specifications and the Drawings that describe the Goods and Related Services to be procured

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 for supply of goods. 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 IX. 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 Letter of Intention to Award the Contract, which shall not form part of the contract.

PROCUREMENT DOCUMENTS

Bidding Document for Procurement of Goods

Procurement of:

[insert identification of the Goods] _____

Bid No: _____

[insert reference number as per procurement plan]

Procuring Entity: _____

Issued on: _____

[insert date when document was issued to bidders]

Table of Contents

PART 1 – Bidding Procedures	1
Section I. Invitation for Bids	
Section II: Instructions to Bidders	5
Section III. Bid Data Sheet (BDS)	31
Section IV. Evaluation and Qualification Criteria	38
Section V. Bidding Forms	43
Section VI. Eligible Countries	59
Section VII. Corrupt and Fraudulent Practices.....	61
PART 2 – Supply Requirements.....	63
Section VIII. Schedule of Requirements	65
PART 3 - Contract.....	73
Section VIII. General Conditions of Contract	75
Section IX. Special Conditions of Contract	93
Section X. Contract Forms.....	101

PART 1 – Bidding Procedures

Section 1 – Invitation for Bids

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]**

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 Goods required, including quantities, location, construction period, margin of preference if applicable, etc.]¹**.

Or if prequalification has been conducted use the version below.

The **[insert name of the PE]** now invites tenders from prequalified eligible Tenderers for supply of **[insert brief description of the goods and services to be procured]**

4. Bidding will be conducted through the International or National Open Competitive Bidding procedures as specified in the Public Procurement and Disposal of Assets Act, 2018 and 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

¹ A brief description of the type(s) of Goods should be provided, including quantities, location of Project, delivery 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.

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]*².

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 fee³ of *[insert amount in South Sudanese Pounds or in a convertible currency]*. The method of payment will be *[insert method of payment]*.⁴ The document will be sent by *[insert delivery procedure]*.⁵
7. Bids must be delivered to the address below *[state address at the end of this invitation]*⁶ 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]*

² The office for inquiry and issuance of bidding documents and that for bid submission may or may not be the same.

³ The fee chargeable should only be nominal to defray reproduction and mailing costs. An amount between or equivalent is deemed appropriate.

⁴ For example, cashier's check, direct deposit to specified account number, etc.

⁵ 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..

⁶ Substitute the address for bid submission if it is different from address for inquiry and issuance of bidding documents.

Section II. Instructions to Bidders

Table of Contents

A. General.....	7
1. Scope of Bid	7
2. Source of Funds.....	7
3. Corrupt and Fraudulent Practices.....	7
4. Eligible Bidders.....	8
5. Eligible Goods and Related Services	10
B. Contents of Bidding Document	11
6. Sections of Bidding Document.....	11
7. Clarification of Bidding Documents	11
8. Amendment of Bidding Document	12
C. Preparation of Bids	12
9. Cost of Bidding	12
10. Language of Bid.....	12
11. Documents Comprising the Bid	12
12. Letter of Bid and Price Schedules	13
13. Alternative Bids.....	13
14. Bid Prices and Discounts	14
15. Currencies of Bid and Payment.....	16
16. Documents Establishing the Eligibility and Conformity of the Goods and Related Services.....	16
17. Documents Establishing the Eligibility and Qualifications of the Bidder	17
18. Period of Validity of Bids.....	17
19. Bid Security	18
20. Format and Signing of Bid	19
D. Submission and Opening of Bids.....	20
21. Sealing and Marking of Bids.....	20
22. Deadline for Submission of Bids	20
23. Late Bids.....	20
24. Withdrawal, Substitution, and Modification of Bids	21
25. Bid Opening.....	21
E. Evaluation and Comparison of Bids	22
26. Confidentiality.....	22
27. Clarification of Bids	23
28. Deviations, Reservations, and Omissions	23
29. Determination of Responsiveness	23
30. Nonconformities, Errors and Omissions.....	24
31. Correction of Arithmetical Errors.....	24

32. Conversion to Single Currency	24
33. Margin of Preference.....	25
34. Evaluation of Bids	25
35. Comparison of Bids.....	26
36. Abnormally Low Bid	26
37. Qualification of the Bidder	26
38. PE's Right to Accept Any Bid, and to Reject Any or All Bids	27
39. Standstill Period	27
40. Notification of Intention to Award.....	27
F. Award of Contract	27
41. Award Criteria.....	27
42. PE's Right to Vary Quantities at Time of Award	28
43. Notification of Award	28
44. Debriefing by the PE.....	28
45. Signing of Contract	29
46. Performance Security	29
47. Procurement Related Complaint	30

Section II. 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 PE, **as specified in the BDS**, issues these Bidding Documents for the supply of Goods and Related Services incidental thereto as specified in Section VIII [Schedule of Requirements]. The name, identification and number of lots (contracts) of this procurement are **specified in the BDS**.
 - 1.2 Throughout these Bidding Documents:
 - (a) the term “in writing” means communicated in written form (e.g. by mail, e-mail, fax, telex) with proof of receipt;
 - (b) if the context so requires, “singular” means “plural” and vice versa; and
 - (c) “day” means calendar day.
2. **Source of Funds**
 - 2.1 The Government 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 supply of goods as described in the **BDS**.
 - 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 Republic 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 Tenderers, 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 Tenderer 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 Tenderer’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, a government-owned entity—subject to ITB 4.5—or any combination of such entities 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. Any Bidder 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) any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the goods that are the subject of the bid; or
- (g) any of its affiliates has been hired (or is proposed to be hired) by the PE for the Contract implementation; or
- (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 ITB 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; or
- (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 VI of this bidding document. .
- 4.8 A Bidder shall provide such evidence of eligibility satisfactory to the PE, as the PE shall reasonably request.

5. Eligible Goods and Related Services

- 5.1 All the Goods and Related Services to be supplied under the Contract may have their origin in any country in accordance with Section V, Eligible Countries.
- 5.2 For purposes of this Clause, the term “goods” includes commodities, raw material, machinery, equipment, and industrial plants; and “related services” includes services such as insurance, installation, training, and initial maintenance.
- 5.3 The term “origin” means the country where the goods have been mined, grown, cultivated, produced, manufactured or processed; or, through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components.

B. Contents of Bidding Document

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| 6. Sections of Bidding Document | <p>6.1 The Bidding Documents consist of Parts 1, 2, and 3, which include all the Sections indicated below, and should be read in conjunction with any Addenda issued in accordance with ITB 8[Amendment of Bidding Document].</p> <p>PART 1 Bidding Procedures</p> <ul style="list-style-type: none"> • Section I. Invitation for Bids (IFB) • Section II. Instructions to Bidders (ITB) • Section III. Bidding Data Sheet (BDS) • Section IV. Evaluation and Qualification Criteria • Section V. Bidding Forms • Section VI. Eligible Countries • Section VII. Corrupt and Fraudulent Practices <p>PART 2 Supply Requirements</p> <ul style="list-style-type: none"> • Section VIII. Schedule of Requirements <p>PART 3 Contract</p> <ul style="list-style-type: none"> • Section IX. General Conditions of Contract (GCC) • Section X. Special Conditions of Contract (SCC) • Section XI. Contract Forms |
| | <p>6.2 The Invitation for Bids issued by the PE is not part of the Bidding Document.</p> <p>6.3 Unless obtained directly from the PE, the PE is not responsible for the completeness of the document, responses to requests for clarification, the Minutes of the pre-Bid meeting (if any), or Addenda to the Bidding Document in accordance with ITB 8[Amendment of Bidding Document]. In case of any contradiction, documents obtained directly from the PE shall prevail.</p> <p>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 or documentation as is required by the Bidding Documents.</p> |
| 7. Clarification of Bidding Documents | <p>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. 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</p> |

accordance with ITB 6.3, 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 and Submission of Bids].

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| 8. Amendment of Bidding Document | <p>8.1 At any time prior to the deadline for submission of bids, the PE may amend the Bidding Documents by issuing addenda.</p> <p>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 Documents 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 Documents].</p> <p>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 and Submission of Bids].</p> |
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C. Preparation of Bids

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| 9. Cost of Bidding | <p>9.1 The Bidder shall bear all costs associated with the preparation and submission of its bid, and the PE shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.</p> |
| 10. Language of Bid | <p>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 into the language specified in the BDS, in which case, for purposes of interpretation of the Bid, such translation shall govern.</p> |
| 11. Documents Comprising the Bid | <p>11.1 The Bid shall comprise the following:</p> <ul style="list-style-type: none">(a) Letter of Bid in accordance with ITB 12[Letter of Bid and Price Schedules];(b) Completed schedules , in accordance with ITB 12[Letter of Bid and Price Schedules] and ITB14[Bid Prices and Discounts](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 the Eligibility and Qualifications of the Bidder] establishing the Bidder's qualifications to perform the contract if its bid is accepted;
- (g) documentary evidence in accordance with ITB 17[Documents Establishing the Eligibility and Qualifications of the Bidder] establishing the Bidder's eligibility to bid;
- (h) documentary evidence in accordance with ITB 16[Documents Establishing the Eligibility and Conformity of the Goods and Related Services] , that the Goods and Related Services to be supplied by the Bidder are of eligible origin;
- (i) documentary evidence in accordance with ITB 16[Documents Establishing the Eligibility and Conformity of the Goods and Related Services] and ITB30[Non-conformities, Errors and Omissions], that the Goods and Related Services conform to the Bidding Documents;
- (j) 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 Price Schedules

12.1. The Letter of Bid and Price 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 Bids]. 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.

14. Bid Prices and Discounts

- 14.1 The prices and discounts quoted by the Bidder in the Letter of Bid and in the Price Schedules shall conform to the requirements specified below.
- 14.2 All lots (contracts) and items must be listed and priced separately in the Price Schedules.
- 14.3 The price to be quoted in the Letter of Bid in accordance with ITB 12.1[Letter of Bid and Price Schedules] shall be the total price of the bid, excluding any discounts offered.
- 14.4 The Bidder shall quote any discounts and indicate the methodology for their application in the Letter of Bid, in accordance with ITB 12.1[Letter of Bid and Price Schedules].
- 14.5 Prices quoted by the Bidder shall be fixed during the Bidder's performance of the Contract and not subject to variation on any account, **unless otherwise specified in the BDS**. A bid submitted with an adjustable price quotation shall be treated as nonresponsive and shall be rejected, pursuant to ITB 29[Determination of Responsiveness]. However, if in accordance with the BDS, prices quoted by the Bidder shall be subject to adjustment during the performance of the Contract, a bid submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero.
- 14.6 If so specified in ITB 1.1[Scope of Bid], bids are being invited for individual lots (contracts) or for any combination of lots (packages). Unless otherwise **specified in the BDS**, prices quoted shall correspond to 100 % of the items specified for each lot and to 100% of the quantities specified for each item of a lot. 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 The terms EXW, CIP, and other similar terms shall be governed by the rules prescribed in the current edition of Incoterms, published by The International Chamber of Commerce, **as specified in the BDS**.
- 14.8 Prices shall be quoted as specified in each Price Schedule included in Section V[Bidding Forms]. The dis-aggregation of price components is required solely for the purpose of facilitating the comparison of bids by the PE. This shall not in any way limit the PE's right to contract on any of the terms offered. In quoting prices, the Bidder shall be free to use transportation through carriers registered in any eligible country, in accordance with Section VI[Eligible Countries]. Similarly, the Bidder may obtain insurance services from any eligible country in accordance

with Section VI[Eligible Countries]. Prices shall be entered in the following manner:

- (a) For Goods manufactured in the Country:
 - (i) the price of the Goods quoted EXW (ex-works, ex-factory, ex warehouse, ex showroom, or off-the-shelf, as applicable), including all customs duties and sales and other taxes already paid or payable on the components and raw material used in the manufacture or assembly of the Goods;
 - (ii) any sales tax and other taxes which will be payable on the Goods if the contract is awarded to the Bidder; and
 - (iii) the price for inland transportation, insurance, and other local services required to convey the Goods to their final destination (Project Site) **specified in the BDS.**
- (b) For Goods manufactured outside the Country, to be imported:
 - (i) the price of the Goods, quoted CIP named place of destination, in the Country, as **specified in the BDS;**
 - (ii) the price for inland transportation, insurance, and other local services required to convey the Goods from the named place of destination to their final destination (Project Site) **specified in the BDS;**
- (c) For Goods manufactured outside the Country, already imported:
 - (i) the price of the Goods, including the original import value of the Goods; plus any mark-up (or rebate); plus any other related local cost, and custom duties and other import taxes already paid or to be paid on the Goods already imported.
 - (ii) the custom duties and other import taxes already paid (need to be supported with documentary evidence) or to be paid on the Goods already imported;
 - (iii) the price of the Goods, obtained as the difference between (i) and (ii) above;
 - (iv) any sales and other taxes which will be payable on the Goods if the contract is awarded to the Bidder; and
 - (v) the price for inland transportation, insurance, and other local services required to convey the Goods from

the named place of destination to their final destination
(Project Site) **specified in the BDS.**

(d) for Related Services, other than inland transportation and other services required to convey the Goods to their final destination, whenever such Related Services are specified in the Schedule of Requirements:

(i) the price of each item comprising the Related Services (inclusive of any applicable taxes).

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.** The Bidder shall quote in South Sudanese Pounds the portion of the bid price that corresponds to expenditures incurred in the local currency, unless otherwise **specified in the BDS.**

15.2 The Bidder may express the bid price in any currency. If the Bidder wishes to be paid in a combination of amounts in different currencies, it may quote its price accordingly but shall use no more than three foreign currencies in addition to the local currency.

16. Documents Establishing the Eligibility and Conformity of the Goods and Related Services

16.1 To establish the eligibility of the Goods and Related Services in accordance with ITB 5[Eligible Goods and Related Services], Bidders shall complete the country of origin declarations in the Price Schedule Forms, included in Section V[Bidding Forms].

16.2 To establish the conformity of the Goods and Related Services to the Bidding Documents, the Bidder shall furnish as part of its Bid the documentary evidence that the Goods conform to the technical specifications and standards specified in Section VIII[Schedule of Requirements].

16.3 The documentary evidence may be in the form of literature, drawings or data, and shall consist of a detailed item by item description of the essential technical and performance characteristics of the Goods and Related Services, demonstrating substantial responsiveness of the Goods and Related Services to the technical specification, and if applicable, a statement of deviations and exceptions to the provisions of the Section VIII[Schedule of Requirements].

16.4 The Bidder shall also furnish a list giving full particulars, including available sources and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the Goods during the period **specified in the BDS** following commencement of the use of the goods by the PE.

16.5 Standards for workmanship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by the PE in the Schedule of Requirements, are intended to be descriptive only and not restrictive. The Bidder may offer other standards of quality, brand names, and/or catalogue numbers, provided that it

demonstrates, to the PE's satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Section VIII[Schedule of Requirements].

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

- 17.1 To establish Bidder's their eligibility in accordance with ITB 4, Bidders shall complete the Letter of Bid, included in Section V[Bidding Forms].
- 17.2 The documentary evidence of the Bidder's qualifications to perform the contract if its bid is accepted shall establish to the PE's satisfaction:
- (a) that, if **required in the BDS**, a Bidder that does not manufacture or produce the Goods it offers to supply shall submit the Manufacturer's Authorization using the form included in Section IV[Bidding Forms] to demonstrate that it has been duly authorized by the manufacturer or producer of the Goods to supply these Goods in the Country;
 - (b) that, if **required in the BDS**, in case of a Bidder not doing business within the Republic of South Sudan, the Bidder is or will be (if awarded the contract) represented by an Agent in the country equipped and able to carry out the Supplier's maintenance, repair and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications; and
 - (c) that the Bidder meets each of the qualification criterion specified in Section IV[Evaluation and Qualification Criteria].

**18. Period of Validity of
Bids**

- 18.1. Bids shall remain valid for the period **specified in the BDS** after the bid submission deadline date prescribed by the PE in accordance with ITB 22.1[Sealing and Marking of Bids]. A bid valid for a shorter period shall be rejected by the PE as nonresponsive.
- 18.2. In exceptional circumstances, prior to the expiration of the bid validity period, 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[Bid Security], it shall also be extended for a corresponding period. A Bidder may refuse the request without forfeiting its Bid Security. 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) another 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 validity period of the bid, or beyond any period of extension 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 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 pursuant to ITB 42[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.
- 19.7. The Bid Security may be forfeited or the Bid Securing Declaration executed:

- (a) if a Bidder withdraws its bid during the period of 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 41[Signing of Contract]; or
 - (ii) furnish a performance security in accordance with ITB 42[Performance Security].

19.8. The bid security or Bid- Securing Declaration of a JV must be in the name of the JV that submits the bid. If the JV has not been legally constituted into a legally enforceable JV at the time of bidding, the bid security or Bid-Securing Declaration shall be in the names of all future members as named in the letter of intent referred to 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 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 inter-lineation, 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 in accordance with ITB 24.1[Withdrawal, Substitution, and Modification of Bids];
- (c) bear the specific identification of this bidding process indicated in ITB 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 Documents 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 of 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 (the power of attorney) 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 ITB21[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,” or “MODIFICATION;” and
 - (b) received by the PE prior to the deadline prescribed for submission of bids, in accordance with ITB 22.
- 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 as 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. If the withdrawal envelope does not contain a copy of the “power of attorney” confirming the signature as a person duly authorized to sign on behalf of the Bidder, the corresponding bid will be opened. 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 bids 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 Prices, per lot (contract) if applicable, including any discounts and alternative bids; the presence or absence of a Bid Security, 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 Price Schedules 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 25.1).
- 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 communication to all Bidders in accordance with ITB 40[Notification of Award].
- 26.2 Any effort by a Bidder to influence the PE in the evaluation 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 any Bidder wishes to contact the PE on any matter related to the bidding process, it should do so in writing.

- 27. Clarification of Bids**
- 27.1 To assist in the examination, evaluation, comparison of the bids, and qualification of the Bidders, the PE may, at its discretion, ask any Bidder for a clarification of its Bid. Any clarification submitted by a Bidder in respect to its Bid and 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 Arithmetical 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 Documents;
 - (b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Documents; and
 - (c) "Omission" is the failure to submit part or all of the information or documentation required in the Bidding Documents
- 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 ITB 11[Documents Comprising the Bid].
- 29.2 A substantially responsive Bid is one that meets the requirements of the Bidding Documents 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 Goods and Related Services specified in the Contract; or
 - (ii) limit in any substantial way, inconsistent with the Bidding Documents, the PE's rights or the Bidder's obligations under the 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[Documents Establishing the Eligibility and Conformity of Goods and Related Services] and ITB 17[Documents Establishing the Eligibility and Qualification of the Bidder], in particular, to

confirm that all requirements of Section VII [Schedule of Requirements] have been met without any material deviation or reservation, or omission.

- 29.4 If a bid is not substantially responsive to the requirements of Bidding Documents, 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 or omissions in the bid related to documentation requirements. Such omission 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.

**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) if there is a discrepancy between the unit price and the line item total that is obtained by multiplying the unit price by the quantity, the unit price shall prevail and the line item total 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 line item total 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 in a single currency as **specified in the BDS**.

- 33. Margin of Preference**
- 33.1 **Unless otherwise specified in the BDS,** a margin of preference shall not apply.
- 34. Evaluation of Bids**
- 34.1 The PE shall use the criteria and methodologies listed in this Clause. No other evaluation criteria or methodologies shall be permitted.
- 34.2 To evaluate a Bid, the PE shall consider the following:
- (a) evaluation will be done for Items or Lots (contracts), as **specified in the BDS;** and the Bid Price as quoted in accordance with clause 14[Bid Prices and Discounts];
 - (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 14.3[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 due to quantifiable nonmaterial nonconformities in accordance with ITB 30.3[Non-conformities, Errors and Omission];
 - (f) the additional evaluation factors are specified in Section IV[Evaluation and Qualification Criteria];
- 34.3 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.
- 34.4 If these Bidding Documents allows Bidders to quote separate prices for different lots (contracts), the methodology to determine the lowest evaluated price of the lot (contract) combinations, including any discounts offered in the Letter of Bid Form, is specified in Section IV[Evaluation and Qualification Criteria]
- 34.5 The PE's evaluation of a bid will exclude and not take into account:
- (a) in the case of Goods manufactured in the Country, sales and other similar taxes, which will be payable on the goods if a contract is awarded to the Bidder;
 - (b) in the case of Goods manufactured outside the Country, already imported or to be imported, customs duties and other import taxes levied on the imported Good, sales and other similar taxes, which will be payable on the Goods if the contract is awarded to the Bidder;

- (c) any allowance for price adjustment during the period of execution of the contract, if provided in the bid.

34.6 The PE's evaluation of a bid may require the consideration of other factors, in addition to the Bid Price quoted in accordance with ITB 14. These factors may be related to the characteristics, performance, and terms and conditions of purchase of the Goods and Related Services. The effect of the factors selected, if any, shall be expressed in monetary terms to facilitate comparison of bids, unless otherwise **specified in the BDS** from amongst those set out in Section IV, Evaluation and Qualification Criteria. The criteria and methodologies to be used shall be as specified in ITB 34.2 (f).

35. Comparison of Bids 35.1 The PE shall compare the evaluated prices of all substantially responsive bids established in accordance with ITB 34.2[Evaluation of Bids] to determine the lowest evaluated bid. The comparison shall be on the basis of CIP (place of final destination) prices for imported goods and EXW prices, plus cost of inland transportation and insurance to place of destination, for goods manufactured within the country, together with prices for any required installation, training, commissioning and other services. The evaluation of prices shall not take into account custom duties and other taxes levied on imported goods quoted CIP and sales and similar taxes levied in connection with the sale or delivery of goods.

36. Abnormally Low Bid 36.1 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.

36.2 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, source of goods, schedule, allocation of risks and responsibilities and any other requirements of the bidding document.

36.3 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

37. Qualification of the Bidder 37.1 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]

37.2 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[Documents Establishing the Eligibility and

Qualification 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

- 37.3 An affirmative determination 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.
- 38. PE's Right to Accept Any Bid, and to Reject Any or All Bids** 38.1 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.
- 39. Standstill Period** 39.1 The Contract shall not be awarded earlier than the expiry of the Standstill Period. The Standstill Period shall be ten (10) Working 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
- 40. Notification of Intention to Award** 40.1 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

- 41. Award Criteria** 41.1 Subject to ITB 37.1[PE's Right to Accept Any Bid, and to Reject Any or All Bids], 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 Documents, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.

42. PE's Right to Vary Quantities at Time of Award

42.1 At the time the Contract is awarded, the PE reserves the right to increase or decrease the quantity of Goods and Related Services originally specified in Section VIII[Schedule of Requirements], provided this does not exceed the percentages **specified in the BDS**, and without any change in the unit prices or other terms and conditions of the bid and the Bidding Documents.

43. Notification of Award

43.1 Prior to the expiration of the period of bid validity, the PE shall notify the successful Bidder, in writing, that its Bid has been accepted. The notification letter (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 Supplier in consideration of the supply of Goods (hereinafter and in the Conditions of Contract and Contract Forms called "the Contract Price"). At the same time, the PE shall also notify all other Bidders of the results of the bidding and shall the results identifying the bid and lot (contract) numbers and the following information:

- a) name of each Bidder who submitted a Bid;
- b) bid prices as read out at Bid Opening;
- c) name and evaluated prices of each Bid that was evaluated;
- d) name of bidders whose bids were rejected and the reasons for their rejection; and
- e) name of the successful Bidder, and the Price it offered, as well as the duration and summary scope of the contract awarded.

43.2 Until a formal Contract is prepared and executed, the notification of award shall constitute a binding Contract.

43.3 The PE shall promptly respond in writing to any unsuccessful Bidder who, after notification of award in accordance with ITB 40.1[Signing of Contract], requests in writing the grounds on which its bid was not selected.

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) Working 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) Working 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) Working Days after such debriefing is provided.

If more than one debriefing is so delayed, the standstill period shall not end earlier than five (5) Working 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) Working 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

45.5 Promptly after notification, the PE shall send the successful Bidder the Contract Agreement.

45.6 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 PE, the successful Bidder, if required, shall furnish the Performance Security in accordance with the GCC, subject to ITB 34.5, using for that purpose the Performance Security Form 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.

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

46.3 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]

46.4 Failure of the successful Bidder to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security. In that event the PE may award the Contract to the next lowest evaluated Bidder, whose bid is substantially responsive and is determined by the PE to be qualified to perform the Contract satisfactorily.

**47. Procurement
Related Complaint**

47.1 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)

The following specific data for the goods to be procured shall complement, supplement, or amend the provisions in the Instructions to Bidders (ITB). Whenever there is a conflict, the provisions herein shall prevail over those in ITB.

[Instructions for completing the Bid Data Sheet are provided, as needed, in the notes in italics mentioned for the relevant ITB Clauses.]

ITB Clause Reference	A. General
ITB 1.1	The reference number of the Invitation for Bids is : <i>[insert reference number of the Invitation for Bids]</i> _____
ITB 1.1	The PE is: <i>[insert name of the PE]</i> _____
ITB 1.1	The name of the ICB is: <i>[insert name of the ICB]</i> _____ The identification number of the ICB is: <i>[insert number of the ICB]</i> _____ The number and identification of lots (contracts) comprising this ICB is: <i>[insert number and identification of lots (contracts)]</i> _____
ITB 2.1	The PE is: <i>[insert name of the PE.. This insertion should correspond to the information provided in the Invitation for Bids]</i> _____
ITB 2.1	Loan or Financing Agreement amount: <i>[insert Amount]</i> _____
ITB 2.1	The name of the Project is: <i>[insert name of the project]</i> _____
ITB 4.1	Maximum number of members in the JV shall be: <i>[insert a number]</i> _____
IITB 4.4	A list of debarred firms and individuals is available on <i>[insert address in which a list can be obtained]</i>
	B. Contents of Bidding Documents
ITB 7.1	For Clarification of bid purposes only, the PE's address is: <i>[insert the corresponding information as required below. This address may be the same as or different from that specified under provision ITB 24.1 for bid submission]</i> Attention: [<i>[insert full name of person, if applicable]</i>] Address: <i>[insert street address and number]</i> Floor/ Room number: <i>[insert floor and room number, if applicable]</i> City:] <i>[insert name of city or town]</i>

	ZIP Code: <i>[insert postal (ZIP) code, if applicable]</i> Country: <i>_: [insert name of country]</i> Telephone: <i>[insert telephone number, including country and city codes]</i> Electronic mail address: <i>[insert email address, if applicable]</i> Requests for clarification should be received by the Employer no later than: <i>[insert no. of days].</i>
ITB 7.1	Web page: <i>[in case used, identify the widely used website or electronic portal of free access where bidding process information is published]</i> <hr/>
	C. Preparation of Bids
ITB 10.1	The language of the bid is: <i>[insert language].</i>
ITB 11.1 (j)	The Bidder shall submit the following additional documents in its bid: <i>[list any additional document not already listed in ITB Sub-Clause 11.1 that must be submitted with the Bid]</i>
ITB 13.1	Alternative Bids <i>[insert “shall be” or “shall not be”]</i> considered. <i>[If alternatives shall be considered, the methodology shall be defined in Section III – Evaluation and Qualification Criteria. See Section III for further details]:</i>
ITB 14.5	The prices quoted by the Bidder <i>[insert “shall “or “shall not”]</i> be subject to adjustment during the performance of the Contract.
ITB 14.6	Prices quoted for each lot (contract) shall correspond at least to <i>[insert figure]</i> percent of the items specified for each lot (contract). Prices quoted for each item of a lot shall correspond at least to <i>[insert figure]</i> percent of the quantities specified for this item of a lot.
ITB 14.7	The Incoterms edition is: <i>[insert relevant edition].</i>
ITB 14.8 (b) (i) and (c) (v)	Place of Destination: <i>[insert named Place of destination as per Incoterm used]</i>
ITB 14.8 (a) (iii);(b)(ii) and (c)(v)	“Final destination (Project Site)”: <i>[insert name of location where the Goods are to be actually used]</i>
ITB 15.1	The prices shall be quoted by the bidder in: <i>[insert the local currency if applicable].</i>

	The Bidder <i>[insert “is” or “is not”]</i> required to quote in the local currency the portion of the bid price that corresponds to expenditures incurred in that currency.
ITB 16.4	Period of time the Goods are expected to be functioning (for the purpose of spare parts): <i>[insert duration]</i>
ITB 17.2 (a)	Manufacturer’s authorization is: <i>[insert “required” or “not required”]</i>
ITB 17.2 (b)	After sales service is: <i>[insert “required” or “not required”]</i>
ITB 18.1	The bid validity period shall be <i>[insert a number of days that is a multiple of seven counting as of the deadline for bid submission]</i> days.
ITB 18.3 (a)	The bid price shall be adjusted by the following factor(s): _____ <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>
ITB 19.1	<i>[If a Bid Security shall be required, a Bid-Securing Declaration shall not be required, and vice versa.]</i> 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. 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”.] [In case of lots, please insert amount and currency of the Bid Security for each lot]</i> <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 if the amount of Bid Security is less than the total required amount, the PE 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	<p><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 PE 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></p> <p>If the Bidder incurs any of the actions prescribed in subparagraphs (a) or (b) of this provision, the Authority will declare the Bidder ineligible to be awarded contracts by the PE for a period of _____ years.</p> <p><i>[insert period of time]</i></p>
ITB 20.1	<p>In addition to the original of the bid, the number of copies is: <i>[insert number of copies]</i></p>
ITB 20.2	<p>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></p>
	<p style="text-align: center;">D. Submission and Opening of Bids</p>
ITB 22.1	<p>For bid submission purposes only, the PE's address is: <i>[This address may be the same as or different from that specified under provision ITB 7.1 for clarifications]</i></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/Postal Code: <i>[insert postal (ZIP) code, if applicable]</i></p> <p>Country: <i>[insert name of country]</i></p> <p>The deadline for bid submission is:</p> <p>Date: <i>[insert day, month, and year, i.e. 15 June, 2008]</i></p> <p>Time: <i>[insert time, and identify if a.m. or p.m., i.e. 10:30 a.m.]</i></p> <p><i>[The date and time should be the same as those provided in the Invitation for Bids, unless subsequently amended pursuant to Clause 22.2.]</i></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 <u>only</u> 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:</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>Country: <i>[insert name of country]</i></p> <p>Date: <i>[insert day, month, and year, i.e. 15 June, 2008]</i></p> <p>Time: <i>[insert time, and identify if a.m. or p.m. i.e. 10:30 a.m.] [Date and time should be the same as those given for the deadline for submission of bids (Clause 22).]</i></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 opening procedures shall be: <i>[insert a description of the electronic bidding opening procedures]</i></p>
ITB 25.3	<p>The Letter of Bid and Price Schedules shall be initialed by _____ <i>[insert number]</i> representatives of the PE conducting Bid opening. _____ <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: <i>[Insert name of currency]</i></p> <p>The source of exchange rate shall be: <i>[Insert name of the source of exchange rates]</i></p> <p>The date for the exchange rate shall be: <i>[insert day, month and year, i.e. 15 June, 2008 not earlier than 28 days prior to the deadline for submission of the Bids, nor later than the original date for the expiry of bid validity].</i></p>
ITB 33.1	<p><i>[The following provision should be included and the required corresponding information inserted only if the Procurement Plan authorizes the application of margin of preference and the PE intends to apply it to the subject contract. Otherwise omit]</i></p> <p>A margin of domestic preference <i>[insert either “shall” or “shall not”]</i> apply.</p> <p>If a margin of preference applies, the application methodology shall be defined in Section III – Evaluation and Qualification Criteria.</p>

ITB 34.2(a)	<p>Evaluation will be done for.....<i>[Select Items or Lots(contracts)]</i></p> <p>Note:</p> <p><i>[Select one of the two sample clauses below as appropriate</i></p> <p><i>Bids will be evaluated for each item and the Contract will comprise the item(s) awarded to the successful Bidder.</i></p> <p><i>Or</i></p> <p><i>Bids will be evaluated lot by lot. If a Price Schedule shows items listed but not priced, their prices shall be assumed to be included in the prices of other items. An item not listed in the Price Schedule shall be assumed to be not included in the bid, and provided that the bid is substantially responsive, the average price of the item quoted by substantially responsive bidders will be added to the bid price and the equivalent total cost of the bid so determined will be used for price comparison.]</i></p>
ITB 34.6	<p>The adjustments shall be determined using the following criteria, from amongst those set out in Section III, Evaluation and Qualification Criteria: <i>[refer to Schedule III, Evaluation and Qualification Criteria; insert complementary details if necessary]</i></p> <ul style="list-style-type: none"> (a) Deviation in Delivery schedule: <i>[insert Yes or No. If yes insert the adjustment factor]</i> (b) Deviation in payment schedule: <i>[insert Yes or No. If yes insert the adjustment factor]</i> (c) the cost of major replacement components, mandatory spare parts, and service: <i>[insert Yes or No. If yes, insert the Methodology and criteria]</i> (d) the availability in the Country of spare parts and after-sales services for the equipment offered in the bid <i>[insert Yes or No, If yes, insert the Methodology and criteria]</i> (e) the projected operating and maintenance costs during the life of the equipment <i>[insert Yes or No, If yes, insert the Methodology and criteria]</i> (f) the performance and productivity of the equipment offered; <i>[Insert Yes or No. If yes, insert the Methodology and criteria]</i> <p><i>[insert any other specific criteria]</i></p>

	F. Award of Contract
ITB 39.1	<p>The maximum percentage by which quantities may be increased is: <i>[insert percentage]</i></p> <p>The maximum percentage by which quantities may be decreased is: <i>[insert percentage]</i></p>

Section IV. Evaluation and Qualification Criteria

This Section contains all the criteria that the PE shall use to evaluate a bid and qualify the Bidders. in accordance with ITB 34 and ITB 36, no other factors, methods or criteria shall be used.

[The PE shall select the criteria deemed appropriate for the procurement process, insert the appropriate wording using the samples below or other acceptable wording, and delete the text in italics]

Contents

1. Margin of Preference (ITB 33).....	39
2. Evaluation (ITB 34)	39
3. Qualification (ITB 36)	42

1. Margin of Preference (ITB 33)

If the Bidding Data Sheet so specifies, the PE will grant a margin of preference to goods manufactured in the country for the purpose of bid comparison, in accordance with the procedures outlined in subsequent paragraphs.

Bids will be classified in one of three groups, as follows:

- (a) **Group A:** Bids offering goods manufactured in South Sudan, for which (i) labor, raw materials, and components from within South Sudan account for more than thirty (30) percent of the EXW price; and (ii) the production facility in which they will be manufactured or assembled has been engaged in manufacturing or assembling such goods at least since the date of bid submission.
- (b) **Group B:** All other bids offering Goods manufactured in South Sudan.
- (c) **Group C:** Bids offering Goods manufactured outside South Sudan that have been already imported or that will be imported.

To facilitate this classification by the PE, the Bidder shall complete whichever version of the Price Schedule furnished in the Bidding Documents is appropriate provided, however, that the completion of an incorrect version of the Price Schedule by the Bidder shall not result in rejection of its bid, but merely in the PE's reclassification of the bid into its appropriate bid group.

The PE will first review the bids to confirm the appropriateness of, and to modify as necessary, the bid group classification to which bidders assigned their bids in preparing their Bid Forms and Price Schedules.

All evaluated bids in each group will then be compared to determine the lowest evaluated bid of each group. Such lowest evaluated bids shall be compared with each other and if as a result of this comparison a bid from Group A or Group B is the lowest, it shall be selected for the award.

If as a result of the preceding comparison, the lowest evaluated bid is a bid from Group C, all bids from Group C shall be further compared with the lowest evaluated bid from Group A after adding to the evaluated price of goods offered in each bid from Group C, for the purpose of this further comparison only, an amount equal to 15% (fifteen percent) of the respective CIP bid price for goods to be imported and already imported goods. Both prices shall include unconditional discounts and be corrected for arithmetical errors. If the bid from Group A is the lowest, it shall be selected for award. If not, the lowest evaluated bid from Group C shall be selected as paragraph above."

2. Evaluation (ITB 34)

2.1. Evaluation Criteria (ITB 34.6)

The PE's evaluation of a bid may take into account, in addition to the Bid Price quoted in accordance with ITB Clause 14.8, one or more of the following factors as specified in ITB 34.2(f) and in BDS referring to ITB 34.6, using the following criteria and methodologies.

- (a) Delivery schedule. (as per Incoterms specified in the BDS)

The Goods specified in the List of Goods are required to be delivered within the acceptable time range (after the earliest and before the final date, both dates inclusive) specified in

Section VII, Schedule of Requirements. No credit will be given to deliveries before the earliest date, and bids offering delivery after the final date shall be treated as nonresponsive. Within this acceptable period, an adjustment, as specified in BDS 34.6, will be added, for evaluation purposes only, to the bid price of bids offering deliveries later than the "Earliest Delivery Date" specified in Section VII, Schedule of Requirements.

(b) Deviation in payment schedule. *[insert one of the following]*

(i) *Bidders shall state their bid price for the payment schedule outlined in the SCC. Bids shall be evaluated on the basis of this base price. Bidders are, however, permitted to state an alternative payment schedule and indicate the reduction in bid price they wish to offer for such alternative payment schedule. The PE may consider the alternative payment schedule and the reduced bid price offered by the Bidder selected on the basis of the base price for the payment schedule outlined in the SCC.*

or

(ii) *The SCC stipulates the payment schedule specified by the PE. If a bid deviates from the schedule and if such deviation is considered acceptable to the PE, the bid will be evaluated by calculating interest earned for any earlier payments involved in the terms outlined in the bid as compared with those stipulated in the SCC, at the rate per annum specified in BDS 34.6.*

(c) Cost of major replacement components, mandatory spare parts, and service. *[insert one of the following]*

(i) *The list of items and quantities of major assemblies, components, and selected spare parts, likely to be required during the initial period of operation specified in the BDS 16.4, is in the List of Goods. An adjustment equal to the total cost of these items, at the unit prices quoted in each bid, shall be added to the bid price, for evaluation purposes only.*

or

(ii) *The PE will draw up a list of high-usage and high-value items of components and spare parts, along with estimated quantities of usage in the initial period of operation specified in the BDS 16.4. The total cost of these items and quantities will be computed from spare parts unit prices submitted by the Bidder and added to the bid price, for evaluation purposes only.*

(d) Availability in the Country of spare parts and after sales services for equipment offered in the bid.

An adjustment equal to the cost to the PE of establishing the minimum service facilities and parts inventories, as outlined in BDS 34.6, if quoted separately, shall be added to the bid price, for evaluation purposes only.

(e) Projected operating and maintenance costs.

Operating and maintenance costs. An adjustment to take into account the operating and maintenance costs of the Goods will be added to the bid price, for evaluation purposes

only, if specified in BDS 34.6. The adjustment will be evaluated in accordance with the methodology specified in the BDS 34.6.

- (f) Performance and productivity of the equipment. *[insert one of the following]*
 - (i) Performance and productivity of the equipment. An adjustment representing the capitalized cost of additional operating costs over the life of the plant will be added to the bid price, for evaluation purposes if specified in the BDS 34.6. The adjustment will be evaluated based on the drop in the guaranteed performance or efficiency offered in the bid below the norm of 100, using the methodology specified in BDS 34.6.

or

- (ii) An adjustment to take into account the productivity of the goods offered in the bid will be added to the bid price, for evaluation purposes only, if specified in BDS 34.6. The adjustment will be evaluated based on the cost per unit of the actual productivity of goods offered in the bid with respect to minimum required values, using the methodology specified in BDS 34.6.
- (g) Specific additional criteria

Other specific additional criteria to be considered in the evaluation, and the evaluation method shall be detailed in BDS 34.6]

2.2. Multiple Contracts (ITB 34.4)

The PE shall award multiple contracts to the Bidder that offers the lowest evaluated combination of bids (one contract per bid) and meets the post-qualification criteria (this Section III, Sub-Section ITB 36.1 Post-Qualification Requirements)

The PE shall:

- (a) evaluate only lots or contracts that include at least the percentages of items per lot and quantity per item as specified in ITB 14.8
- (b) take into account:
 - (i) the lowest-evaluated bid for each lot and
 - (ii) the price reduction per lot and the methodology for its application as offered by the Bidder in its bid"

2.3. Alternative Bids (ITB 13.1)

An alternative if permitted under ITB 13.1, will be evaluated as follows:

[insert one of the following]

“A bidder may submit an alternative bid only with a bid for the base case. The PE shall only consider the alternative bids offered by the Bidder whose bid for the base case was determined to be the lowest-evaluated bid.”

or

“A bidder may submit an alternative bid with or without a bid for the base case. The PE shall consider bids offered for alternatives as specified in the Technical Specifications of Section VII, Schedule of Requirements. All bids received, for the base case, as well as alternative bids meeting the specified requirements, shall be evaluated on their own merits in accordance with the same procedures, as specified in the ITB 34.”

3. Qualification (ITB 36)

3.1 Post-qualification Requirements (ITB 36.1)

After determining the lowest-evaluated bid in accordance with ITB 35.1, the PE shall carry out the post-qualification of the Bidder in accordance with ITB 36, using only the requirements specified. Requirements not included in the text below shall not be used in the evaluation of the Bidder's qualifications.

(a) If Bidder is Manufacturer :

(i) Financial Capability

The Bidder shall furnish documentary evidence that it meets the following financial requirement(s): *[list the requirement(s) including period]*

(ii) Experience and Technical Capacity

The Bidder shall furnish documentary evidence to demonstrate that it meets the following experience requirement(s): *[list the requirement(s)]*

(iii) Documentary Evidence

The Bidder shall furnish documentary evidence to demonstrate that the Goods it offers meet the following usage requirement: *[list the requirement(s)]*

(b) If Bidder is not manufacturer:

If a Bidder is not a manufacturer, but is offering the Goods on behalf of the Manufacturer under Manufacturer's Authorization Form (Section IV, Bidding Forms), the Manufacturer shall demonstrate the above qualifications (i), (ii), (iii) and the Bidder shall demonstrate that it has successfully completed at least _____ contracts of similar goods *[insert number of contracts]* in the past _____ years *[insert number of years]*

Section V. Bidding Forms

Table of Forms

Letter of Bid	44
Bidder Information Form.....	47
Bidder's JV Members Information Form	48
Price Schedule: Goods Manufactured Outside the Country, to be Imported	50
Price Schedule: Goods Manufactured Outside the Country, already imported*	51
Price Schedule: Goods Manufactured in the Country	52
Price and Completion Schedule - Related Services	53
Form of Bid Security	54
Form of Bid Security (Bid Bond)	56
Form of Bid-Securing Declaration	57
Manufacturer's Authorization	58

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 PE]***

- (a) We have examined and have no reservations to the Bidding Documents, including Addenda issued in accordance with Instructions to Bidders (ITB 8[AMENDMENT OF BIDDING DOCUMENT])_____;
- (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 supply in conformity with the Bidding Documents and in accordance with the Delivery Schedules specified in the Schedule of Requirements the following Goods: ***[insert a brief description of the Goods and Related Services]***;
- (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 for a period of **[specify the number of calendar days]** days from the date fixed for the bid submission deadline in accordance with the Bidding Documents, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (h) If our bid is accepted, we commit to obtain a performance security/performance securing declaration 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;⁷
- (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 complete name of person signing the Bid]**

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]**

⁷ 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.

Bidder Information Form

[The Bidder shall fill in this Form in accordance with the instructions indicated below. No alterations to its format shall be permitted and no substitutions shall be accepted.]

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

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

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

Page _____ of _____ pages

1. Bidder's Name <i>[insert Bidder's legal name]</i>
2. In case of JV, legal name of each member : <i>[insert legal name of each member in JV]</i>
3. Bidder's actual or intended country of registration: <i>[insert actual or intended country of registration]</i>
4. Bidder's year of registration: <i>[insert Bidder's year of registration]</i>
5. Bidder's Address in country of registration: <i>[insert Bidder's legal address in country of registration]</i>
6. Bidder's Authorized Representative Information Name: <i>[insert Authorized Representative's name]</i> Address: <i>[insert Authorized Representative's Address]</i> Telephone/Fax numbers: <i>[insert Authorized Representative's telephone/fax numbers]</i> Email Address: <i>[insert Authorized Representative's email address]</i>
7. Attached are copies of original documents of <i>[check the box(es) of the attached original documents]</i> <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 PE
2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

Bidder's JV Members Information Form

[The Bidder shall fill in this Form in accordance with the instructions indicated below. The following table shall be filled in for the Bidder and for each member of a Joint Venture]].

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

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

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

Page _____ of _____ pages

1. Bidder's Name: <i>[insert Bidder's legal name]</i>
2. Bidder's JV Member's name: <i>[insert JV's Member legal name]</i>
3. Bidder's JV Member's country of registration: <i>[insert JV's Member country of registration]</i>
4. Bidder's JV Member's year of registration: <i>[insert JV's Member year of registration]</i>
5. Bidder's JV Member's legal address in country of registration: <i>[insert JV's Member legal address in country of registration]</i>
6. Bidder's JV Member's authorized representative information Name: <i>[insert name of JV's Member authorized representative]</i> Address: <i>[insert address of JV's Member authorized representative]</i> Telephone/Fax numbers: <i>[insert telephone/fax numbers of JV's Member authorized representative]</i> Email Address: <i>[insert email address of JV's Member authorized representative]</i>
7. Attached are copies of original documents of <i>[check the box(es) of the attached original documents]</i> <input type="checkbox"/> 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. <input type="checkbox"/> 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.

Price Schedule Forms

*[The Bidder shall fill in these Price Schedule Forms in accordance with the instructions indicated. The list of line items in column 1 of the **Price Schedules** shall coincide with the List of Goods and Related Services specified by the PE in the Schedule of Requirements.]*

Price Schedule: Goods Manufactured Outside the Country, to be Imported

(Group C bids, goods to be imported)						Date: _____ ICB No: _____		
Currencies in accordance with ITB 15						Alternative No: _____ Page N° _____ of _____		
1	2	3	4	5	6	7	8	9
Line Item N°	Description of Goods	Country of Origin	Delivery Date as defined by Incoterms	Quantity and physical unit	Unit price CIP <i>[insert place of destination]</i> in accordance with ITB 14.8(b)(i)	CIP Price per line item (Col. 5x6)	Price per line item for inland transportation and other services required in the country to convey the Goods to their final destination specified in BDS	Total Price per Line item (Col. 7+8)
<i>[insert number of the item]</i>	<i>[insert name of good]</i>	<i>[insert country of origin of the Good]</i>	<i>[insert quoted Delivery Date]</i>	<i>[insert number of units to be supplied and name of the physical unit]</i>	<i>[insert unit price CIP per unit]</i>	<i>[insert total CIP price per line item]</i>	<i>[insert the corresponding price per line item]</i>	<i>[insert total price of the line item]</i>
Total Price								

Name of Bidder *[insert complete name of Bidder]* Signature of Bidder *[signature of person signing the Bid]* Date *[Insert Date]*

Price Schedule: Goods Manufactured Outside the Country, already imported*

(Group C bids, Goods already imported) Currencies in accordance with ITB 15										Date: _____ ICB No: _____ Alternative No: _____ Page N° _____ of _____	
1	2	3	4	5	6	7	8	9	10	11	12
Line Item N°	Description of Goods	Country of Origin	Delivery Date as defined by Incoterms	Quantity and physical unit	Unit price including Custom Duties and Import Taxes paid, in accordance with ITB 14.8(c)(i)	Custom Duties and Import Taxes paid per unit in accordance with ITB 14.8(c)(ii) , [to be supported by documents]	Unit Price net of custom duties and import taxes, in accordance with ITB 148 (c) (iii) (Col. 6 minus Col.7)	Price per line item net of Custom Duties and Import Taxes paid, in accordance with ITB 14.8(c)(i) (Col. 5×8)	Price per line item for inland transportation and other services required in the country to convey the goods to their final destination, as specified in BDS in accordance with ITB 14.8 (c)(v)	Sales and other taxes paid or payable per item if Contract is awarded (in accordance with ITB 14.8(c)(iv)	Total Price per line item (Col. 9+10)
<i>[insert number of the item]</i>	<i>[insert name of Goods]</i>	<i>[insert country of origin of the Good]</i>	<i>[insert quoted Delivery Date]</i>	<i>[insert number of units to be supplied and name of the physical unit]</i>	<i>[insert unit price per unit]</i>	<i>[insert custom duties and taxes paid per unit]</i>	<i>[insert unit price net of custom duties and import taxes]</i>	<i>[insert price per line item net of custom duties and import taxes]</i>	<i>[insert price per line item for inland transportation and other services required in the country]</i>	<i>[insert sales and other taxes payable per item if Contract is awarded]</i>	<i>[insert total price per line item]</i>
Total Bid Price											

Name of Bidder *[insert complete name of Bidder]* Signature of Bidder *[signature of person signing the Bid]* Date *[insert date]*

* *[For previously imported Goods, the quoted price shall be distinguishable from the original import value of these Goods declared to customs and shall include any rebate or mark-up of the local agent or representative and all local costs except import duties and taxes, which have been and/or have to be paid by the Purchaser. For clarity the bidders are asked to quote the price including import duties, and additionally to provide the import duties and the price net of import duties which is the difference of those values.]*

Price Schedule: Goods Manufactured in the Country

Country _____		(Group A and B bids) Currencies in accordance with ITB 15				Date: _____ ICB No: _____ Alternative No: _____ Page N° _____ of _____			
1	2	3	4	5	6	7	8	9	10
Line Item N°	Description of Goods	Delivery Date as defined by Incoterms	Quantity and physical unit	Unit price EXW	Total EXW price per line item (Col. 4×5)	Price per line item for inland transportation and other services required in the Country to convey the Goods to their final destination	Cost of local labor, raw materials and components from with origin in the Country % of Col. 5	Sales and other taxes payable per line item if Contract is awarded (in accordance with ITB 14.8(a)(ii))	Total Price per line item (Col. 6+7)
<i>[insert number of the item]</i>	<i>[insert name of Good]</i>	<i>[insert quoted Delivery Date]</i>	<i>[insert number of units to be supplied and name of the physical unit]</i>	<i>[insert EXW unit price]</i>	<i>[insert total EXW price per line item]</i>	<i>[insert the corresponding price per line item]</i>	<i>[Insert cost of local labor, raw material and components from within the Purchase's country as a % of the EXW price per line item]</i>	<i>[insert sales and other taxes payable per line item if Contract is awarded]</i>	<i>[insert total price per item]</i>
Total Price									

Name of Bidder *[insert complete name of Bidder]* Signature of Bidder *[signature of person signing the Bid]* Date *[insert date]*

Price and Completion Schedule - Related Services

Currencies in accordance with ITB 15					Date: _____ ICB No: _____ Alternative No: _____ Page N° _____ of _____	
1	2	3	4	5	6	7
Service N°	Description of Services (excludes inland transportation and other services required in the country to convey the goods to their final destination)	Country of Origin	Delivery Date at place of Final destination	Quantity and physical unit	Unit price	Total Price per Service (Col. 5*6 or estimate)
<i>[insert number of the Service]</i>	<i>[insert name of Services]</i>	<i>[insert country of origin of the Services]</i>	<i>[insert delivery date at place of final destination per Service]</i>	<i>[insert number of units to be supplied and name of the physical unit]</i>	<i>[insert unit price per item]</i>	<i>[insert total price per item]</i>
Total Bid Price						

Name of Bidder *[insert complete name of Bidder]* Signature of Bidder *[signature of person signing the Bid]* Date *[insert date]*

Form of Bid Security

(Bank Guarantee)

[The bank shall fill in this Bank Guarantee Form in accordance with the instructions indicated.]

[Guarantor letterhead or SWIFT identifier code]

Beneficiary: *[PE to insert its name and address]*

Bid No.: *[PE to insert reference number for the Invitation for Bids]*

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

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 _____ under Invitation for Bids No. _____ ("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 _____ (_____) upon receipt by us of the Beneficiary's complying demand, supported by the Beneficiary's statement, whether in the demand itself or a separate signed document accompanying or identifying the demand, stating that either the Applicant:

- (a) has withdrawn its Bid during the period of bid validity set forth in the Applicant's Letter of Bid ("the Bid Validity Period"), or any extension thereto provided by the Applicant; or
- (b) having been notified of the acceptance of its Bid by the Beneficiary during the Bid Validity Period or any extension thereto provided by the Applicant, (i) has failed to execute the contract agreement, or (ii) has failed to furnish the 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 issued to the

Beneficiary in relation to such contract agreement; or (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 end of the Bid Validity Period.

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 PE]* as Obligee (hereinafter called "the PE") in the sum of *[amount of Bond]*⁸ *[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 or will submit a written Bid to the PE 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 during the period of bid validity set forth in the Principal's Letter of Bid ("the Bid Validity Period"), or any extension thereto provided by the Principal; or
- (b) having been notified of the acceptance of its Bid by the PE during the Bid Validity Period or any extension thereto provided by the Principal; (i) failed to execute the contract agreement; or (ii) has failed to furnish the Performance Security, in accordance with the Instructions to Bidders ("ITB") of the PE's bidding document.

then the Surety undertakes to immediately pay to the PE up to the above amount upon receipt of the PE's first written demand, without the PE having to substantiate its demand, provided that in its demand the PE 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 of the Bid Validity Period 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)

⁸ 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

[The Bidder shall fill in this Form in accordance with the instructions indicated.]

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

Bid No.: *[Insert Bid Number]*

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

To: *[complete name of PE]*

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 in any contract with the procuring entities in the Republic of South Sudan for the period of time of *[number of months or years]* starting on *[date]*, if we are in breach of our obligation(s) under the bid conditions, because we:

- (a) have withdrawn our Bid during the period of bid validity specified in the Letter of Bid; or
- (b) having been notified of the acceptance of our Bid by the PE during the period of bid validity,
 - (i) fail or refuse to execute the Contract; or (ii) fail or refuse to furnish the Performance Security, if required, 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 expiration of our Bid.

Name of the Bidder* _____

Name of the person duly authorized to sign the Bid on behalf of the Bidder** _____

Title of the person signing the Bid _____

Signature of the person named above _____

Date signed _____ day of _____, _____

*: 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 attached to 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.]

Manufacturer's Authorization

*[The Bidder shall require the Manufacturer to fill in this Form in accordance with the instructions indicated. This letter of authorization should be on the letterhead of the Manufacturer and should be signed by a person with the proper authority to sign documents that are binding on the Manufacturer. The Bidder shall include it in its bid, if so indicated in the **BDS**.]*

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

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 PE]*

WHEREAS

We *[insert complete name of Manufacturer]*, who are official manufacturers of *[insert type of goods manufactured]*, having factories at *[insert full address of Manufacturer's factories]*, do hereby authorize *[insert complete name of Bidder]* to submit a bid the purpose of which is to provide the following Goods, manufactured by us *[insert name and or brief description of the Goods]*, and to subsequently negotiate and sign the Contract.

We hereby extend our full guarantee and warranty in accordance with Clause 28 of the General Conditions of Contract, with respect to the Goods offered by the above firm.

Signed: *[insert signature(s) of authorized representative(s) of the Manufacturer]*

Name: *[insert complete name(s) of authorized representative(s) of the Manufacturer]*

Title: *[insert title]*

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

Section VI. Eligible Countries

Eligibility for the Provision of Goods

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: *[insert a list of the countries to apply the restriction or state "none"]*.

Under ITB 4.7(b) and 5.1: *[insert a list of the to apply the restriction or state "none"]*

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 attached⁹.

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Bidder: _____

Address: _____

⁹Signing 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 attached¹⁰ - 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 Tenderer: _____

Address: _____

¹⁰Signing 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 – Supply Requirements

Section VIII. Schedule of Requirements

Contents

1. List of Goods and Delivery Schedule	67
2. List of Related Services and Completion Schedule	68
3. Technical Specifications	69
4. Drawings	71
5. Inspections and Tests.....	72

Notes for Preparing the Schedule of Requirements

The Schedule of Requirements shall be included in the bidding documents by the PE, and shall cover, at a minimum, a description of the goods and services to be supplied and the delivery schedule.

The objective of the Schedule of Requirements is to provide sufficient information to enable bidders to prepare their bids efficiently and accurately, in particular, the Price Schedule, for which a form is provided in Section IV. In addition, the Schedule of Requirements, together with the Price Schedule, should serve as a basis in the event of quantity variation at the time of award of contract pursuant to ITB 41.

The date or period for delivery should be carefully specified, taking into account (a) the implications of delivery terms stipulated in the Instructions to Bidders pursuant to the *Incoterms* rules (i.e., EXW, or CIP, FOB, FCA terms—that “delivery” takes place when goods are delivered **to the carriers**), and (b) the date prescribed herein from which the PE’s delivery obligations start (i.e., notice of award, contract signature, opening or confirmation of the letter of credit).

1. List of Goods and Delivery Schedule

[The PE shall fill in this table, with the exception of the column "Bidder's offered Delivery date" to be filled by the Bidder]

Line Item N°	Description of Goods	Quantity	Physical unit	Final (Project Site) Destination as specified in BDS	Delivery (as per Incoterms) Date		
					Earliest Delivery Date	Latest Delivery Date	Bidder's offered Delivery date <i>[to be provided by the bidder]</i>
<i>[insert item No]</i>	<i>[insert description of Goods]</i>	<i>[insert quantity of item to be supplied]</i>	<i>[insert physical unit for the quantity]</i>	<i>[insert place of Delivery]</i>	<i>[insert the number of days following the date of effectiveness the Contract]</i>	<i>[insert the number of days following the date of effectiveness the Contract]</i>	<i>[insert the number of days following the date of effectiveness the Contract]</i>

2. List of Related Services and Completion Schedule

[This table shall be filled in by the PE. The Required Completion Dates should be realistic, and consistent with the required Goods Delivery Dates (as per Incoterms)]

Service	Description of Service	Quantity ¹	Physical Unit	Place where Services shall be performed	Final Completion Date(s) of Services
<i>[insert Service No]</i>	<i>[insert description of Related Services]</i>	<i>[insert quantity of items to be supplied]</i>	<i>[insert physical unit for the items]</i>	<i>[insert name of the Place]</i>	<i>[insert required Completion Date(s)]</i>

1. If applicable

3. Technical Specifications

The purpose of the Technical Specifications (TS), is to define the technical characteristics of the Goods and Related Services required by the PE. The PE shall prepare the detailed TS take into account that:

- *The TS constitute the benchmarks against which the PE will verify the technical responsiveness of bids and subsequently evaluate the bids. Therefore, well-defined TS will facilitate preparation of responsive bids by bidders, as well as examination, evaluation, and comparison of the bids by the PE.*
- *The TS shall require that all goods and materials to be incorporated in the goods be new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided for otherwise in the contract.*
- *The TS shall make use of best practices. Samples of specifications from successful similar procurements in the same country or sector may provide a sound basis for drafting the TS.*
- *Standardizing technical specifications may be advantageous, depending on the complexity of the goods and the repetitiveness of the type of procurement. Technical Specifications should be broad enough to avoid restrictions on workmanship, materials, and equipment commonly used in manufacturing similar kinds of goods.*
- *Standards for equipment, materials, and workmanship specified in the Bidding Documents shall not be restrictive. Recognized international standards should be specified as much as possible. Reference to brand names, catalogue numbers, or other details that limit any materials or items to a specific manufacturer should be avoided as far as possible. Where unavoidable, such item description should always be followed by the words “or substantially equivalent.” When other particular standards or codes of practice are referred to in the TS, whether from the Republic of South Sudan or from other eligible countries, a statement should follow other authoritative standards that ensure at least a substantially equal quality, then the standards mentioned in the TS will also be acceptable.*
- *Reference to brand names and catalogue numbers should be avoided as far as possible; where unavoidable the words “or at least equivalent” shall always follow such references.*
- *Technical Specifications shall be fully descriptive of the requirements in respect of, but not limited to, the following:*
 - (a) *Standards of materials and workmanship required for the production and manufacturing of the Goods.*
 - (b) *Detailed tests required (type and number).*
 - (c) *Other additional work and/or Related Services required to achieve full delivery/completion.*
 - (d) *Detailed activities to be performed by the Supplier, and participation of the PE thereon.*

(e) *List of detailed functional guarantees covered by the Warranty and the specification of the liquidated damages to be applied in the event that such guarantees are not met.*

- *The TS shall specify all essential technical and performance characteristics and requirements, including guaranteed or acceptable maximum or minimum values, as appropriate. Whenever necessary, the PE shall include an additional ad-hoc bidding form (to be an Attachment to the Bid Submission Sheet), where the Bidder shall provide detailed information on such technical performance characteristics in respect to the corresponding acceptable or guaranteed values.*

When the PE requests that the Bidder provides in its bid a part or all of the Technical Specifications, technical schedules, or other technical information, the PE shall specify in detail the nature and extent of the required information and the manner in which it has to be presented by the Bidder in its bid.

[If a summary of the Technical Specifications (TS) has to be provided, the PE shall insert information in the table below. The Bidder shall prepare a similar table to justify compliance with the requirements]

“Summary of Technical Specifications. *The Goods and Related Services shall comply with following Technical Specifications and Standards:*

<i>Item No</i>	<i>Name of Goods or Related Service</i>	<i>Technical Specifications and Standards</i>
<i>[insert item No]</i>	<i>[insert name]</i>	<i>[insert TS and Standards]</i>

Detailed Technical Specifications and Standards [whenever necessary].

[Insert detailed description of TS]

 _____”]

4. Drawings

These Bidding Documents includes *[insert “the following” or “no”]* drawings.

[If documents shall be included, insert the following List of Drawings]

List of Drawings		
Drawing Nr.	Drawing Name	Purpose

5. Inspections and Tests

The following inspections and tests shall be performed: *[insert list of inspections and tests]*

PART 3 – Contract and Contract Forms

Section IX. General Conditions of Contract

Table of Clauses

1. Definitions.....	77
2. Contract Documents	78
3. Fraud and Corruption.....	78
4. Interpretation	78
5. Language	79
6. Joint Venture, Consortium or Association	79
7. Eligibility	79
8. Notices	80
9. Governing Law	80
10. Settlement of Disputes	80
11. Inspections and Audits	81
12. Scope of Supply	81
13. Delivery and Documents.....	81
14. Supplier's Responsibilities.....	81
15. Contract Price	81
16. Terms of Payment.....	81
17. Taxes and Duties	82
18. Performance Security	82
19. Copyright.....	82
20. Confidential Information	83
21. Subcontracting.....	83
22. Specifications and Standards	84
23. Packing and Documents.....	84
24. Insurance.....	84
25. Transportation and Incidental Services	85
26. Inspections and Tests.....	85
27. Liquidated Damages.....	86
28. Warranty	86
29. Patent Indemnity	87

30. Limitation of Liability	88
31. Change in Laws and Regulations	89
32. Force Majeure	89
33. Change Orders and Contract Amendments	89
34. Extensions of Time	90
35. Termination	90
36. Assignment	91
37. Export Restriction	92

Section IX. General Conditions of Contract

1. Definitions

1.1 The following words and expressions shall have the meanings hereby assigned to them:

- a) "Contract" means the Contract Agreement entered into between the Purchaser and the Supplier, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein.
- b) "Contract Documents" means the documents listed in the Contract Agreement, including any amendments thereto.
- c) "Contract Price" means the price payable to the Supplier as specified in the Contract Agreement, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract.
- d) "Country" means the Republic of South Sudan
- e) "Day" means calendar day.
- f) "Completion" means the fulfillment of the Related Services by the Supplier in accordance with the terms and conditions set forth in the Contract.
- g) "GCC" means the General Conditions of Contract.
- h) "Goods" means all of the commodities, raw material, machinery and equipment, and/or other materials that the Supplier is required to supply to the Purchaser under the Contract.
- i) "Purchaser" means the entity purchasing the Goods and Related Services, as specified in the **SCC**.
- j) "Related Services" means the services incidental to the supply of the goods, such as insurance, installation, training and initial maintenance and other such obligations of the Supplier under the Contract.
- k) "SCC" means the Special Conditions of Contract.
- l) "Subcontractor" means any person, private or government entity, or a combination of the above, to whom any part of the Goods to be supplied or execution of any part of the Related Services is subcontracted by the Supplier.

m) "Supplier" means the person, private or government entity, or a combination of the above, whose bid to perform the Contract has been accepted by the Purchaser and is named as such in the Contract Agreement.

n) "The Project Site," where applicable, means the place named in the **SCC**.

2. Contract Documents

2.1 Subject to the order of precedence set forth in the Contract Agreement, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary, and mutually explanatory. The Contract Agreement shall be read as a whole.

3. Corrupt and Fraudulent Practices

3.1 The Government requires compliance with its policy in regard to corrupt and fraudulent practices as set forth in Appendix to the GCC.

3.2 The Purchaser requires the Supplier 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.

4. Interpretation

4.1 If the context so requires it, singular means plural and vice versa.

4.2 Incoterms

(a) Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of parties thereunder shall be as prescribed by Incoterms.

(b) The terms EXW, CIP, FCA, CFR and other similar terms, when used, shall be governed by the rules prescribed in the current edition of Incoterms specified in the **SCC** and published by the International Chamber of Commerce in Paris, France.

4.3 Entire Agreement

The Contract constitutes the entire agreement between the Purchaser and the Supplier and supersedes all communications, negotiations and agreements (whether written or oral) of the parties with respect thereto made prior to the date of Contract.

4.4 Amendment

No amendment or other variation of the Contract shall be valid unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each party thereto.

4.5 Nonwaiver

- (a) Subject to GCC Sub-Clause 4.5(b) below, no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.
- (b) Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

4.6 Severability

If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

5. Language

- 5.1 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Supplier and the Purchaser, shall be written in the language specified in the **SCC**. Supporting documents and printed literature that are part of the Contract may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified, in which case, for purposes of interpretation of the Contract, this translation shall govern.
- 5.2 The Supplier shall bear all costs of translation to the governing language and all risks of the accuracy of such translation, for documents provided by the Supplier.

6. Joint Venture, Consortium or Association

- 6.1 If the Supplier is a joint venture, consortium, or association, all of the parties shall be jointly and severally liable to the Purchaser for the fulfillment of the provisions of the Contract and shall designate one party to act as a leader with authority to bind the joint venture, consortium, or association. The composition or the constitution of the joint venture, consortium, or association shall not be altered without the prior consent of the Purchaser.

7. Eligibility

- 7.1 The Supplier and its Subcontractors shall have the nationality of an eligible country. A Supplier or Subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.
- 7.2 All Goods and Related Services to be supplied under the Contract shall have their origin in Eligible Countries. For the purpose of this Clause, origin means the country where the goods have been grown, mined,

cultivated, produced, manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components.

8. Notices

- 8.1 Any notice given by one party to the other pursuant to the Contract shall be in writing to the address specified in the **SCC**. The term “in writing” means communicated in written form with proof of receipt.
- 8.2 A notice shall be effective when delivered or on the notice’s effective date, whichever is later.

9. Governing Law

- 9.1 The Contract shall be governed by and interpreted in accordance with the laws of the Republic of South Sudan, unless otherwise specified in the **SCC**.
- 9.2 Throughout the execution of the Contract, the Purchaser shall comply with the import of goods and services prohibitions in the country when
- a) as a matter of law or official regulations, the Government prohibits commercial relations with that country; or
 - b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Government prohibits any import of goods from that country or any payments to any country, person, or entity in that country.

10 Settlement of Disputes

- 10.1 The Purchaser and the Supplier shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.
- 10.2 If, after twenty-eight (28) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Purchaser or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.
- 10.3 Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under the Contract. Arbitration proceedings shall be conducted in accordance with the rules of procedure **specified in the SCC**.
- 10.4 Notwithstanding any reference to arbitration herein,
- (a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and

	(b)	the Purchaser shall pay the Supplier any monies due the Supplier.
11. Inspections and Audits	11.1	The Supplier shall keep, and shall make all reasonable efforts to cause its Subcontractors to keep, accurate and systematic accounts and records in respect of the Goods in such form and details as will clearly identify relevant time changes and costs.
12. Scope of Supply	12.1	The Goods and Related Services to be supplied shall be as specified in the Schedule of Requirements.
13. Delivery and Documents	13.1	Subject to GCC Sub-Clause 33.1, the Delivery of the Goods and Completion of the Related Services shall be in accordance with the Delivery and Completion Schedule specified in the Schedule of Requirements. The details of shipping and other documents to be furnished by the Supplier are specified in the SCC .
14. Supplier's Responsibilities	14.1	The Supplier shall supply all the Goods and Related Services included in the Scope of Supply in accordance with GCC Clause 12, and the Delivery and Completion Schedule, as per GCC Clause 13.
15. Contract Price	15.1	Prices charged by the Supplier for the Goods supplied and the Related Services performed under the Contract shall not vary from the prices quoted by the Supplier in its bid, with the exception of any price adjustments authorized in the SCC .
16. Terms of Payment	16.1	The Contract Price, including any Advance Payments, if applicable, shall be paid as specified in the SCC .
	16.2	The Supplier's request for payment shall be made to the Purchaser in writing, accompanied by invoices describing, as appropriate, the Goods delivered and Related Services performed, and by the documents submitted pursuant to GCC Clause 13 and upon fulfillment of all other obligations stipulated in the Contract.
	16.3	Payments shall be made promptly by the Purchaser, but in no case later than sixty (60) days after submission of an invoice or request for payment by the Supplier, and after the Purchaser has accepted it.
	16.4	The currencies in which payments shall be made to the Supplier under this Contract shall be those in which the bid price is expressed.
	16.5	In the event that the Purchaser fails to pay the Supplier any payment by its due date or within the period set forth in the SCC , the Purchaser shall pay to the Supplier interest on the amount of such delayed payment at the rate shown in the SCC , for the period of delay until payment has been made in full, whether before or after judgment or arbitration award.

- 17. Taxes and Duties**
- 17.1 For goods manufactured outside the Country, the Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the Country.
- 17.2 For goods Manufactured within the country, the Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Purchaser.
- 17.3 If any tax exemptions, reductions, allowances or privileges may be available to the Supplier in the Country, the Purchaser shall use its best efforts to enable the Supplier to benefit from any such tax savings to the maximum allowable extent.

- 18. Performance Security**
- 18.1 If required as specified in the SCC, the Supplier shall, within fourteen (14) days of the notification of contract award, provide a performance security for the performance of the Contract in the amount specified in the **SCC**.
- 18.2 The proceeds of the Performance Security shall be payable to the Purchaser as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.
- 18.3 As specified in the SCC, the Performance Security, if required, shall be denominated in the currency(ies) of the Contract, or in a freely convertible currency acceptable to the Purchaser; and shall be in one of the format stipulated by the Purchaser in the **SCC**, or in another format acceptable to the Purchaser.
- 18.4 The Performance Security shall be discharged by the Purchaser and returned to the Supplier not later than twenty-eight (28) days following the date of Completion of the Supplier's performance obligations under the Contract, including any warranty obligations, unless specified otherwise in the **SCC**.

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.

- 19. Copyright**
- 19.1 The copyright in all drawings, documents, and other materials containing data and information furnished to the Purchaser by the

Supplier herein shall remain vested in the Supplier, or, if they are furnished to the Purchaser directly or through the Supplier by any third party, including suppliers of materials, the copyright in such materials shall remain vested in such third party

20. Confidential Information

- 20.1 The Purchaser and the Supplier shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract. Notwithstanding the above, the Supplier may furnish to its Subcontractor such documents, data, and other information it receives from the Purchaser to the extent required for the Subcontractor to perform its work under the Contract, in which event the Supplier shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Supplier under GCC Clause 20.
- 20.2 The Purchaser shall not use such documents, data, and other information received from the Supplier for any purposes unrelated to the contract. Similarly, the Supplier shall not use such documents, data, and other information received from the Purchaser for any purpose other than the performance of the Contract.
- 20.3 The obligation of a party under GCC Sub-Clauses 20.1 and 20.2 above, however, shall not apply to information that:
- (a) the Purchaser or Supplier need to share with other institutions participating in the financing of the Contract;
 - (b) now or hereafter enters the public domain through no fault of that party;
 - (c) can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party; or
 - (d) otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.
- 20.4 The above provisions of GCC Clause 20 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Supply or any part thereof.
- 20.5 The provisions of GCC Clause 20 shall survive completion or termination, for whatever reason, of the Contract.

21. Subcontracting

- 21.1 The Supplier shall notify the Purchaser in writing of all subcontracts awarded under the Contract if not already specified in the bid. Such notification, in the original bid or later shall not relieve the Supplier

from any of its obligations, duties, responsibilities, or liability under the Contract.

21.2 Subcontracts shall comply with the provisions of GCC Clauses 3 and 7.

22. Specifications and Standards

22.1 Technical Specifications and Drawings

- (a) The Goods and Related Services supplied under this Contract shall conform to the technical specifications and standards mentioned in Section VI, Schedule of Requirements and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the Goods' country of origin.
- (b) The Supplier shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designed by or on behalf of the Purchaser, by giving a notice of such disclaimer to the Purchaser.
- (c) Wherever references are made in the Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Schedule of Requirements. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the Purchaser and shall be treated in accordance with GCC Clause 33.

23. Packing and Documents

23.1 The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. During transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

23.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, specified in the **SCC**, and in any other instructions ordered by the Purchaser.

24. Insurance

24.1 Unless otherwise specified in the **SCC**, the Goods supplied under the Contract shall be fully insured—in a freely convertible currency from an eligible country—against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery, in accordance with the applicable Incoterms or in the manner specified in the **SCC**.

25. Transportation and Incidental Services

- 25.1 Unless otherwise specified in the **SCC**, responsibility for arranging transportation of the Goods shall be in accordance with the specified Incoterms.
- 25.2 The Supplier may be required to provide any or all of the following services, including additional services, if any, **specified in SCC**:
- (a) performance or supervision of on-site assembly and/or start-up of the supplied Goods;
 - (b) furnishing of tools required for assembly and/or maintenance of the supplied Goods;
 - (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied Goods;
 - (d) performance or supervision or maintenance and/or repair of the supplied Goods, for a period of time agreed by the parties, provided that this service shall not relieve the Supplier of any warranty obligations under this Contract; and
 - (e) training of the Purchaser's personnel, at the Supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied Goods.
- 25.3 Prices charged by the Supplier for incidental services, if not included in the Contract Price for the Goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services

26. Inspections and Tests

- 26.1 The Supplier shall at its own expense and at no cost to the Purchaser carry out all such tests and/or inspections of the Goods and Related Services as are specified in the **SCC**.
- 26.2 The inspections and tests may be conducted on the premises of the Supplier or its Subcontractor, at point of delivery, and/or at the Goods' final destination, or in another place in the Country as specified in the **SCC**. Subject to GCC Sub-Clause 26.3, if conducted on the premises of the Supplier or its Subcontractor, all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Purchaser.
- 26.3 The Purchaser or its designated representative shall be entitled to attend the tests and/or inspections referred to in GCC Sub-Clause 26.2, provided that the Purchaser bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.
- 26.4 Whenever the Supplier is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Purchaser. The Supplier shall obtain from any

relevant third party or manufacturer any necessary permission or consent to enable the Purchaser or its designated representative to attend the test and/or inspection.

- 26.5 The Purchaser may require the Supplier to carry out any test and/or inspection not required by the Contract but deemed necessary to verify that the characteristics and performance of the Goods comply with the technical specifications codes and standards under the Contract, provided that the Supplier's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of manufacturing and/or the Supplier's performance of its other obligations under the Contract, due allowance will be made in respect of the Delivery Dates and Completion Dates and the other obligations so affected.
- 26.6 The Supplier shall provide the Purchaser with a report of the results of any such test and/or inspection.
- 26.7 The Purchaser may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Purchaser, and shall repeat the test and/or inspection, at no cost to the Purchaser, upon giving a notice pursuant to GCC Sub-Clause 26.4.
- 26.8 The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Purchaser or its representative, nor the issue of any report pursuant to GCC Sub-Clause 26.6, shall release the Supplier from any warranties or other obligations under the Contract.

27. Liquidated Damages

- 27.1 Except as provided under GCC Clause 32, if the Supplier fails to deliver any or all of the Goods by the Date(s) of delivery or perform the Related Services within the period specified in the Contract, the Purchaser may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the **SCC** of the delivered price of the delayed Goods or unperformed Services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in those **SCC**. Once the maximum is reached, the Purchaser may terminate the Contract pursuant to GCC Clause 35.

28. Warranty

- 28.1 The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.

- 28.2 Subject to GCC Sub-Clause 22.1(b), the Supplier further warrants that the Goods shall be free from defects arising from any act or omission of the Supplier or arising from design, materials, and workmanship, under normal use in the conditions prevailing in the country of final destination.
- 28.3 Unless otherwise specified in the **SCC**, the warranty shall remain valid for twelve (12) months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the **SCC**, or for eighteen (18) months after the date of shipment from the port or place of loading in the country of origin, whichever period concludes earlier.
- 28.4 The Purchaser shall give notice to the Supplier stating the nature of any such defects together with all available evidence thereof, promptly following the discovery thereof. The Purchaser shall afford all reasonable opportunity for the Supplier to inspect such defects.
- 28.5 Upon receipt of such notice, the Supplier shall, within the period specified in the **SCC**, expeditiously repair or replace the defective Goods or parts thereof, at no cost to the Purchaser.
- 28.6 If having been notified, the Supplier fails to remedy the defect within the period specified in the **SCC**, the Purchaser may proceed to take within a reasonable period such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Purchaser may have against the Supplier under the Contract.

29. Patent Indemnity

- 29.1 The Supplier shall, subject to the Purchaser's compliance with GCC Sub-Clause 29.2, indemnify and hold harmless the Purchaser and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Purchaser may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract by reason of:

- (a) the installation of the Goods by the Supplier or the use of the Goods in the country where the Site is located; and
- (b) the sale in any country of the products produced by the Goods.

Such indemnity shall not cover any use of the Goods or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Contract, neither any infringement resulting from the use of the Goods or any part thereof, or any products produced thereby in

association or combination with any other equipment, plant, or materials not supplied by the Supplier, pursuant to the Contract.

- 29.2 If any proceedings are brought or any claim is made against the Purchaser arising out of the matters referred to in GCC Sub-Clause 29.1, the Purchaser shall promptly give the Supplier a notice thereof, and the Supplier may at its own expense and in the Purchaser's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.
- 29.3 If the Supplier fails to notify the Purchaser within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Purchaser shall be free to conduct the same on its own behalf.
- 29.4 The Purchaser shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such proceedings or claim, and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.
- 29.5 The Purchaser shall indemnify and hold harmless the Supplier and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Supplier may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Purchaser.

30 Limitation of Liability

- 30.1 Except in cases of criminal negligence or willful misconduct,
 - (a) the Supplier shall not be liable to the Purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Purchaser and
 - (b) the aggregate liability of the Supplier to the Purchaser, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the supplier to indemnify the purchaser with respect to patent infringement

**31. Change in Laws
and Regulations**

31.1 Unless otherwise specified in the Contract, if after the date of 28 days prior to date of Bid submission, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in the place of the country where the Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Supplier has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with GCC Clause 15.

32. Force Majeure

32.1 The Supplier shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

32.2 For purposes of this Clause, "Force Majeure" means an event or situation beyond the control of the Supplier that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Supplier. Such events may include, but not be limited to, acts of the Purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.

32.3 If a Force Majeure situation arises, the Supplier shall promptly notify the Purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the Purchaser in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

**33. Change Orders
and Contract
Amendments**

33.1 The Purchaser may at any time order the Supplier through notice in accordance GCC Clause 8, to make changes within the general scope of the Contract in any one or more of the following:

- (a) drawings, designs, or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Purchaser;
- (b) the method of shipment or packing;
- (c) the place of delivery; and
- (d) the Related Services to be provided by the Supplier.

- 33.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Delivery/Completion Schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this Clause must be asserted within twenty-eight (28) days from the date of the Supplier's receipt of the Purchaser's change order.
- 33.3 Prices to be charged by the Supplier for any Related Services that might be needed but which were not included in the Contract shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services.
- 33.4 Subject to the above, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties.

34. Extensions of Time

- 34.1 If at any time during performance of the Contract, the Supplier or its subcontractors should encounter conditions impeding timely delivery of the Goods or completion of Related Services pursuant to GCC Clause 13, the Supplier shall promptly notify the Purchaser in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier's time for performance, in which case the extension shall be ratified by the parties by amendment of the Contract.
- 34.2 Except in case of Force Majeure, as provided under GCC Clause 32, a delay by the Supplier in the performance of its Delivery and Completion obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 26, unless an extension of time is agreed upon, pursuant to GCC Sub-Clause 34.1.

35. Termination

- 35.1 Termination for Default
- (a) The Purchaser, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate the Contract in whole or in part:
- (i) if the Supplier fails to deliver any or all of the Goods within the period specified in the Contract, or within any extension thereof granted by the Purchaser pursuant to GCC Clause 34;
- (ii) if the Supplier fails to perform any other obligation under the Contract; or

- (iii) if the Supplier, in the judgment of the Purchaser has engaged in fraud and corruption, as defined in GCC Clause 3, in competing for or in executing the Contract.
- (b) In the event the Purchaser terminates the Contract in whole or in part, pursuant to GCC Clause 35.1(a), the Purchaser may procure, upon such terms and in such manner as it deems appropriate, Goods or Related Services similar to those undelivered or not performed, and the Supplier shall be liable to the Purchaser for any additional costs for such similar Goods or Related Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.

35.2 Termination for Insolvency.

- (a) The Purchaser may at any time terminate the Contract by giving notice to the Supplier if the Supplier becomes bankrupt or otherwise insolvent. In such event, termination will be without compensation to the Supplier, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the Purchaser

35.3 Termination for Convenience.

- (a) The Purchaser, by notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Purchaser's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.
- (b) The Goods that are complete and ready for shipment within twenty-eight (28) days after the Supplier's receipt of notice of termination shall be accepted by the Purchaser at the Contract terms and prices. For the remaining Goods, the Purchaser may elect:
 - (i) to have any portion completed and delivered at the Contract terms and prices; and/or
 - (ii) to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Related Services and for materials and parts previously procured by the Supplier.

36. Assignment

- 36.1 Neither the Purchaser nor the Supplier shall assign, in whole or in part, their obligations under this Contract, except with prior written consent of the other party.

- 37. Export Restriction** 37.1 Notwithstanding any obligation under the Contract to complete all export formalities, any export restrictions attributable to the Purchaser or to the use of the products/goods, systems or services to be supplied, which arise from trade regulations from a country supplying those products/goods, systems or services, and which substantially impede the Supplier from meeting its obligations under the Contract, shall release the Supplier from the obligation to provide deliveries or services, always provided, however, that the Supplier can demonstrate to the satisfaction of the Purchaser that it has completed all formalities in a timely manner, including applying for permits, authorizations and licenses necessary for the export of the products/goods, systems or services under the terms of the Contract. Termination of the Contract on this basis shall be for the Purchaser's convenience pursuant to Sub-Clause 35.3.

Section X. Special Conditions of Contract

The following Special Conditions of Contract (SCC) shall supplement and / or amend the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

[The Purchaser shall select insert the appropriate wording using the samples below or other acceptable wording, and delete the text in italics]

GCC 1.1(i)	The financing institution is: <i>[insert name of the financing institution]</i>
GCC 1.1(j)	The Purchaser is: <i>[Insert complete legal name of the Purchaser]</i>
GCC 1.1 (o)	The Project Site(s)/Final Destination(s) is/are: <i>[Insert name(s) and detailed information on the location(s) of the site(s)]</i>
GCC 4.2 (a)	The meaning of the trade terms shall be as prescribed by Incoterms. If the meaning of any trade term and the rights and obligations of the parties thereunder shall not be as prescribed by Incoterms, they shall be as prescribed by: <i>[exceptional; refer to other internationally accepted trade terms]</i>
GCC 4.2 (b)	The version edition of Incoterms shall be <i>[insert date of current edition]</i>
GCC 5.1	The language shall be: <i>[insert the name of the language]</i>
GCC 8.1	For notices , the Purchaser's address shall be: Attention: <i>[insert full name of person, if applicable]</i> Street Address: <i>[insert street address and number]</i> Floor/ Room number: <i>[insert floor and room number, if applicable]</i> City: <i>[insert name of city or town]</i> ZIP Code: <i>[insert postal ZIP code, if applicable]</i> Country: <i>[insert name of country]</i> Telephone: <i>[include telephone number, including country and city codes]</i> Facsimile number: <i>[insert facsimile number, including country and city codes]</i> Electronic mail address: <i>[insert e-mail address, if applicable]</i>
GCC 9.1	The governing law shall be the law of the Republic of South Sudan
GCC 10.2	The rules of procedure for arbitration proceedings pursuant to GCC Clause 10.2 shall be as follows:

[The bidding documents should contain one clause to be retained in the event of a Contract with a foreign Supplier and one clause to be retained in the event of a Contract with a Supplier who is a national of the Republic of South Sudan. At the time of finalizing the Contract, the respective applicable clause should be retained in the Contract. The following explanatory note should therefore be inserted as a header to GCC 10.2 in the bidding document.

“Clause 10.2 (a) shall be retained in the case of a Contract with a foreign Supplier and clause 10.2 (b) shall be retained in the case of a Contract with a national Supplier.”]

(a) Contract with foreign Supplier:

[For contracts entered into with foreign suppliers, International commercial arbitration may have practical advantages over other dispute settlement methods].

If the Purchaser chooses the UNCITRAL Arbitration Rules, the following sample clause should be inserted:

GCC 10.2 (a)—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.

If the Purchaser chooses the Rules of ICC, the following sample clause should be inserted:

GCC 10.2 (a)—All disputes arising in connection with the present Contract shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with said Rules.

If the Purchaser chooses the Rules of Arbitration Institute of Stockholm Chamber of Commerce, the following sample clause should be inserted:

GCC 10.2 (a)—Any dispute, controversy or claim arising out of or in connection with this Contract, or the breach termination or invalidity thereof, shall be settled by arbitration in accordance with the Rules of the Arbitration Institute of the Stockholm Chamber of Commerce.

If the Purchaser chooses the Rules of the London Court of International Arbitration, the following clause should be inserted:

GCC 10.2 (a)—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 Rules of the London Court of International Arbitration,

	<p>which rules are deemed to be incorporated by reference to this clause.</p> <p>(b) Contracts with national Supplier:</p> <p>In the case of a dispute between the Purchaser and a national Supplier, the dispute shall be referred to adjudication or arbitration in accordance with the laws of the Republic of South Sudan.</p>
GCC 13.1	<p>Details of Shipping and other Documents to be furnished by the Supplier are <i>[insert the required documents, such as a negotiable bill of lading, a non-negotiable sea way bill, an airway bill, a railway consignment note, a road consignment note, insurance certificate, Manufacturer's or Supplier's warranty certificate, inspection certificate issued by nominated inspection agency, Supplier's factory shipping details etc]</i>.</p> <p>The above documents shall be received by the Purchaser before arrival of the Goods and, if not received, the Supplier will be responsible for any consequent expenses.</p>
GCC 15.1	<p>The prices charged for the Goods supplied and the related Services performed <i>[insert "shall" or "shall not," as appropriate]</i> be adjustable.</p> <p>If prices are adjustable, the following method shall be used to calculate the price adjustment <i>[see attachment to these SCC for a sample Price Adjustment Formula]</i></p>
GCC 16.1	<p>Sample provision</p> <p>GCC 16.1—The method and conditions of payment to be made to the Supplier under this Contract shall be as follows:</p> <p>Payment for Goods supplied from abroad:</p> <p>Payment of foreign currency portion shall be made in (_____) <i>[currency of the Contract Price]</i> in the following manner:</p> <p>(i) Advance Payment: Ten (10) percent of the Contract Price shall be paid within thirty (30) days of signing of the Contract, and upon submission of claim and a bank guarantee for equivalent amount valid until the Goods are delivered and in the form provided in the bidding documents or another form acceptable to the Purchaser.</p> <p>(ii) On Shipment: Eighty (80) percent of the Contract Price of the Goods shipped shall be paid through irrevocable confirmed letter of credit opened in favor of the Supplier in a bank in its country, upon submission of documents specified in GCC Clause 12.</p>

	<p>(iii) On Acceptance: Ten (10) percent of the Contract Price of Goods received shall be paid within thirty (30) days of receipt of the Goods upon submission of claim supported by the acceptance certificate issued by the Purchaser.</p> <p>Payment of local currency portion shall be made in _____ [currency] within thirty (30) days of presentation of claim supported by a certificate from the Purchaser declaring that the Goods have been delivered and that all other contracted Services have been performed.</p> <p>Payment for Goods and Services supplied from within the country:</p> <p>Payment for Goods and Services supplied from within the country shall be made in _____ [currency], as follows:</p> <p>(i) Advance Payment: Ten (10) percent of the Contract Price shall be paid within thirty (30) days of signing of the Contract against a simple receipt and a bank guarantee for the equivalent amount and in the form provided in the bidding documents or another form acceptable to the Purchaser.</p> <p>(ii) On Delivery: Eighty (80) percent of the Contract Price shall be paid on receipt of the Goods and upon submission of the documents specified in GCC Clause 13.</p> <p>(iii) On Acceptance: The remaining ten (10) percent of the Contract Price shall be paid to the Supplier within thirty (30) days after the date of the acceptance certificate for the respective delivery issued by the Purchaser.</p>
GCC 16.5	<p>The payment-delay period after which the Purchaser shall pay interest to the supplier shall be [insert number] days.</p> <p>The interest rate that shall be applied is [insert number] %</p>
GCC 18.1	<p>A Performance Security [insert "shall" or "shall not" be required]</p> <p>[If a Performance Security is required, insert "the amount of the Performance Security shall be: [insert amount]</p> <p>[The amount of the Performance Security is usually expressed as a percentage of the Contract Price. The percentage varies according to the Purchaser's perceived risk and impact of non performance by the Supplier. A 10% percentage is used under normal circumstances]</p>

GCC 18.3	<p>If required, the Performance Security shall be in the form of : <i>[insert “a Demand Guarantee” or “a Performance Bond”]</i></p> <p>If required, the Performance security shall be denominated in <i>[insert “a freely convertible currency acceptable to the Purchaser” or “the currencies of payment of the Contract, in accordance with their portions of the Contract Price”]</i></p>
GCC 18.4	Discharge of the Performance Security shall take place: <i>[insert date if different from the one indicated in sub clause GCC 18.4]</i>
GCC 23.2	The packing, marking and documentation within and outside the packages shall be: <i>[insert in detail the type of packing required, the markings in the packing and all documentation required]</i>
GCC 24.1	<p>The insurance coverage shall be as specified in the Incoterms.</p> <p>If not in accordance with Incoterms, insurance shall be as follows:</p> <p><i>[insert specific insurance provisions agreed upon, including coverage, currency an amount]</i></p>
GCC 25.1	<p>Responsibility for transportation of the Goods shall be as specified in the Incoterms.</p> <p>If not in accordance with Incoterms, responsibility for transportations shall be as follows: <i>[insert “The Supplier is required under the Contract to transport the Goods to a specified place of final destination within the country, defined as the Project Site, transport to such place of destination in the s country, including insurance and storage, as shall be specified in the Contract, shall be arranged by the Supplier, and related costs shall be included in the Contract Price”; or any other agreed upon trade terms (specify the respective responsibilities of the Purchaser and the Supplier)]</i></p>
GCC 25.2	<p>Incidental services to be provided are:</p> <p><i>[Selected services covered under GCC Clause 25.2 and/or other should be specified with the desired features. The price quoted in the bid price or agreed with the selected Supplier shall be included in the Contract Price.]</i></p>
GCC 26.1	The inspections and tests shall be: <i>[insert nature, frequency, procedures for carrying out the inspections and tests]</i>
GCC 26.2	The Inspections and tests shall be conducted at: <i>[insert name(s) of location(s)]</i>
GCC 27.1	The liquidated damage shall be: <i>[insert number]% per week</i>
GCC 27.1	The maximum amount of liquidated damages shall be: <i>[insert number]%</i>
GCC 28.3	The period of validity of the Warranty shall be: <i>[insert number] days</i>

	<p>For purposes of the Warranty, the place(s) of final destination(s) shall be: <i>[insert name(s) of location(s)]</i></p> <p>Sample provision</p> <p>GCC 28.3—In partial modification of the provisions, the warranty period shall be _____ hours of operation or _____ months from date of acceptance of the Goods or (_____) months from the date of shipment, whichever occurs earlier. The Supplier shall, in addition, comply with the performance and/or consumption guarantees specified under the Contract. If, for reasons attributable to the Supplier, these guarantees are not attained in whole or in part, the Supplier shall, at its discretion, either:</p> <p>(a) make such changes, modifications, and/or additions to the Goods or any part thereof as may be necessary in order to attain the contractual guarantees specified in the Contract at its own cost and expense and to carry out further performance tests in accordance with SCC 4,</p> <p>or</p> <p>(b) pay liquidated damages to the Purchaser with respect to the failure to meet the contractual guarantees. The rate of these liquidated damages shall be (_____).</p> <p><i>[The rate should be higher than the adjustment rate used in the bid evaluation under ITB 34.2 (d)]</i></p>
GCC 28.5	The period for repair or replacement shall be: <i>[insert number(s)]</i> days.

Attachment: Price Adjustment Formula

If in accordance with GCC 15.1, prices shall be adjustable, the following method shall be used to calculate the price adjustment:

- 15.1 Prices payable to the Supplier, as stated in the Contract, shall be subject to adjustment during performance of the Contract to reflect changes in the cost of labor and material components in accordance with the formula:

$$P_1 = P_0 \left[a + b \frac{L_1}{L_0} + c \frac{M_1}{M_0} \right] - P_0$$

$$a+b+c = 1$$

in which:

- P_1 = adjustment amount payable to the Supplier.
- P_0 = Contract Price (base price).
- a = fixed element representing profits and overheads included in the Contract Price and generally in the range of five (5) to fifteen (15) percent.
- b = estimated percentage of labor component in the Contract Price.
- c = estimated percentage of material component in the Contract Price.
- L_0, L_1 = *labor indices applicable to the appropriate industry in the country of origin on the base date and date for adjustment, respectively.
- M_0, M_1 = *material indices for the major raw material on the base date and date for adjustment, respectively, in the country of origin.

The Bidder shall indicate the source of the indices and the base date indices in its bid.

The coefficients a , b , and c as specified by the Purchaser are as follows:

$a =$ *[insert value of coefficient]*

$b =$ *[insert value of coefficient]*

$c =$ *[insert value of coefficient]*

Base date = thirty (30) days prior to the deadline for submission of the bids.

Date of adjustment = *[insert number of weeks]* weeks prior to date of shipment (representing the mid-point of the period of manufacture).

The above price adjustment formula shall be invoked by either party subject to the following further conditions:

- (a) No price adjustment shall be allowed beyond the original delivery dates. As a rule, no price adjustment shall be allowed for periods of delay for which the Supplier is entirely

responsible. The Purchaser will, however, be entitled to any decrease in the prices of the Goods and Services subject to adjustment.

- (b) If the currency in which the Contract Price P_0 is expressed is different from the currency of origin of the labor and material indices, a correction factor will be applied to avoid incorrect adjustments of the Contract Price. The correction factor shall correspond to the ratio of exchange rates between the two currencies on the base date and the date for adjustment as defined above.
- (c) No price adjustment shall be payable on the portion of the Contract Price paid to the Supplier as advance payment.

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.

Table of Forms

1. Notice of Intention to Award	110
2. Letter of Acceptance	105
3. Contract Agreement	106
4. Performance Security (Bank Guarantee).....	108
. Performance Security (Insurance Bond)	119
5. Performance Securing Declaration	121
6. Advance Payment Security	113

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

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

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)
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[insert name]	[insert Bid price]	[insert evaluated price]
[insert name]	[insert Bid price]	[insert evaluated price]
[insert name]	[insert Bid price]	[insert evaluated price]
[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) Working 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 Working Days deadline, we will provide the debriefing within five (5) Working 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) Working 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) Working 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]*

Agency: *[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 (as described in Annex III).

6. Standstill Period

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

The Standstill Period lasts ten (10) Working 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 Purchaser:

Signature: _____

Name: _____

Title/position: _____

Telephone: _____

Email: _____

Letter of Acceptance

[letterhead paper of the Purchaser]

[date]

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

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 within 28 days in accordance with the
Conditions of Contract, using for that purpose the of the Performance Security Form included in
Section X, Contract Forms, of the Bidding Document.

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Agency: _____

Attachment: Contract Agreement

Contract Agreement

[The successful Bidder shall fill in this form in accordance with the instructions indicated]

THIS AGREEMENT made

the *[insert: **number**]* day of *[insert: **month**], [insert: **year**]*.

BETWEEN

- (1) *[insert complete name of Purchaser], a [insert description of type of legal entity, for example, an agency of the Ministry of of the Government of { insert name of Country of Purchaser }, or corporation incorporated under the laws of South Sudan]* and having its principal place of business at *[insert address of Purchaser]* (hereinafter called “the Purchaser”), of the one part, and
- (2) *[insert name of Supplier], a corporation incorporated under the laws of [insert: country of Supplier]* and having its principal place of business at *[insert: address of Supplier]* (hereinafter called “the Supplier”), of the other part :

WHEREAS the Purchaser invited bids for certain Goods and ancillary services, viz., *[insert brief description of Goods and Services]* and has accepted a Bid by the Supplier for the supply of those Goods and Services

The Purchaser and the Supplier 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) Minutes of Negotiations
 - (d) the Addenda Nos. _____ (if any)
 - (e) Special Conditions of Contract
 - (f) General Conditions of Contract
 - (g) the Specification (including Schedule of Requirements and Technical Specifications)
 - (h) the completed Schedules (including Price Schedules)
 - (i) any other document listed in GCC as forming part of the Contract

3. In consideration of the payments to be made by the Purchaser to the Supplier as specified in this Agreement, the Supplier hereby covenants with the Purchaser to provide the Goods and Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. The Purchaser hereby covenants to pay the Supplier in consideration of the provision of the Goods and Services and the remedying of defects therein, the Contract Price or such 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 the Republic of South Sudan on the day, month and year indicated above.

For and on behalf of the Purchaser

Signed: *[insert signature]*
in the capacity of *[insert title or other appropriate designation]*
in the presence of *[insert identification of official witness]*

For and on behalf of the Supplier

Signed: *[insert signature of authorized representative(s) of the Supplier]*
in the capacity of *[insert title or other appropriate designation]*
in the presence of *[insert identification of official witness]*

Performance Security

Option 1: (Bank Guarantee)

[The bank, as requested by the successful Bidder, shall fill in this form in accordance with the instructions indicated]

[Guarantor letterhead or SWIFT identifier code]

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

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 Supplier, 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 supply of *_ [insert name of contract and brief description of Goods and related Services]* (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, and denominated either in the currency(ies) 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 18.4. The Purchaser should note that in the event of an extension of this date for completion of the Contract, the Purchaser 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 Purchaser 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*

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.

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."

Option 2: Performance Bond

By this Bond *[insert name of Principal]* as Principal (hereinafter called "the Supplier") and *[insert name of Surety]* as Surety (hereinafter called "the Surety"), are held and firmly bound unto *[insert name of Purchaser]* as Obligee (hereinafter called "the Supplier") 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 Supplier 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 Purchaser dated the ____ day of _____, 20_____, for *[name of contract and brief description of Goods and related Services]* 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 Supplier 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 Supplier shall be, and declared by the Purchaser to be, in default under the Contract, the Purchaser having performed the Purchaser'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 Purchaser for completing the Contract in accordance with its terms and conditions, and upon determination by the Purchaser and the Surety of the lowest responsive Bidder, arrange for a Contract between such Bidder and Purchaser 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 Purchaser to Supplier under the Contract, less the amount properly paid by Purchaser to Contractor; or
- (3) pay the Purchaser the amount required by Purchaser 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 the issuing of the Taking-Over Certificate.

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

In testimony whereof, the Supplier 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 Declaration¹¹

Date: *[insert **date** (as day, month and year)]*
Contract No.: *[insert **Contract number**]*

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

I/We, the undersigned, declare that:

1. I/We understand that, according to your conditions, to guarantee the faithful performance by the Supplier 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 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 of Assets Act and Public Procurement and Disposal of Assets Regulations 2024 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 goods by the Purchaser.

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 Supplier**]*

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

Corporate Seal (where appropriate)

¹¹ Used as an alternative performance security for Contracts falling under exclusive Preference. It shall be submitted within fourteen (14) days after receiving the Letter of Acceptance.

Advance Payment Security

[Guarantor letterhead or SWIFT identifier code]

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

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 Supplier, 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 Goods and related Services]* (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 toward delivery of Goods; 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 Purchaser.*

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, has been certified for payment, or on the *[insert day]* day of *[insert month]*, 2 *[insert year]*, 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.

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[signature(s)]

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