

GOVERNMENT OF THE REPUBLIC OF SOUTH SUDAN



STANDARD BIDDING DOCUMENTS

Procurement of Non-Consulting Services

Trial Edition, Nov. 2024

Preface

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

This Standard Bidding Document (SBD) has been prepared by the South Sudan Public Procurement and Disposal of Assets Authority for use by Procuring Entities (PEs) in the procurement of Non-Consulting Services 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 non-consulting services 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.

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

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

Executive Director
South Sudan Public Procurement and Disposal of Assets Authority

Guidance Notes on the Use of this Standard Bidding Document

These guidance notes have been prepared by the Government of 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 Non-Consulting Services under International or National Competitive Bidding method and other procedures as appropriate. The PE should also refer to PPDA Act 2018 and PPDA Regulations, 2024

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

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

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

Parts and Sections of the SBD and how a PE should use them when preparing a particular bid document for Procurement of Non-Consulting Services are described hereunder

PART 1 – BIDDING PROCEDURES

Section I. Invitation for Bids

This section provides relevant information that enables potential bidders to decide whether or not to participate in the bidding process. The Invitation for Bids (IFB) shall include specific details such as the name of the PE, scope of works to be executed and deadline for bid submission. Likewise, information on how the bidding documents are to 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 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 Tenderer to perform the contract.

Section V: Bidding Forms

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

Section VI- Eligible Countries

This Section contains information regarding eligible countries.

Section VII - Fraud and Corruption

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

PART 2 – EMPLOYER’S REQUIREMENTS

Section VIII - Activity Schedule

This Section includes the List of Non-Consulting Services and Completion Schedules that describe the 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. The General Conditions of Contract (GCC) form a complete document expressing all the rights and obligations of the parties during the execution of the contract. **The text of the clauses in this Section shall not be modified.**

Section X. Special Conditions of Contract (SCC)

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

Section XI: Contract Forms

This Section contains forms which, once completed and submitted, will form part of the Contract. The forms for Performance Security or Securing Declaration shall be completed and submitted by successful Bidder before signing of the contract and when advance payment is required, Advance Payment Security shall be completed and submitted after contract signature.

Request for Bids Non-Consulting Services

Procurement of:
*{Insert identification of the Non-Consulting
Services}*

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

Procuring Entity: *[insert the name of the PE]*

Issued on: *[insert date when IFB was issued to the market]*

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Part I – Bidding Procedures

Section I: Invitation for Bids Non-Consulting Services

Procuring Entity: *[insert the name of the PE]*

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

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

Issued on: *[insert date when IFB is issued to the market]*

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 Procuring Entity]*** now invites sealed bids from eligible bidders for ***[insert brief description of Non-Consulting Services required, including scope, location, completion period, margin of preference if applicable, etc.]¹***
4. Bidding will be conducted through the International Competitive Bidding/National Competitive Bidding procedures as specified in the Public Procurement and Disposal of Assets Act, 2018 and Public Procurement and Disposal of Assets Regulations 2024.
5. Interested eligible Bidders may obtain further information from ***[insert name of PE, insert name and e-mail of officer in charge]*** and inspect the bidding documents during office hours ***[insert office hours if applicable i.e. 0900 to 1700 hours]*** at the address given below ***[state address at the end of this invitation]***
6. A complete set of bidding documents in ***[insert name of language]*** may be purchased by prequalified eligible bidders upon the submission of a written application to the address below and upon payment of a nonrefundable fee² of ***[insert amount in SSP or in a convertible currency]***. The

¹ A brief description of the type(s) of Non-Consulting Services should be provided, including scope, location of carrying out of the services, /completion 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.

² The fee chargeable should only be nominal to defray reproduction and mailing costs. .

method of payment will be [*insert method of payment*].³ The document will be sent by [*insert delivery procedure*].⁴

7. Bids must be delivered to the address below [*state address at the end of this invitation*]⁵ 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*]

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

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

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

³ For example, cashier's check, direct deposit to specified account number, etc.

⁴ 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..

⁵ Substitute the address for bid submission if it is different from address for inquiry and issuance of bidding documents.

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Section I - Instructions to Bidders

A. General

1. Scope of Bid

Section II - Instruction to Bidders

- 1.1 In connection with the Specific Procurement Notice - Invitation for Bids (IFB), specified in the Bid Data Sheet (BDS), the PE, as specified in the BDS, issues this bidding document for the delivery of Non-Consulting Services, as specified in Section VII, PE's Requirements. The name, identification and number of lots (contracts) of this IFB procurement are specified in the BDS.
- 1.2 Throughout this bidding document:
- (a) the term "in writing" means communicated in written form (e.g. by mail, e-mail, fax, including if specified in the BDS, distributed or received through the electronic-procurement system used by the PE) with proof of receipt;
 - (b) if the context so requires, "singular" means "plural" and vice versa; and
 - (c) "Day" means calendar day, unless otherwise specified as "Business Day". A Business Day is any day that is an official working day and excludes official public holidays;
 - (d) "ES" means environmental and social, as applicable, (including Sexual Exploitation and Abuse (SEA), and Sexual Harassment (SH));
 - (e) "Sexual Exploitation and Abuse" "(SEA)" means the following:

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

Sexual Abuse is defined as the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.
 - (f) "Sexual Harassment" "(SH)" is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by the Service Provider's Personnel with other Service Provider's or PE's Personnel;
 - (g) "Service Provider's Personnel" is as defined in GCC Sub-Clause 1.1; and
 - (h) "Employer's Personnel" is as defined in GCC Sub-Clause 1.1.
- A non-exhaustive list of (i) behaviors which constitute SEA and (ii) behaviors which constitute SH is attached to the Code of Conduct form in Section IV.
- 1.3 The successful Bidder will be expected to complete the performance of the Services by the Intended Completion Date provided in the BDS.

2. Source of Funds

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

or

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

B. Contents of Bidding Document

6. Sections of Bidding Document

Section II - Instruction to Bidders

6.1 The bidding document consists 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 9 [Amendment of Bidding Document].

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PART 1: Bidding Procedures

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

PART 2: Procuring Entity's Requirements

- Section VIII - PE's Requirements

PART 3: Contract

- Section IX - General Conditions of Contract (GCC)
- Section X - Special Conditions of Contract (SCC)
- Section XI - Contract Forms

6.2 The Invitation for Bids (IFB issued by the PE is not part of this bidding document.

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 9. In case of any contradiction, documents obtained directly from the PE shall prevail.

6.4 The Bidder is expected to examine all instructions, forms, terms, and specifications in the bidding document and to furnish with its Bid all information or documentation as is required by the bidding document.

7. Site Visit

7.1 The Bidder, at the Bidder's own responsibility and risk, is encouraged to visit and examine the locations of required Services and its surroundings and obtain all information that may be necessary for preparing the Bid and entering into a contract for the Services. The costs of visiting the locations of required Services and its surroundings shall be at the Bidder's own expense.

8. Clarification of Bidding Document

8.1 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 document in accordance with ITB 6.3 [Sections of Bidding Document], including a description of the inquiry but without identifying its source. If so specified **in the BDS**, the PE shall also promptly publish its response at the web page identified **in the BDS**. Should the clarification result in changes to the essential elements of the bidding document, the PE shall amend the bidding document following the procedure under ITB 9 [Amendment of Bidding Document] and ITB

C. Preparation of Bids

- | | |
|---|---|
| 10. Cost of Bidding | 10.1 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. |
| 11. Language of Bid | 11.1 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. |
| 12. Documents
Comprising the Bid | <p>12.1 The Bid shall comprise the following:</p> <ul style="list-style-type: none"> (a) Letter of Bid prepared in accordance with ITB 13 [Letter of Bid and Activity Schedule]; (b) Schedules: priced Activity Schedule completed in accordance with ITB 13 [Letter of Bid and Activity Schedule] and ITB 15 [Bid Prices and Discounts]; (c) Bid Security or Bid-Securing Declaration in accordance with ITB 20.1; (d) Alternative Bid: if permissible in accordance with ITB 14 [Alternative Bids]; (e) Authorization: written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB 21.3 [Format and Signing of Bid]; (f) Qualifications: documentary evidence in accordance with ITB 18 [Documents Establishing the Eligibility and Qualifications of the Bidder] establishing the Bidder's qualifications to perform the Contract if its Bid is accepted; (g) Bidder's Eligibility: documentary evidence in accordance with ITB 18 [Documents Establishing the Eligibility and Qualifications of the Bidder] establishing the Bidder's eligibility to Bid; (h) Conformity: documentary evidence in accordance with ITB 17 [Documents Establishing Conformity of Services], that the Services conform to the bidding document; and (i) any other document required in the BDS. <p>12.2 In addition to the requirements under ITB 12.1, 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</p> |

event of a successful Bid shall be signed by all members and submitted with the Bid, together with a copy of the proposed Agreement.

- 12.3 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.

13. Letter of Bid and Activity Schedule

- 13.1 The Letter of Bid and priced Activity Schedule 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 21.3 [Format and Signing of Bid]. All blank spaces shall be filled in with the information requested.

14. Alternative Bids

- 14.1 Unless otherwise indicated **in the BDS**, alternative Bids shall not be considered. If alternatives are permitted, only the technical alternatives, if any, of the Most Advantageous Bidder shall be considered by the PE.
- 14.2 When alternative times for completion are explicitly invited, a statement to that effect will be included **in the BDS** and the method of evaluating different time schedules will be described in Section IV, Evaluation and Qualification Criteria.
- 14.3 When specified **in the BDS**, Bidders are permitted to submit alternative technical solutions for specified parts of the Services, and such parts will be identified **in the BDS**, as will the method for their evaluating, and described in Section VIII, PE's Requirements.

15. Bid Prices and Discounts

- 15.1 The prices and discounts (including any price reduction) quoted by the Bidder in the Letter of Bid and in the Activity Schedule(s) shall conform to the requirements specified below.
- 15.2 All lots (contracts) and items must be listed and priced separately in the Activity Schedule(s).
- 15.3 The Contract shall be for the Services, as described in Appendix A to the Contract and in the Specifications, based on the priced Activity Schedule, submitted by the Bidder.
- 15.4 The Bidder shall quote any discounts and indicate the methodology for their application in the Letter of Bid in accordance with ITB 13.1 [Letter of Bid and Activity Schedule].
- 15.5 The Bidder shall fill in rates and prices for all items of the Services described in the in Specifications, and listed in the Activity Schedule in Section VIII, PE's Requirements. Items for which no rate or price is entered by the Bidder will not be paid for by the PE when executed and shall be deemed covered by the other rates and prices in the Activity Schedule.
- 15.6 All duties, taxes, and other levies payable by the Service Provider under the Contract, or for any other cause, as of the date 28 days prior to the deadline

for submission of Bids, shall be included in the total Bid price submitted by the Bidder.

15.7 If provided for **in the BDS**, the rates and prices quoted by the Bidder shall be subject to adjustment during the performance of the Contract in accordance with and the provisions of Clause 6.6 of the General Conditions of Contract and/or Special Conditions of Contract. The Bidder shall submit with the Bid all the information required under the Special Conditions of Contract and of the General Conditions of Contract.

15.8 For the purpose of determining the remuneration due for additional Services, a breakdown of the lump-sum price shall be provided by the Bidder in the form of Appendices D and E to the Contract.

16. Currencies of Bid and Payment

16.1 The currency(ies) of the Bid and the currency(ies) of payments shall be the same. 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**.

16.2 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.

16.3 Bidders may be required by the PE to justify their foreign currency requirements and to substantiate that the amounts included in the Lump-sum are reasonable and responsive to ITB 16.1 and 16.2.

17. Documents Establishing Conformity of Services

17.1 To establish the conformity of the Non-Consulting Services to the bidding document, the Bidder shall furnish as part of its Bid the documentary evidence that Services provided conform to the technical specifications and standards specified in Section VIII, PE's Requirements.

17.2 Standards for provision of the Non-Consulting Services are intended to be descriptive only and not restrictive. The Bidder may offer other standards of quality 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, PE's Requirements.

18. Documents Establishing the Eligibility and Qualifications of the Bidder

18.1 To establish Bidder's their eligibility in accordance with ITB 4 [Eligible Bidders], Bidders shall complete the Letter of Bid, included in Section V, Bidding Forms.

18.2 The documentary evidence of the Bidder's qualifications to perform the Contract if its Bid is accepted shall establish to the PE's satisfaction that the Bidder meets each of the qualification criterion specified in Section IV, Evaluation and Qualification Criteria.

18.3 All Bidders shall provide in Section V, Bidding Forms, a preliminary description of the proposed methodology, work plan and schedule.

- 18.4 In the event that prequalification of Bidders has been undertaken as stated **in the BDS**, only Bids from prequalified Bidders shall be considered for award of Contract. These qualified Bidders should submit with their Bids any information updating their original prequalification applications or, alternatively, confirm in their Bids that the originally submitted prequalification information remains essentially correct as of the date of Bid submission.
- 18.5 If prequalification has not taken place before Bidding, the qualification criteria for the Bidders are specified in Section IV, Evaluation and Qualification Criteria.
- 19. Period of Validity of Bids**
- 19.1 Bids shall remain valid until the date specified **in the BDS** or any extended date if amended by the PE in accordance with ITB 9 [Amendment of Bidding Document]. A Bid that is not valid until the date specified **in the BDS**, or any extended date if amended by the PE in accordance with ITB 9, shall be rejected by the PE as nonresponsive.
- 19.2 In exceptional circumstances, prior to the date of expiration of the Bid validity, the PE may request Bidders to extend the period of validity of their Bids. The request and the responses shall be made in writing. If a Bid Security is requested in accordance with ITB 20 [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 19.3.
- 19.3 If the award is delayed by a period exceeding fifty-six (56) days beyond the expiry of the initial bid validity specified in accordance with ITB 19.1, 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; or
 - (c) in any case, Bid evaluation shall be based on the Bid price without taking into consideration the applicable correction from those indicated above.
- 20. Bid Security**
- 20.1 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**.
- 20.2 A Bid Securing Declaration shall use the form included in Section V, Bidding Forms.
- 20.3 If a Bid Security is specified pursuant to ITB 20.1, the Bid Security shall be a demand guarantee, and in any of the following forms at the Bidder's option:

- (a) an unconditional guarantee issued by a bank or non-bank 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 V, Bidding Forms, or in another substantially similar format approved by the PE prior to Bid submission. The Bid Security shall be valid for twenty-eight (28) days beyond the original date of expiry of the Bid validity, or beyond any extended date if requested under ITB 19.2 [Period of Validity of Bids].

- 20.4 If a Bid Security is specified pursuant to ITB 20.1, any Bid not accompanied by a substantially responsive Bid Security shall be rejected by the PE as non-responsive.
- 20.5 If a Bid Security is specified pursuant to ITB 20.1, 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 46.
- 20.6 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.
- 20.7 The Bid Security may be forfeited:
 - (a) if a Bidder withdraws its Bid prior to the expiry date of the Bid validity specified by the Bidder on the Letter of Bid or any extended date provided by the Bidder; or
 - (b) if the successful Bidder fails to:
 - (i) sign the Contract in accordance with ITB 45; or
 - (ii) furnish a performance security in accordance with ITB 46.
- 20.8 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 and ITB 12.2.
- 20.9 If a Bid Securing Declaration is required as stated in the BDS, pursuant to ITB 20.1, 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.

21. Format and Signing of Bid

- 21.1 The Bidder shall prepare one original of the documents comprising the Bid as described in ITB 12 [Documents Comprising the Bid], bound with the volume containing the Form of Bid, and clearly marked "Original." In addition, the Bidder shall submit copies of the Bid, in the number specified **in the BDS**, and clearly marked as "Copies." In the event of discrepancy between them, the original shall prevail.
- 21.2 Bidders shall mark as "CONFIDENTIAL" information in their Bids which is confidential to their business. This may include proprietary information, trade secrets, or commercial or financially sensitive information.
- 21.3 The original and all copies of the Bid shall be typed or written in indelible ink and shall be signed by a person or persons 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.
- 21.4 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.
- 21.5 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

22. Sealing and Marking of Bids

- 22.1 The Bidder shall deliver the Bid in a single, sealed envelope. Within the single envelope the Bidder shall place the following separate, sealed envelopes:

- (a) in an envelope marked “ORIGINAL”, all documents comprising the Bid, as described in ITB 12 [Documents Comprising the Bid]; and
- (b) in an envelope marked “COPIES”, all required copies of the Bid; and
- (c) if alternative Bids are permitted in accordance with ITB 14 [Alternative Bids], and if relevant:
 - (i) in an envelope marked “ ORIGINAL - ALTERNATIVE BID”, the alternative Bid; and
 - (ii) in the envelope marked “COPIES – ALTERNATIVE BID” all required copies of the alternative Bid.

22.2 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 23.1 [Deadline for Submission of Bids];
- (c) bear the specific identification of this Bidding process specified in accordance with BDS 1.1; and
- (d) bear a warning not to open before the time and date for Bid opening.

22.3 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.

23. Deadline for Submission of Bids

23.1 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**.

23.2 The PE may, at its discretion, extend the deadline for the submission of Bids by amending the bidding document in accordance with ITB 9 [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.

24. Late Bids

24.1 The PE shall not consider any Bid that arrives after the deadline for submission of Bids, in accordance with ITB 23 [Deadline for Submission of Bids]. Any Bid received by the PE after the deadline for submission of Bids shall be declared late, rejected, and returned unopened to the Bidder.

25. Withdrawal, Substitution and Modification of Bids

25.1 A Bidder may withdraw, substitute, or modify its Bid after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITB 21.3 [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 21 [Format and Signing of Bid] and ITB 22 (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 23 [Deadline for Submission of Bids].

25.2 Bids requested to be withdrawn in accordance with ITB 25.1 shall be returned unopened to the Bidders.

25.3 No Bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of Bids and the date of expiry of the Bid validity specified by the Bidder on the Letter of Bid or any extended date thereof.

26. Bid Opening

26.1 Except as in the cases specified in ITB 23 [Deadline for Submission of Bids] and ITB 25.2 [Withdrawal, Substitution and Modification of Bids], the PE shall, at the Bid opening, publicly open and read out 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 23.1 [Deadline for Submission of Bids], shall be as specified **in the BDS**.

26.2 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.

26.3 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.

26.4 Next, 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.

26.5 Next, all remaining 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 or Bid-Securing Declaration, if required; and any other details as the PE may consider appropriate.

- 26.6 Only Bids, alternative Bids and discounts that are opened and read out at Bid opening shall be considered further. The Letter of Bid and the priced Activity Schedule are to be initialed by representatives of the PE attending Bid opening in the manner specified in the **BDS**.
- 26.7 The PE shall neither discuss the merits of any Bid nor reject any Bid except for late Bids, in accordance with ITB 24.1 [Late Bids].
- 26.8 The PE shall prepare a record of the Bid opening that shall include, as a minimum:
- (a) the name of the Bidder and whether there is a withdrawal, substitution, or modification;
 - (b) the Bid Price, per lot (contract) if applicable, including any discounts; and
 - (c) any alternative Bids;
 - (d) the presence or absence of a Bid Security or Bid-Securing Declaration, if one was required.
- 26.9 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

27. Confidentiality

- 27.1 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 the Intention to Award the Contract is transmitted to all Bidders in accordance with ITB 41 [Notification of Intention to Award the Contract].
- 27.2 Any effort by a Bidder to influence the PE in the evaluation or contract award decisions may result in the rejection of its Bid.
- 27.3 Notwithstanding ITB 27.2, 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.

28. Clarification of Bids

- 28.1 To assist in the examination, evaluation, and comparison of Bids, and qualification of the Bidders, the PE may, at the PE's discretion, ask any Bidder for clarification of its Bid including breakdowns of the prices in the Activity Schedule, and other information that the PE may require. 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 32 [Correction of Arithmetical Errors].

28.2 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.

**29. Deviations,
Reservations, and
Omissions**

29.1 During the evaluation of Bids, the following definitions apply:

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

**30. Determination of
Responsiveness**

30.1 The PE's determination of a Bid's responsiveness is to be based on the contents of the Bid itself, as defined in ITB 12 [Documents Comprising the Bid].

30.2 A substantially responsive Bid is one that meets the requirements of the bidding document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:

- (a) if accepted, would:
 - (i) affect in any substantial way the scope, quality, or performance of the Non-Consulting Services specified in the Contract; or
 - (ii) limit in any substantial way, inconsistent with the bidding document, the PE's rights or the Bidder's obligations under the Contract; or
- (b) if rectified, would unfairly affect the competitive position of other Bidders presenting substantially responsive Bids.

30.3 The PE shall examine the technical aspects of the Bid submitted in accordance with ITB 17 [Documents Establishing Conformity of Services] and ITB 18 [Documents Establishing the Eligibility and Qualifications of the Bidder], in particular, to confirm that all requirements of Section VIII, PE's Requirements have been met without any material deviation or reservation, or omission.

- 30.4 If a Bid is not substantially responsive to the requirements of bidding document, it shall be rejected by the PE and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.
- 31. Nonconformities, Errors and Omissions**
- 31.1 Provided that a Bid is substantially responsive, the PE may waive any nonconformities in the Bid.
- 31.2 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. Requesting information or documentation on such nonconformities shall not be related to any aspect of the price of the Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid.
- 31.3 Provided that a Bid is substantially responsive, the PE shall rectify quantifiable nonmaterial nonconformities related to the Bid Price. To this effect, the Bid Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component by adding the average price of the item or component quoted by substantially responsive Bidders. If the price of the item or component cannot be derived from the price of other substantially responsive Bids, the PE shall use its best estimate.
- 32. Correction of Arithmetical Errors**
- 32.1 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.
- 32.2 Bidders shall be requested to accept correction of arithmetical errors. Failure to accept the correction in accordance with ITB 32.1, shall result in the rejection of the Bid.
- 33. Conversion to Single Currency**
- 33.1 For evaluation and comparison purposes, the currency(ies) of the Bid shall be converted in a single currency as specified in the BDS.

- 34. Margin of Preference** 34.1 Unless otherwise specified in the BDS, a margin of preference for domestic bidders¹ shall not apply.
- 35. Evaluation of Bids** 35.1 The PE shall use the criteria and methodologies listed in this ITB and Section IV, Evaluation and Qualification Criteria. No other evaluation criteria or methodologies shall be permitted. By applying the criteria and methodologies, the PE shall determine the Most Advantageous Bid. This is the Bid of the Bidder that meets the qualification criteria and whose Bid has been determined to be:
- (a) substantially responsive to the bidding document; and
 - (b) the lowest evaluated cost.
- 35.2 In evaluating the Bids, the PE will determine for each Bid the evaluated Bid cost by adjusting the Bid price as follows:
- (a) price adjustment for correction of arithmetic errors in accordance with ITB 32.1 [Correction of Arithmetical Errors];
 - (b) price adjustment due to discounts offered in accordance with ITB 15.4 [Bid Prices and Discounts];
 - (c) converting the amount resulting from applying (a) and (b) above, if relevant, to a single currency in accordance with ITB 33 [Conversion to Single Currency];
 - (d) price adjustment due to quantifiable nonmaterial nonconformities in accordance with ITB 31.3 [Nonconformities, Errors and Omissions];
 - (e) excluding provisional sums and the provision, if any, for contingencies in the Activity Schedule but including Daywork, when requested in the Specifications; and
 - (f) the additional evaluation factors are specified in Section IV, Evaluation and Qualification Criteria.
- 35.3 The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be taken into account in Bid evaluation.
- 35.4 If this bidding document allows Bidders to quote separate prices for different lots (contracts), the methodology to determine the lowest evaluated cost of the lot (contract) combinations, including any discounts

¹ An individual firm is considered a domestic bidder for purposes of the margin of preference if it is registered in the Republic of South Sudan, has more than 50 percent ownership by nationals of the Republic of South Sudan, and if it does not subcontract more than 10 percent of the contract price, excluding provisional sums, to foreign contractors. JVs are considered as domestic bidders and eligible for domestic preference only if the individual member firms are registered in the Republic of South Sudan or have more than 50 percent ownership by nationals of the Republic of South Sudan, and the JV shall be registered in the Republic of South Sudan. The JV shall not subcontract more than 10 percent of the contract price, excluding provisional sums, to foreign firms. JVs between foreign and national firms will not be eligible for domestic preference.

offered in the Letter of Bid, is specified in Section IV, Evaluation and Qualification Criteria.

36. Comparison of Bids

- 36.1 The PE shall compare the evaluated costs of all substantially responsive Bids established in accordance with ITB 35.2 [Evaluation of Bids] to determine the Bid that has the lowest evaluated cost.

37. Abnormally Low Bids

- 37.1 An Abnormally Low Bid is one where the Bid price, in combination with other constituent elements of the Bid, appears unreasonably low to the extent that the Bid price raises material concerns as to the capability of the Bidder to perform the Contract for the offered Bid price.
- 37.2 In the event of identification of a potentially Abnormally Low Bid, the PE shall seek written clarifications from the Bidder, including detailed price analyses of its Bid price in relation to the subject matter of the contract, scope, proposed methodology, schedule, allocation of risks and responsibilities and any other requirements of the bidding document.
- 37.3 After evaluation of the price analyses, in the event that the PE determines that the Bidder has failed to demonstrate its capability to perform the Contract for the offered Bid Price, the PE shall reject the Bid.

38. Qualification of the Bidder

- 38.1 The PE shall determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated cost and substantially responsive Bid is eligible and meets the qualifying criteria specified in Section IV, Evaluation and Qualification Criteria.
- 38.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB 18. The determination shall not take into consideration the qualifications of other firms such as the Bidder's subsidiaries, parent entities, affiliates, subcontractors or any other firm(s) different from the Bidder that submitted the Bid.
- 38.3 Prior to Contract award, the PE will verify that the successful Bidder (including each member of a JV) is not disqualified by the PE due to noncompliance with contractual SEA/SH prevention and response obligations. The PE will conduct the same verification for each subcontractor proposed by the successful Bidder. If any proposed subcontractor does not meet the requirement, the PE will require the Bidder to propose a replacement subcontractor.
- 38.4 An affirmative determination 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 Bidder who offers a substantially responsive Bid with the next lowest evaluated cost to make a similar determination of that Bidder's qualifications to perform satisfactorily.

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| 39. PE's Right to Accept Any Bid, and to Reject Any or All Bids | 39.1 The PE reserves the right to accept or reject any Bid, and to annul the Bidding process and reject all Bids at any time prior to Contract Award, without thereby incurring any liability to Bidders. In case of annulment, all Bids submitted and specifically, Bid securities, shall be promptly returned to the Bidders. |
| 40. Standstill Period | 40.1 The Contract shall not be awarded earlier than the expiry of the Standstill Period. The Standstill Period shall be ten (10) Business Days unless extended in accordance with ITB 44 [Debriefing by the PE]. The Standstill Period commences the day after the date the PE has transmitted to each Bidder the Notification of Intention to Award the Contract. Where only one Bid is submitted, or if this contract is in response to an emergency situation, the Standstill Period shall not apply |
| 41. Notification of Intention to Award | <p>41.1 The PE shall send to each Bidder, the Notification of Intention to Award the Contract, in the format provided in Section V-Bidding Forms, to the successful Bidder. The Notification of Intention to Award shall contain, at a minimum, the following information:</p> <ul style="list-style-type: none"> (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

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| 42. Award Criteria | <p>42.1 Subject to ITB 39 [PE's Right to Accept Any Bid, and to Reject Any or All Bids], the PE shall award the Contract to the successful Bidder. This is the Bidder whose Bid has been determined to be the Most Advantageous Bid. This is the Bid of the Bidder that meets the qualification criteria and whose Bid has been determined to be:</p> <ul style="list-style-type: none"> (a) substantially responsive to the bidding document; and (b) the lowest evaluated cost. |
| 43. Notification of Award | 43.1 Prior to the date of expiry of the Bid validity and upon expiry of the Standstill Period, specified in ITB 40.1, or any extension thereof, and, upon satisfactorily addressing any complaint that has been filed within the Standstill Period, the PE shall notify the successful Bidder, in writing, that its Bid has been accepted. The notification of award (hereinafter and in the |

Conditions of Contract and Contract Forms called the “Letter of Acceptance”) shall specify the sum that the PE will pay the Service Provider in consideration of the execution of the Contract (hereinafter and in the Conditions of Contract and Contract Forms called “the Contract Price”).

43.2 Within ten (10) Business Days after the date of transmission of the Letter of Acceptance, the PE shall publish the Contract Award Notice which shall contain, at a minimum, the following information:

- (a) name and address of the PE;
- (b) name and reference number of the contract being awarded, and the selection method used;
- (c) names of all Bidders that submitted Bids, and their Bid prices as read out at Bid opening, and as evaluated;
- (d) name of Bidders whose Bids were rejected and the reasons for their rejection;
- (e) the name of the successful Bidder, the final total contract price, the contract duration and a summary of its scope; and
- (f) successful Bidder’s Beneficial Ownership Disclosure Form, if specified in BDS [Signing of Contract].

43.3 The Contract Award Notice shall be published on the PE’s website with free access if available, or in at least one newspaper of national circulation in the Republic of South Sudan, or in the official gazette.

43.4 Until a formal Contract is prepared and executed, the Letter of Acceptance shall constitute a binding Contract.

44. Debriefing by the PE

44.1 On receipt of the PE’s Notification of Intention to Award referred to in ITB 41, an unsuccessful Bidder has three (3) Business Days to make a written request to the PE for a debriefing. The PE shall provide a debriefing to all unsuccessful Bidders whose request is received within this deadline.

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

44.3 Where a request for debriefing is received by the PE later than the three (3)-Business Day deadline, the PE should provide the debriefing as soon as practicable, and normally no later than fifteen (15) Business Days from the

date of publication of Public Notice of Award of contract. Requests for debriefing received outside the three (3)-day deadline shall not lead to extension of the standstill period.

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

45. Signing of Contract

- 45.1 The PE shall send to the successful Bidder the Letter of Acceptance including the Contract Agreement, and, if specified in the BDS, a request to submit the Beneficial Ownership Disclosure Form providing additional information on its beneficial ownership. The Beneficial Ownership Disclosure Form, if so requested, shall be submitted within eight (8) Business Days of receiving this request.

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

46. Performance Security

- 46.1 Within fourteen (**14**) working days after receipt of the Letter of Acceptance, the successful Tenderer shall deliver to the PE a Performance Security or Performance Securing Declaration, and if required in the **TDS**, the Environmental and Social (ES) Performance Security in accordance with the General Conditions of Contract in the amount stipulated in the **TDS and SCC**, denominated in the type and proportions of currencies in the Letter of Acceptance and in accordance with the Conditions of Contract.

- 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 Bidder offering the next Most Advantageous Bid.

47. Adjudicator

47.1 The PE proposes the person named **in the BDS** to be appointed as Adjudicator under the Contract, at an hourly fee specified **in the BDS**, plus reimbursable expenses. If the Bidder disagrees with this Bid, the Bidder should so state in the Bid. If, in the Letter of Acceptance, the PE has not agreed on the appointment of the Adjudicator, the Adjudicator shall be appointed by the Appointing Authority designated in the Special Conditions of Contract at the request of either party.

**48. Procurement
Related
Complaint**

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

Section III - Bid Data Sheet (BDS)

The following specific data for the Non-Consulting Services 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.

[Where an e-procurement system is used, modify the relevant parts of the BDS accordingly to reflect the e-procurement process]

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

ITB Reference	A. General
ITB 1.1	<p>The reference number of the Invitation for Bids (IFB) is : <i>[insert reference number of the Invitation for Bids]</i> _____</p> <p>The PE is: <i>[insert name of the PE]</i> _____</p> <p>The name of the IFB is: <i>[insert name of the IFB]</i> _____</p> <p>The number and identification of lots (contracts) comprising this IFB is: <i>[insert number and identification of lots (contracts)]</i> _____</p>
ITB 1.2(a)	<p><i>[delete if not applicable]</i></p> <p>Electronic –Procurement System</p> <p>The PE shall use the following electronic-procurement system to manage this Bidding process:</p> <p><i>[insert name of the e-system and url address or link]</i></p> <p>The electronic-procurement system shall be used to manage the following aspects of the Bidding process:</p> <p><i>[list the aspects here and modify the relevant parts of the BDS accordingly e.g., issuing bidding document, submissions of Bids, opening of Bids]</i></p>
ITB 1.3	<p>The Intended Completion Date is _____</p>
ITB 2.1	<p>The PE is: <i>[insert name of the PE]</i>. <i>This insertion should correspond to the information provided in the IFB]</i></p> <p>_____</p> <p>Financial year is <i>[Insert the Financial Year]</i></p> <p>Services <i>[Insert description of services]</i>.....</p>

ITB 2.2	Financing Institution: <i>[insert name of Financing Institution]</i> <hr/> The name of the Project is: <i>[insert name of the project]</i> _____ Name of the Contract <i>[insert name of the contract]</i> _____
ITB 4.1	Maximum number of members in the Joint Venture (JV) shall be: <i>[insert a number]</i> _____
ITB 4.5	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 Document
ITB 8.1	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 1.1 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> Telephone: <i>[insert telephone number, including country and city codes]</i> Facsimile number: <i>[insert fax 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 PE no later than: <i>[insert no. of days]</i> _____. Web page: <i>[in case used, identify the website with free access where Bidding process information is published]</i> <hr/>
	C. Preparation of Bids
ITB 11.1	The language of the bid is: <i>[insert language]</i>

ITB 12.1 (i)	<p>The Bidder shall submit the following additional documents in its Bid: <i>[list any additional document not already listed in ITB 12.1 that must be submitted with the Bid The list of additional documents shall include the following:]</i></p> <p>Code of Conduct for Service Provider's Personnel</p> <p>The Bidder shall submit its Code of Conduct that will apply to the Service Provider's Personnel (as defined in GCC Sub- Clause 1.1) employed for the execution of Services (defined in GCC Sub- Clause 1.1) at the locations in the Employer's country where the Services are required, to ensure compliance with the Service Provider's Environmental and/or Social, as applicable, obligations under the Contract. The Bidder shall use for this purpose the Code of Conduct form provided in Section IV. No substantial modifications shall be made to this form, except that the Bidder may introduce additional requirements, including as necessary to take into account specific Contract issues/risks.</p> <p><i>[Include the following if applicable]</i></p> <p>Management Strategies and Implementation Plans (MSIP) to manage the (ES) risks</p> <p>The Bidder shall submit Management Strategies and Implementation Plans (MSIPs) to manage the following key Environmental and Social (ES) risks:</p> <p><i>[Note: insert name of any specific plan and risk/s informed by the relevant environmental and social assessment];</i></p> <p><i>[e.g. Sexual Exploitation, and Abuse (SEA) prevention and response action plan];</i></p>
ITB 14.1	<p>Alternative Bids <i>[insert "shall be" or "shall not be"]</i> considered.</p> <p><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></p>
ITB 14.2	<p>Alternative times for completion _____ <i>[insert "shall be" or "shall not be"]</i> permitted. If permitted, the range of acceptable completion time is: _____.</p> <p>If alternative times for completion are permitted, the evaluation method will be as specified in Section III, Evaluation and Qualification Criteria.</p>
ITB 14.3	<p>Alternative technical solutions shall be permitted for the following parts of the Services: _____ <i>[insert parts of the Services];</i></p> <p><i>[If alternative technical solutions are permitted, the evaluation method will be as specified in Section III, Evaluation and Qualification Criteria.]</i></p>
ITB 15.7	<p>The prices quoted by the Bidder _____ <i>[insert "shall "or "shall not"]</i> be subject to adjustment during the performance of the Contract.</p>

ITB 16.1	The Bidder _____ <i>[insert “is” or “is not”]</i> required to quote in the currency of the Republic of South Sudan the portion of the Bid price that corresponds to expenditures incurred in that currency.
ITB 18.4	Prequalification _____ <i>[insert “has” or “has not”]</i> been undertaken.
ITB 19.1	The Bid shall be valid until: _____ <i>[insert day, month and year, taking into account reasonable time needed to complete the bid evaluation, obtain necessary approvals. To minimize the risk of errors by bidders, the bid validity period is a specific date and not linked to the deadline for submission of bids. As stated in ITB 19.1, if there is a need to extend the date, for example because the bid submission deadline is significantly extended by the PE, the revised bid validity date shall be specified in accordance with ITB 9].</i>
ITB 19.3 (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 20.1	<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 20.3 (d)	Other types of acceptable securities: _____ <i>[Insert names of other acceptable securities. Insert “None” if no Bid Security is required under provision ITB 20.1 or if Bid Security is required but no other forms of Bid securities besides those listed in ITB 20.3 (a) through (c) are acceptable.]</i>

ITB 21.1	In addition to the original of the Bid, the number of copies is: _____ <i>[insert number of copies]</i>
ITB 21.3	The written confirmation of authorization to sign on behalf of the Bidder shall consist of: _____ <i>[insert the name and description of the documentation required to demonstrate the authority of the signatory to sign the Bid].</i>
	D. Submission and Opening of Bids
ITB 23.1	<p>For <u>Bid submission purposes</u> only, the PE's address is: <i>[This address may be the same as or different from that specified under provision ITB 8.1 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><i>[The time allowed for the preparation and submission of Bids shall be determined with due consideration to the particular circumstances of the project and the magnitude and complexity of the procurement. The period allowed shall be at least thirty (30) Business Days].</i></p>
ITB 23.1	<p>The deadline for Bid submission is:</p> <p>Date: <i>[insert day, month, and year, e.g. 15 June, 2022]</i></p> <p>Time: <i>[insert time, and identify if a.m. or p.m., e.g. 10:30 a.m.]</i></p> <p><i>[The date and time should be the same as those provided in the Specific Procurement Notice - Request for Bids, unless subsequently amended pursuant to ITB 23.2]</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>The electronic Bid submission procedures shall be: _____<i>[insert a description of the electronic Bid submission procedures]</i></p>
ITB 26.1	<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>

	City: <i>[insert name of city or town]</i> Date: <i>[insert day, month, and year, e.g. 15 June, 2022]</i> Time: <i>[insert time, and identify if a.m. or p.m. e.g. 10:30 a.m.] [Date and time should be the same as those given for the deadline for submission of Bids ITB 23]</i>
ITB 26.1	<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> The electronic Bid opening procedures shall be: _____ <i>[insert a description of the electronic Bid opening procedures]</i>
ITB 26.6	The Letter of Bid and priced Activity Schedule 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 PE, etc.]</i>
E. Evaluation and Comparison of Bids	
ITB 33.1	The currency that shall be used for Bid evaluation and comparison purposes to convert at the selling exchange rate all Bid prices expressed in various currencies into a single currency is: <i>[Insert name of currency]</i> The source of exchange rate shall be: <i>[Insert name of the source of exchange rates (e.g., the Central Bank of South Sudan).]</i> The date for the exchange rate shall be: <i>[insert day, month and year, e.g. 15 June, 2020 not earlier than 28 days prior to the deadline for submission of the Bids, nor later than the date for the expiry of Bid validity specified in accordance with ITB BDS 19.1].</i>
	F. Award of Contract
ITB 45.1	The successful Bidder <i>[shall]</i> or <i>[shall not]</i> submit the Beneficial Ownership Disclosure Form.
ITB 47	The Adjudicator proposed by the PE is _____. The hourly fee for this proposed Adjudicator shall be _____. The biographical data of the proposed Adjudicator is as follows: _____.

Section IV- Evaluation and Qualification Criteria

This section contains the criteria that the PE shall use to evaluate Bids and qualify Bidders through post-qualification. No other factor methods or criteria shall be used other than specified in this bidding document. The Bidder shall provide all the information requested in the forms included in Section IV, Bidding Forms.

[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]

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The PE shall use the criteria and methodologies listed in this Section to evaluate Bids. By applying these criteria and methodologies, the PE shall determine the Most Advantageous Bid. This is the Bid that has been determined to be:

- (a) substantially responsive to the bidding document, and
- (b) the lowest evaluated cost.

1. Evaluation (ITB 35.2(f))

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

.....
.....

1.1 Adequacy of Technical Proposal

Evaluation of the Bidder's Technical Proposal will include an assessment of the Bidder's technical capacity to mobilize key equipment and personnel for the contract consistent with its proposal regarding work methods, scheduling, and material sourcing in sufficient detail and fully in accordance with the requirements stipulated in Section VII, PE's Requirements.

1.2 Multiple Contracts

Pursuant to ITB 35.4 of the Instructions to Bidders, if Services are grouped in multiple contracts, evaluation will be as follows:

(a) Award Criteria for Multiple Contracts [ITB 35.4]:

Lots

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

Packages

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

(b) Qualification Criteria for Multiple Contracts:

The criteria for qualification is aggregate minimum requirement for respective lots as defined by the PE as follows:

.....
.....

1.3 Alternative Times for Completion

An alternative Completion Time, if permitted under ITB 14.2, will be evaluated as follows:

.....
.....

1.4 Alternative Technical Solutions for specified parts of the Services

If permitted under ITB 14.3, will be evaluated as follows:

.....
.....

1.5 Sustainable procurement

*[If specific **sustainable procurement technical requirements** have been specified in Section VIII-Specifications, **either** state that (i) those requirements will be evaluated on a pass/fail (compliance basis) **or** otherwise (ii) in addition to evaluating those requirements on a pass/fail (compliance basis), if applicable, specify the monetary adjustments to be applied to Bid prices for comparison purposes on account of Bids that exceed the specified minimum sustainable procurement technical requirements.]*

.....
.....

2. Qualification

If the PE has not undertaken prequalification of potential Bidders, all Bidders shall include the following information and documents with their Bids:

- (a) copies of original documents defining the constitution or legal status, place of registration, and principal place of business; written power of attorney of the signatory of the Bid to commit the Bidder;
- (b) total monetary value of Services performed for each of the last **[insert period]** years;
- (c) experience in Services of a similar nature and size for each of the last **[insert period]** years, and details of Services under way or contractually committed; and names and address of clients who may be contacted for further information on those contracts;
- (d) list of major items of equipment proposed to carry out the Contract;
- (e) qualifications and experience of key site management and technical personnel proposed for the Contract;
- (f) reports on the financial standing of the Bidder, such as profit and loss statements and auditor's reports for the past **[insert period]** years;
- (g) evidence of adequacy of working capital for this Contract (access to line(s) of credit and availability of other financial resources);
- (h) authority to the PE to seek references from the Bidder's bankers;
- (i) information regarding any litigation, current or during the last **[insert period]** years, in which the Bidder is involved, the parties concerned, and disputed amount;
- (j) proposals for subcontracting components of the Services amounting to more than 10 percent of the Contract Price; and
- (k) if required by the PE, Environmental and Social (ES) past performance declaration (see below at the end of this section).

Bidders shall include with their bids the Sexual Exploitation and Abuse (SEA) and/or Sexual Harassment Performance Declaration, using the form in Section V- Bidding Forms. Bids submitted by a joint venture of two or more firms as members shall comply with the following requirements, unless otherwise stated **below**:

- (a) the Bid shall include all the information listed above for each joint venture member;
- (b) the Bid shall be signed so as to be legally binding on all members;
- (c) the Bid shall include a copy of the agreement entered into by the joint venture members defining the division of assignments to each member and establishing that all members shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms; 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;

- (d) one of the members shall be nominated as being in charge, authorized to incur liabilities, and receive instructions for and on behalf of any and all members of the joint venture; and
- (e) the execution of the entire Contract, including payment, shall be done exclusively with the member in charge.

To qualify for award of the Contract, Bidders shall meet the following minimum qualifying criteria:

- (a) annual volume of Services of at least the amount specified **below**;
- (b) experience as service provider in the provision of at least **[insert number of contracts]** service contracts of a nature and complexity equivalent to the Services over the last **[insert period]** years (to comply with this requirement, Services contracts cited should be at least 70 percent complete) as specified **below**;
- (c) proposals for the timely acquisition (own, lease, hire, etc.) of the essential equipment listed **in below**;
- (d) Suitably qualified key personnel specified below and other key personnel that the Bidder considers appropriate to perform the Services; and
- (e) liquid assets and/or credit facilities, net of other contractual commitments and exclusive of any advance payments which may be made under the Contract, of no less than the amount specified **below**.

A consistent history of litigation or arbitration awards against the Bidder or any member of a Joint Venture may result in disqualification.

At the time of Contract award, successful Bidder (including each member of a JV) shall not be subject to disqualification due to noncompliance with contractual SEA/SH prevention and response obligations. If any proposed subcontractor does not meet the requirement, the PE will require the Bidder to propose a replacement subcontractor.

Qualification Requirements

Joint Ventures	The information needed for Bids submitted by joint ventures is as follows: _____
Annual Volume	The minimum required annual volume of Services for the successful Bidder in any of the last <i>[insert period]</i> years shall be: _____
Experience	The experience required to be demonstrated by the Bidder should include as a minimum that he has executed during the last <i>[insert period]</i> years the following: <i>[Depending on the ES assessment, the experience requirement may include experience in managing relevant ES aspects]</i> _____
Essential Equipment	The essential equipment to be made available for the Contract by the successful Bidder shall be: _____.
Key Personnel	<i>[Note to the PE: Include, as appropriate, the requirements for the minimum key personnel to execute the Services, taking into account the nature, scope, complexity and risks of the contract.</i> <i>Where a Project SEA risks are assessed to be substantial or high, the PE shall include Sexual Exploitation, Abuse and Harassment expert(s)]</i>
Liquid Assets	The minimum amount of liquid assets and/or credit facilities net of other contractual commitments of the successful Bidder shall be: _____
Subcontractors	Subcontractors' experience _____ <i>[insert "shall" or "shall not"]</i> be taken into account.

The figures for each of the members of a joint venture shall be added together to determine the Bidder's compliance with the minimum qualifying criteria of (a), (b) and (e); however, for a joint venture to qualify the member in charge must meet at least 40 percent of those minimum criteria for an individual Bidder and other members at least 25% of the criteria. Failure to comply with this requirement will result in rejection of the joint venture's Bid.

Subcontractors' experience and resources ***will not be taken*** into account in determining the Bidder's compliance with the qualifying criteria, unless otherwise stated in the Qualification Requirements above.

Declaration: Environmental and Social (ES) past performance

[Note to the PE: the decision on whether to require this declaration depends on its relevance to the contract based on the nature and assessed risk of the contract]

The Bidder (if joint venture, each member of a joint venture) shall declare, using the form in Section V, any contract that has been suspended or terminated and/or performance security called by an employer, in the past five years, for reasons of breach of environmental or social (including Sexual Exploitation and Abuse) contractual obligations. The PE may use this information to seek further information or clarifications in carrying out its due diligence.

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Letter of Bid

INSTRUCTIONS TO BIDDERS: DELETE THIS BOX ONCE YOU HAVE COMPLETED THE DOCUMENT

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

Note: *All italicized text is to help Bidders in preparing this form.*

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

IFB No.: *[insert number of IFB process]*

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

We, the undersigned, declare that:

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

- (a) **No reservations:** We have examined and have no reservations to the bidding document, including Addenda issued in accordance with ITB 9;
- (b) **Eligibility:** We meet the eligibility requirements and have no conflict of interest in accordance with ITB 4;
- (c) **Bid-Securing Declaration:** We have not been suspended nor declared ineligible by the Authority based on execution of a Bid-Securing Declaration or Proposal-Securing Declaration in accordance with ITB 4.7;
- (d) **Exploitation and Abuse (SEA) and/or Sexual Harassment (SH):** *[select the appropriate option from (i) to (iii) below and delete the others].*

We *[where JV, insert: "including any of our JV members"]*, and any of our subcontractors:

- (i) *[have not been subject to disqualification for non-compliance with SEA/ SH obligations.]*
- (ii) *[are subject to disqualification for non-compliance with SEA/ SH obligations.]*
- (iii) *[had been subject to disqualification for non-compliance with SEA/ SH obligations. An arbitral award on the disqualification case has been made in our favor.]*
- (e) **Conformity:** We offer to provide the Non-Consulting Services in conformity with the bidding document of the following: *[insert a brief description of the Non-Consulting Services];*
- (f) **Bid Price:** The total price of our Bid, excluding any discounts offered in item (f) below is: *[Insert one of the options below as appropriate]*

Option 1, in case of one lot: Total price is: *[insert the total price of the Bid in words and figures, indicating the various amounts and the respective currencies];*

Or

Option 2, in case of multiple lots: (a) Total price of each lot *[insert the total price of each lot in words and figures, indicating the various amounts and the respective currencies]*; and (b) 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]*;

(g) **Discounts:** 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]*;

(h) **Bid Validity Period:** Our Bid shall be valid until *[insert day, month and year in accordance with ITB 19.1]*, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;

(i) **Performance Security:** If our Bid is accepted, we commit to obtain a Performance Security/Performance Securing Declaration in accordance with the bidding document;

(j) **One Bid Per Bidder:** We are not submitting any other Bid(s) as an individual Bidder, and we are not participating in any other Bid(s) as a Joint Venture member or as a subcontractor, and meet the requirements of ITB 4.3, other than alternative Bids submitted in accordance with ITB 14;

(k) **Suspension and Debarment:** 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.

(l) **State-owned enterprise or institution:** We are not a government owned entity/ We are a government owned entity but meet the requirements of ITB 4.5;⁷

(m) **Commissions, gratuities and fees:** 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.")

⁷ Bidder to use as appropriate.

- (n) *[Delete if not appropriate, or amend to suit]* We confirm that we understand the provisions relating to Standstill Period as described in this bidding document and the Procurement Regulations.
- (o) **Binding Contract:** We understand that this Bid, together with your written acceptance thereof included in your Letter of Acceptance, shall constitute a binding contract between us, until a formal contract is prepared and executed;
- (p) **Not Bound to Accept:** We understand that you are not bound to accept the lowest evaluated cost Bid, the Most Advantageous Bid or any other Bid that you may receive; and
- (q) **Fraud and Corruption:** We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption.

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

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

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

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

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

*: In the case of the Bid submitted by a 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. The power of attorney shall 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]*

IFB No.: *[insert number of Bidding process]*

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

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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 4.4. <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 state-owned enterprise or institution, in accordance with ITB 4.6 documents establishing: <ul style="list-style-type: none"> • Legal and financial autonomy • Operation under commercial law • Establishing that the Bidder is not under the supervision of the agency of the PE
8. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership. <i>[If required under BDS ITB 45.1, the successful Bidder shall provide additional information on beneficial ownership, using the Beneficial Ownership Disclosure Form.]</i>

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]*

IFB No.: *[insert number of Bidding process]*

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

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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 4.4. <input type="checkbox"/> In case of a state-owned enterprise or institution, documents establishing legal and financial autonomy, operation in accordance with commercial law, and that they are not under the supervision of the PE, in accordance with ITB 4.6.
8. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership. <i>[If required under BDS ITB 45.1, the successful Bidder shall provide additional information on beneficial ownership for each JV member using the Beneficial Ownership Disclosure Form.]</i>

Qualification Information

- 1. Individual Bidders or Individual Members of Joint Ventures**
- 1.1 Constitution or legal status of Bidder: *[attach copy]*
- Place of registration: *[insert]*
- Principal place of business: *[insert]*
- Power of attorney of signatory of Bid: *[attach]*
- 1.2 Total annual volume of Services performed in *[insert period]* years, in the internationally traded currency specified in the BDS: *[insert]*
- 1.3 Services performed as prime Service Provider on the provision of Services of a similar nature and volume over the last *[insert period]* years. The values should be indicated in the same currency used for Item 1.2 above. Also list details of Services under way or committed, including expected completion date.

Project name and country	Name of employer and contact person	Type of Services provided and year of completion	Value of contract
(a)			
(b)			

- 1.4 Major items of Service Provider's Equipment proposed for carrying out the Services. List all information requested below.

Item of equipment	Description, make, and age (years)	Condition (new, good, poor) and number available	Owned, leased (from whom?), or to be purchased (from whom?)
(a)			
(b)			

- 1.5 Qualifications and experience of key personnel proposed for administration and execution of the Contract. Attach biographical data. Refer to GCC Clause 4.1.

Position	Name	Years of experience (general)	Years of experience in proposed position
(a)			
(b)			

- 1.6 Proposed subcontracts and firms involved. Refer to GCC Clause 3.5.

Sections of the Services	Value of subcontract	Subcontractor (name and address)	Experience in providing similar Services
(a)			
(b)			

- 1.7 Financial reports for the last ***[insert period]*** years: balance sheets, profit and loss statements, auditors' reports, etc. List below and attach copies.
- 1.8 Evidence of access to financial resources to meet the qualification requirements: cash in hand, lines of credit, etc. List below and attach copies of support documents. We certify/confirm that we comply with eligibility requirements as per ITB 4.
- 1.9 Name, address, and telephone, telex, and facsimile numbers of banks that may provide references if contacted by the PE.
- 1.10 Information regarding any litigation, current or within the last ***[insert period]*** years, in which the Bidder is or has been involved.

Other party(ies)	Cause of dispute	Details of litigation award	Amount involved
(a)			
(b)			

- 1.11 Statement of compliance with the requirements of ITB 4.2.
- 1.12 Environmental and Social (ES) performance declaration, if required, and Sexual Exploitation and Abuse (SEA) and/or Sexual Harassment Performance Declaration, using the forms included in this Section V-Bidding Forms.
- 1.13 Proposed Program (service work method and schedule). Descriptions, drawings, and charts, as necessary, to comply with the requirements of the bidding document.
- 2. Joint Ventures**
- 2.1 The information listed in 1.1 - 1.12 above shall be provided for each member of the joint venture (and each subcontractor for the SEA/SH declaration).
- 2.2 The information in 1.13 above shall be provided for the joint venture.
- 2.3 Attach the power of attorney of the signatory(ies) of the Bid authorizing signature of the Bid on behalf of the joint venture.
- 2.4 Attach the Agreement among all members of the joint venture (and which is legally binding on all members), which shows that

- (a) all members shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
- (b) one of the members will be nominated as being in charge, authorized to incur liabilities, and receive instructions for and on behalf of any and all members of the joint venture; and
- (c) the execution of the entire Contract, including payment, shall be done exclusively with the member in charge.

**3. Additional
Requirements**

- 3.1 Bidders should provide any additional information required **in the BDS.**

Environmental and Social Performance Declaration

[Note to the PE: Include this form if applicable in accordance with Section III]

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

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

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

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

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

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

Environmental and Social Performance Declaration			
<p><input type="checkbox"/> No suspension or termination of contract: An employer has not suspended or terminated a contract and/or called the performance security for a contract for reasons related to Environmental or Social (ES) performance, in the past <i>[insert period]</i> years.</p> <p><input type="checkbox"/> Declaration of suspension or termination of contract: The following contract(s) has/have been suspended or terminated and/or Performance Security called by an employer(s) for reasons related to Environmental or Social (ES) performance, in the past five years. Details are described below:</p>			
Year	Suspended or terminated portion of contract	Contract Identification	Total Contract Amount (current value, currency, exchange rate and US\$ equivalent)
<i>[insert year]</i>	<i>[insert amount and percentage]</i>	Contract Identification: <i>[indicate complete contract name, number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Reason(s) for suspension or termination: <i>[indicate main reason(s) e.g. gender-based violence; sexual exploitation or sexual abuse breaches]</i>	<i>[insert amount]</i>
<i>[insert year]</i>	<i>[insert amount and percentage]</i>	Contract Identification: <i>[indicate complete contract name, number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Reason(s) for suspension or termination: <i>[indicate main reason(s)]</i>	<i>[insert amount]</i>
...	...	<i>[list all applicable contracts]</i>	...
Performance Security called by an employer(s) for reasons related to ES performance			
Year	Contract Identification		Total Contract Amount (current

		value, currency, exchange rate and US\$ equivalent)
[insert year]	Contract Identification: [indicate complete contract name/ number, and any other identification] Name of Employer: [insert full name] Address of Employer: [insert street/city/country] Reason(s) for calling of performance security: [indicate main reason(s) e.g. gender-based violence; sexual exploitation, or sexual abuse breaches]	[insert amount]

Sexual Exploitation and Abuse (SEA) and/or Sexual Harassment Performance Declaration

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

Bidder's Name: [insert full name]

Date: [insert day, month, year]

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

IFB No. and title: [insert IFB number and title]

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

SEA and/or SH Declaration
<p>We:</p> <p><input type="checkbox"/> (a) have not been subject to disqualification for non-compliance with SEA/ SH obligations</p> <p><input type="checkbox"/> (b) are subject to disqualification for non-compliance with SEA/ SH obligations</p> <p><input type="checkbox"/> (c) had been subject to disqualification for non-compliance with SEA/ SH obligations. An arbitral award on the disqualification case has been made in our favor.</p>
<p><i>[If (c) above is applicable, attach evidence of an arbitral award reversing the findings on the issues underlying the disqualification.]</i></p>

Schedule Forms

*[The Bidder shall fill in these Forms in accordance with the instructions indicated. The list of line items in column 1 of the **Activity Schedules** shall coincide with the List of Non-Consulting Services specified in the Employer's Requirements.]*

Activity Schedule

Currencies in accordance with ITB 16						Date: _____ IFB No: _____ Alternative No: _____ Page N° _____ of _____
1	2	3	4	5	6	7
Service N°	Description of Services	Unit	Delivery Date	Quantity and physical unit	Unit price	Total Price per Service (Col. 5*6)
<i>[insert number of the Service]</i>	<i>[insert name of Services]</i>		<i>[insert delivery date at place of final destination per Service]</i>	<i>[insert number of units]</i>	<i>[insert unit price per unit]</i>	<i>[insert total price per unit]</i>
Total Bid Price						

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

Method Statement

*[**Note to the PE:** Include the following if applicable in accordance with the Bid Data Sheet 12.1 (i); modify as appropriate]*

The Bidder shall submit comprehensive and concise Environmental and Social Management Strategies and Implementation Plans (ES-MSIP) as required by ITB 12.1 (i) of the Bid Data Sheet. These strategies and plans shall describe in detail the actions, materials, equipment, management processes etc. that will be implemented by the Service Provider, and its Subcontractors.

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

Code of Conduct for Service Provider's Personnel Form (ES)

Note to the Employer:

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

Delete this Box prior to issuance of the bidding documents.

Note to the Bidder:

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

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

CODE OF CONDUCT FOR SERVICE PROVIDER'S PERSONNEL

We are the Service Provider, [enter name of Service Provider]. We have signed a contract with [enter name of Employer] for [enter description of the Services]. The Services will be carried out at [enter the locations in the Republic of South Sudan where the Services are required, as applicable]. Our contract requires us to implement measures to address *environmental and social risks* [**Note to Employer:** depending on the nature of the contract and assessed risks, this may be replaced with social risks], related to the Services.

This Code of Conduct is part of our measures to deal with environmental and social risks [**Note to Employer:** depending on the nature of the contract and assessed risks, this may be replaced with social risks] related to the Services.

All personnel that we utilize in the execution of the Services, including the staff, labor and other employees of us and each Subcontractor, and any other personnel assisting us in the execution of the Services, are referred to as Service Provider's Personnel.

This Code of Conduct identifies the behavior that we require from the Service Provider's Personnel employed for the execution of the Services at the locations in the Republic of South Sudan where the Services are provided.

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

REQUIRED CONDUCT

Service Provider's Personnel employed for the execution of the Services at the locations in the Republic of South Sudan where the Services are provided shall:

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

RAISING CONCERNS

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

1. Contact *[enter name of the individual, with relevant experience, designated by the Service provider to handle these matters]* in writing at this address [] or by telephone at [] or in person at []; or
2. Call [] to reach the Service Provider's hotline *(if any)* and leave a message.

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

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

CONSEQUENCES OF VIOLATING THE CODE OF CONDUCT

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

FOR SERVICE PROVIDER's PERSONNEL:

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

Name of Service Provider's Personnel: [insert name]

Signature:

Date: (day month year): _____

Countersignature of authorized representative of the Service Provider:

Signature: _____

Date: (day month year): _____

ATTACHMENT 1: Behaviors constituting SEA and behaviors constituting SH

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

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

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

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

(2) Examples of sexual harassment in a work context

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

Work Plan

—

Others - Time Schedule

(to be used by Bidder when alternative Time for Completion is invited in ITB 14.2)

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: *[Employer to insert its name and address]*

IFB No.: *[Employer to insert reference number for the Request 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 Request 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 prior to the Bid validity expiry date set forth in the Bidder's Letter of Bid, or any extended date provided by the Applicant; or
- (b) having been notified of the acceptance of its Bid by the Beneficiary prior to the expiry date of the Bid validity or any extension thereto provided by the Applicant, (i) has failed to sign 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 expiry date of the Bid validity.

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

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

[Signature(s)]

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

Form of Bid Security (Bid Bond)

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

BOND NO. _____

BY THIS BOND *[name of Bidder]* as Principal (hereinafter called “the Principal”), and *[name, legal title, and address of surety]*, **authorized to transact business in the Republic of South Sudan**, as Surety (hereinafter called “the Surety”), are held and firmly bound unto *[name of Employer]* as Obligee (hereinafter called “the Employer”) in the sum of *[amount of Bond]*¹ *[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 Employer dated the ____ day of _____, 20__, for the supply of *[name of Contract]* (hereinafter called the “Bid”).

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

- (a) withdraws its Bid prior to the Bid validity expiry date set forth in the Principal’s Letter of Bid, or any extended date provided by the Principal; or
- (b) having been notified of the acceptance of its Bid by the Employer prior to the expiry date of the Bid validity or any extension thereto provided by the Principal; (i) failed to execute the Contract agreement; or (ii) has failed to furnish the Performance Security, in accordance with the Instructions to Bidders (“ITB”) of the Employer’s bidding document.

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

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

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

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

(Signature)
(Printed name and title)

(Signature)
(Printed name and title)

¹ The amount of the Bond shall be denominated in the currency of the Employer’s Country 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)]*

IFB No.: *[number of Bidding process]*

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

To: *[complete name of Employer]*

We, the undersigned, declare that:

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

We accept that we will automatically be suspended from being eligible for Bidding or submitting proposals in any contract with the Employer for the period of time specified in Section II – Bid Data Sheet, if we are in breach of our obligation(s) under the Bid conditions, because we:

- (a) have withdrawn our Bid prior to the expiry date of the Bid validity specified in the Letter of Bid or any extended date provided by us; or
- (b) having been notified of the acceptance of our Bid by the Employer prior to the expiry date of the Bid validity in the Letter of Bid or any extended date provided by us, (i) fail to sign the Contract agreement; 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 expiry date of the Bid validity.

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.]

Section VI - Eligible Countries

Eligibility for the Provision of Services in the Republic of South Sudan

In reference to ITB 4.8, 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 4.8 (a) *[insert a list of the countries to apply the restriction or state "none"]*

Under ITB 4.8 (b) *[insert a list of the countries 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 attached¹.

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Bidder: _____

Address: _____

¹Signing 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 attached² - 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: _____

²Signing 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 II – Procuring Entity’s Requirement

Section VIII - Activity Schedule

Objectives

The objectives of the Activity Schedule are

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

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

Daywork Schedule

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

- (a) A list of the various classes of Services, labor, materials, and plant for which basic daywork rates or prices are to be inserted by the Bidder, together with a statement of the conditions under which the Service Provider will be paid for services delivered on a daywork basis.
- (b) Nominal quantities for each item of Daywork, to be priced by each Bidder at Daywork rates as Bid. The rate to be entered by the Bidder against each basic Daywork item should include the Service Provider's profit, overheads, supervision, and other charges.

Provisional Sums

The estimated cost of specialized services to be carried out, or of special goods to be supplied, by other Service Providers should be indicated in the relevant part of the Activity Schedule as a particular provisional sum with an appropriate brief description. A separate procurement procedure is normally carried out by the Employer to select such specialized Service Providers. To provide an element of competition among the Bidders in respect of any facilities, amenities, attendance, etc., to be provided by the successful Bidder as prime Service Provider for the use and convenience of the specialist contractors, each related provisional sum should be followed by an item in the Activity Schedule inviting the Bidder to quote a sum for such amenities, facilities, attendance, etc.

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

Performance Specifications and Drawings

(Describe Outputs and Performances, rather than Inputs, wherever possible)

Notes on Specifications

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

Samples of specifications from previous similar projects in the country are useful in this respect. The use of metric units is encouraged. Most specifications are normally written specially by the Employer to suit the Contract in hand. There is no standard set of Specifications for universal application in all sectors in all countries, but there are established principles and practices, which are reflected in this document

There are considerable advantages in standardizing General Specifications for repetitive Services in recognized public sectors, such as education, health, sanitation, social and urban housing, roads, ports, railways, irrigation, and water supply, in the country or region where similar conditions prevail. The General Specifications should cover all classes of workmanship, materials, and equipment commonly involved in the provision of Services, although not necessarily to be used in a particular Services Contract. Deletions or addenda should then adapt the General Specifications to the particular Services.

Any sustainable procurement technical requirements shall be clearly specified. Please refer to the Procurement Regulations and sustainable procurement guidance for further information. The requirements to be specified shall be specific enough to not demand evaluation based on rated criteria/merit point system. The sustainable procurement requirements shall be specified to enable evaluation of such a requirement on a pass/fail basis. To encourage Bidders' innovation in addressing sustainable procurement requirements, as long as the Bid evaluation criteria specify the mechanism for monetary adjustments for the purpose of Bid comparisons, Bidders may be invited to offer Non-Consulting Services that exceed the specified minimum sustainable procurement requirements.

Any applicable environmental and social requirements shall be specified. The ES requirements should be prepared in manner that does not conflict with the relevant General Conditions (and the corresponding Particular Conditions if any) and other parts of the specifications.

Care must be taken in drafting specifications to ensure that they are not restrictive. In the specification of standards for goods, materials, Services, and workmanship, recognized international standards should be used as much as possible. Where other particular standards are used, whether national standards or other standards, the specifications should state that goods, materials, Services and workmanship that meet other authoritative standards, and which ensure substantially equal or higher quality than the standards mentioned, will also be acceptable.

The following clause may be inserted in the Special Conditions or Specifications.

Sample Clause: Equivalency of Standards and Codes

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

If technical alternatives for parts of the Services are permitted in the bidding document, these parts shall be described in this Section.

These Notes for Preparing Specifications are intended only as information for the Employer or the person drafting the bidding document.

Part III – Conditions of Contract and Contract Forms

Section IX - General Conditions of Contract

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Section IX - General Conditions of Contract

A. General Provisions

1.1 Definitions

Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- (a) The Adjudicator is the person appointed jointly by the Employer and the Service Provider to resolve disputes in the first instance, as provided for in Sub-Clause 8.2 hereunder;
- (b) “Activity Schedule” is the priced and completed list of items of Services to be performed by the Service Provider forming part of his Bid;
- (d) “Completion Date” means the date of completion of the Services by the Service Provider as certified by the Employer;
- (e) “Contract” means the Contract signed by the Parties, to which these General Conditions of Contract (GCC) are attached, together with all the documents listed in Clause 1 of the Contract Agreement;
- (f) “Contract Price” means the price to be paid for the performance of the Services, in accordance with Clause 6;
- (g) “Dayworks” means varied work inputs subject to payment on a time basis for the Service Provider’s employees and equipment, in addition to payments for associated materials and administration;
- (h) “Employer” means the party who employs the Service Provider;
- (i) “Employer’s Personnel” means all staff, labor and other employees of the Employer engaged in fulfilling the Employer’s obligations under the Contract; and any other personnel identified as Employer’s Personnel, by a notice from the Employer to the Service provider;
- (j) “ES” means Environmental and Social, as applicable, (including Sexual Exploitation and Abuse (SEA), and Sexual Harassment (SH));
- (k) “Foreign Currency” means any currency other than the currency of the Republic of South Sudan;
- (l) “GCC” means these General Conditions of Contract;
- (m) “Government” means the Government of the Republic of South Sudan;
- (n) “Local Currency” means the currency of the Republic of South Sudan;
- (o) “Member,” in case the Service Provider consist of a joint venture of more than one entity, means any of these entities; “Members”

means all these entities, and “Member in Charge” means the entity specified in the SC to act on their behalf in exercising all the Service Provider’ rights and obligations towards the Employer under this Contract;

- (p) “Party” means the Employer or the Service Provider, as the case may be, and “Parties” means both of them;
- (q) “Service Provider” is a person or corporate body whose Bid to provide the Services has been accepted by the Employer;
- (r) “Service Provider’s Personnel” means all personnel whom the Service Provider utilizes in the execution of the Services, including the staff, labor and other employees of the Service Provider and each Subcontractor; and any other personnel assisting the Service Provider in the execution of the Services;
- (s) “SCC” means the Special Conditions of Contract by which the GCC may be amended or supplemented;
- (t) “Specifications” means the specifications of the Services included in the Contract, and any additions and modifications to the specifications in accordance with the Contract;
- (u) “Services” means the work to be performed by the Service Provider pursuant to the Contract;
- (v) “Sexual Exploitation and Abuse” “(SEA)” means the following:

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

Sexual Abuse is defined as the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions;
- (w) “Sexual Harassment” “(SH)” is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by the Service Provider’s Personnel with other Service Provider’s Personnel or Employer’s Personnel;
- (x) “Subcontractor” means any entity to which the Service Provider subcontracts any part of the Services in accordance with the provisions of Sub-Clauses 3.5 and 4.

1.2 Applicable Law

The Contract shall be interpreted in accordance with the laws of the Republic of South Sudan, unless otherwise **specified in the Special Conditions of Contract (SCC)**.

- 1.3 Language** This Contract has been executed in the language **specified in the SCC**, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.
- 1.4 Notices** Any notice, request, or consent made pursuant to this Contract shall be in writing and shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, telex, telegram, or facsimile to such Party at the address **specified in the SCC**.
- 1.5 Location** The Services shall be performed at such locations as are specified in Appendix A, in the Specifications and, where the location of a particular task is not so specified, at such locations, whether in the country or elsewhere, as the Employer may approve.
- 1.6 Authorized Representatives** Any action required or permitted to be taken, and any document required or permitted to be executed, under this Contract by the Employer or the Service Provider may be taken or executed by the officials **specified in the SCC**.
- 1.7 Inspection and Audit by the Government** The Service Provider shall permit and shall cause its agents (where declared or not), subcontractors, sub-consultants, service providers, suppliers, and personnel, to permit, the Government and/or persons appointed by the Government to inspect the site and/or the accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have such accounts, records and other documents audited by auditors appointed by the Government. The Service Provider's and its Subcontractors' and sub-consultants' attention is drawn to Sub-Clause 3.10 (Fraud and Corruption) which provides, inter alia, that acts intended to materially impede the exercise of the Government's inspection and audit rights constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to the Government's prevailing sanctions procedures).
- 1.8 Taxes and Duties** The Service Provider, Subcontractors, and their Personnel shall pay such taxes, duties, fees, and other impositions as may be levied under the Applicable Law, the amount of which is deemed to have been included in the Contract Price.

2. Commencement, Completion, Modification, and Termination of Contract

- 2.1 Effectiveness of Contract** This Contract shall come into effect on the date the Contract is signed by both parties or such other later date as may be **stated in the SCC**.
- 2.2 Commencement of Services**
- 2.2.1 Program** Before commencement of the Services, the Service Provider shall submit to the Employer for approval a Program showing the general methods, arrangements, order and timing for all activities. Such submission to the

Employer shall include any applicable environmental and social management plan to manage environmental and social risks and impacts.

The Services shall be carried out in accordance with the approved Program as updated.

2.2.2 Starting Date

The Service Provider shall start carrying out the Services thirty (30) days after the date the Contract becomes effective, or at such other date as may be **specified in the SCC**.

2.3 Intended Completion Date

Unless terminated earlier pursuant to Sub-Clause 2.6, the Service Provider shall complete the activities by the Intended Completion Date, as is **specified in the SCC**. If the Service Provider does not complete the activities by the Intended Completion Date, it shall be liable to pay liquidated damage as per Sub-Clause 3.8. In this case, the Completion Date will be the date of completion of all activities.

2.4 Modification

Modification of the terms and conditions of this Contract, including any modification of the scope of the Services or of the Contract Price, may only be made by written agreement between the Parties.

2.4.1 Value Engineering

The Service Provider may prepare, at its own cost, a value engineering proposal at any time during the performance of the contract. The value engineering proposal shall, at a minimum, include the following;

- (a) the proposed change(s), and a description of the difference to the existing contract requirements;
- (b) a full cost/benefit analysis of the proposed change(s) including a description and estimate of costs (including life cycle costs, if applicable) the Employer may incur in implementing the value engineering proposal; and
- (c) a description of any effect(s) of the change on performance/functionality.

The Employer may accept the value engineering proposal if the proposal demonstrates benefits that:

- (a) accelerates the delivery period; or
- (b) reduces the Contract Price or the life cycle costs to the Employer; or
- (c) improves the quality, efficiency, safety or sustainability of the services; or
- (d) yields any other benefits to the Employer,

without compromising the necessary functions of the Services.

If the value engineering proposal is approved by the Employer and results in:

- (a) a reduction of the Contract Price; the amount to be paid to the Service Provider shall be the percentage specified in the SCC of the reduction in the Contract Price; or
- (b) an increase in the Contract Price; but results in a reduction in life cycle costs due to any benefit described in (a) to (d) above, the amount to be paid to the Service Provider shall be the full increase in the Contract Price.

2.5 Force Majeure

2.5.1 Definition

For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party and which makes a Party’s performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.

2.5.2 No Breach of Contract

The failure of a Party to fulfill any of its obligations under the contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as possible about the occurrence of such an event.

2.5.3 Extension of Time

Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

2.5.4 Payments

During the period of their inability to perform the Services as a result of an event of Force Majeure, the Service Provider shall be entitled to continue to be paid under the terms of this Contract, as well as to be reimbursed for additional costs reasonably and necessarily incurred by them during such period for the purposes of the Services and in reactivating the Service after the end of such period.

2.6 Termination

- 2.6.1 By the Employer** The Employer may terminate this Contract, by not less than thirty (30) days' written notice of termination to the Service Provider, to be given after the occurrence of any of the events specified in paragraphs (a) through (d) of this Sub-Clause 2.6.1:
- (a) if the Service Provider does not remedy a failure in the performance of its obligations under the Contract, within thirty (30) days after being notified or within any further period as the Employer may have subsequently approved in writing;
 - (b) if the Service Provider become insolvent or bankrupt;
 - (c) if, as the result of Force Majeure, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
 - (d) if the Service Provider, in the judgment of the Employer has engaged in Fraud and Corruption, as defined in paragraph 2.2 a. of Attachment 1 to the GCC, in competing for or in executing the Contract
- 2.6.2 By the Service Provider** The Service Provider may terminate this Contract, by not less than thirty (30) days' written notice to the Employer, such notice to be given after the occurrence of any of the events specified in paragraphs (a) and (b) of this Sub-Clause 2.6.2:
- (a) if the Employer fails to pay any monies due to the Service Provider pursuant to this Contract and not subject to dispute pursuant to Clause 7 within forty-five (45) days after receiving written notice from the Service Provider that such payment is overdue; or
 - (b) if, as the result of Force Majeure, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) days.
- 2.6.3 Suspension of Loan or Credit** In the event of suspension of the loan or Credit to the Employer, from which part of the payments to the Service Provider are being made:
- (a) The Employer is obligated to notify the Service Provider of such suspension within 7 days of having received the suspension notice.
 - (b) If the Service Provider has not received sums due to by the due date stated in the SCC in accordance with Sub-Clause 6.5 the Service Provider may immediately issue a 14 day termination notice.
- 2.6.4 Payment upon Termination** Upon termination of this Contract pursuant to Sub-Clauses 2.6.1 or 2.6.2, the Employer shall make the following payments to the Service Provider:

- (a) remuneration pursuant to Clause 6 for Services satisfactorily performed prior to the effective date of termination;
- (b) except in the case of termination pursuant to paragraphs (a), (b), (d) of Sub-Clause 2.6.1, reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract, including the cost of the return travel of the Service Provider's Personnel.

3. Obligations of the Service Provider

3.1 General

The Service Provider shall perform the Services in accordance with the Specifications and the Activity Schedule, and carry out its obligations with all due diligence, efficiency, and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe methods.

The Service Provider shall at all times take all reasonable precautions to maintain the health and safety of the Service Provider's Personnel employed for the execution of Services at the locations in the Republic of South Sudan where the Services are executed.

If **required in the SCC**, the Service Provider shall submit to the Employer for its approval a health and safety manual which has been specifically prepared for the Contract.

The health and safety manual shall be in addition to any other similar document required under applicable health and safety regulations and laws.

The health and safety manual shall set out any applicable health and safety requirement under the Contract,

- (a) which may include:
 - (i) the procedures to establish and maintain a safe working environment;
 - (ii) the procedures for prevention, preparedness and response activities to be implemented in the case of an emergency event (i.e. an unanticipated incident, arising from natural or man-made hazards);
 - (iii) the measures to be taken to avoid or minimize the potential for community exposure to water-borne, water-based, water-related, and vector-borne diseases,
 - (iv) the measures to be implemented to avoid or minimize the spread of communicable diseases; and

- (b) any other requirements stated in the Employer's Requirements.

The Service Provider shall always act, in respect of any matter relating to this Contract or to the Services, as faithful adviser to the Employer, and shall at all times support and safeguard the Employer's legitimate interests in any dealings with Subcontractors or third parties.

The Service Provider shall require that its Subcontractors execute the Services in accordance with the Contract, including complying with applicable ES requirements and the obligations set out in GCC Sub-Clause 3.12.

3.2 Conflict of Interests

3.2.1 Service Provider Not to Benefit from Commissions and Discounts.

The remuneration of the Service Provider pursuant to Clause 6 shall constitute the Service Provider's sole remuneration in connection with this Contract or the Services, and the Service Provider shall not accept for their own benefit any trade commission, discount, or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of their obligations under the Contract, and the Service Provider shall use their best efforts to ensure that the Service Provider's Personnel, any Subcontractors, and agents of either of them similarly shall not receive any such additional remuneration.

3.2.2 Service Provider and Affiliates Not to be Otherwise Interested in Project

The Service Provider agree that, during the term of this Contract and after its termination, the Service Provider and its affiliates, as well as any Subcontractor and any of its affiliates, shall be disqualified from providing goods, works, or Services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services.

3.2.3 Prohibition of Conflicting Activities

Neither the Service Provider nor its Subcontractors nor the Personnel shall engage, either directly or indirectly, in any business or professional activity that would conflict with the activities assigned to them under this Contract. The Service provider has an obligation and shall ensure that its Service Provider's Personnel and Sub-consultants shall have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of the Employer, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of its Contract.

3.3 Confidentiality

The Service Provider, its Subcontractors, and the Personnel of either of them shall not, either during the term or within two (2) years after the expiration of this Contract, disclose any proprietary or confidential information relating to the Project, the Services, this Contract, or the

Employer's business or operations without the prior written consent of the Employer.

3.4 Insurance to be Taken Out by the Service Provider

The Service Provider (a) shall take out and maintain, and shall cause any Subcontractors to take out and maintain, at its (or the Subcontractors', as the case may be) own cost but on terms and conditions approved by the Employer, insurance against the risks, and for the coverage, as shall be **specified in the SCC**; and (b) at the Employer's request, shall provide evidence to the Employer showing that such insurance has been taken out and maintained and that the current premiums have been paid.

3.5 Service Provider's Actions Requiring Employer's Prior Approval

The Service Provider shall obtain the Employer's prior approval in writing before taking any of the following actions:

- (a) entering into a subcontract for the performance of any part of the Services,
- (b) appointing such members of the Personnel not listed by name in Appendix C ("Key Personnel and Subcontractors"),
- (c) changing the Program of activities; and
- (d) any other action that may be **specified in the SCC**.

Submission by the Service Provider for the Employer's approval, for addition of any Subcontractor not named in the Contract, shall also include the Subcontractor's declaration in accordance with Appendix H- Sexual exploitation and Abuse (SEA) and/or Sexual Harassment (SH) Performance Declaration.

3.6 Reporting Obligations

The Service Provider shall submit to the Employer the reports and documents specified in Appendix B in the form, in the numbers, and within the periods set forth in the said Appendix.

If specified in Appendix B, the reporting requirements shall include applicable environmental and social aspects.

The Service Provider shall inform the Employer immediately of any allegation, incident or accident in the locations in the Republic of South Sudan where the Services are executed, which has or is likely to have a significant adverse effect on the environment, the affected communities, the public, Employer's Personnel or Service Provider's Personnel. This includes, but is not limited to, any incident or accident causing fatality or serious injury; significant adverse effects or damage to private property; or any allegation of SEA and/or SH. In case of SEA and/or SH, while maintaining confidentiality as appropriate, the type of allegation (sexual exploitation, sexual abuse or sexual harassment), gender and age of the person who experienced the alleged incident should be included in the information.

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

The Service Provider shall require its Subcontractors and suppliers to immediately notify the Service Provider of any incidents or accidents referred to in this Sub- Clause.

3.7 Documents Prepared by the Service Provider to Be the Property of the Employer

All plans, drawings, specifications, designs, reports, and other documents and software submitted by the Service Provider in accordance with Sub-Clause 3.6 shall become and remain the property of the Employer, and the Service Provider shall, not later than upon termination or expiration of this Contract, deliver all such documents and software to the Employer, together with a detailed inventory thereof. The Service Provider may retain a copy of such documents and software. Restrictions about the future use of these documents, if any, shall be **specified in the SCC**.

3.8 Liquidated Damages

3.8.1 Payments of Liquidated Damages

The Service Provider shall pay liquidated damages to the Employer at the rate per day **stated in the SCC** for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount **defined in the SCC**. The Employer may deduct liquidated damages from payments due to the Service Provider. Payment of liquidated damages shall not affect the Service Provider's liabilities.

3.8.2 Correction for Over-payment

If the Intended Completion Date is extended after liquidated damages have been paid, the Employer shall correct any overpayment of liquidated damages by the Service Provider by adjusting the next payment certificate. The Service Provider shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rates specified in Sub-Clause 6.5.

3.8.3 Lack of performance penalty

If the Service Provider has not corrected a Defect within the time specified in the Employer's notice, a penalty for Lack of performance will be paid by the Service Provider. The amount to be paid will be calculated as a percentage of the cost of having the Defect corrected, assessed as described in Sub-Clause 7.2 and **specified in the SCC**.

3.9 Performance Security/ If required as **specified in the SCC**, the Service Provider shall provide to the Employer a Performance Security for the performance of the Contract, in the amount **specified in the SCC** and no later than the date specified in the Letter of acceptance.

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 Employer; and shall be in one of the format stipulated by the Employer in the **SCC**, or in another format acceptable to the Employer.

The performance Security shall be valid until a date 28 days from the Completion Date of the Contract in case of a bank guarantee, and until one year from the Completion Date of the Contract in the case of a Performance Bond.

Or in the case of Performance Securing Declaration

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

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

3.10 Fraud and Corruption The Employer requires the Service Provider 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.

3.11 Sustainable Procurement The Service Provider shall conform to the sustainable procurement contractual provisions, if and as specified in the SCC.

3.12 Code of Conduct The Service Provider shall have a Code of Conduct for the Service Provider's Personnel employed for the execution of the Services at the locations in the Republic of South Sudan where the Services are provided.

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

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

The Service Provider shall also ensure, as applicable, that the Code of Conduct is visibly displayed in locations in the Republic of South Sudan where the Services are executed as well as in areas outside the locations accessible to the local community and any project affected people. The posted Code of Conduct shall be provided in languages comprehensible to Service Provider's Personnel, Employer's Personnel and the local community.

The Service Provider's Management Strategy and Implementation Plans, as applicable, shall include appropriate processes for the Service Provider to verify compliance with these obligations.

3.13 Training of Service Provider's Personnel

The Service Provider shall provide appropriate training to its relevant personnel on any applicable ES aspects of the Contract, including appropriate sensitization on prohibition of SEA/SH.

As stated in the Employer's Requirements or as instructed by the Employer, the Service Provider shall also allow appropriate opportunities for the relevant Service Provider's Personnel to be trained on applicable ES aspects of the Contract by the Employer's Personnel and/or other personnel assigned by the Employer.

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

3.14 Security of the Site

Unless stated otherwise in the SCC, the Service Provider shall be responsible for the security at the locations in the country where the services are carried out including providing and maintaining at its own expense all lighting, fencing, and watching when and where necessary for the proper execution and the protection of the locations, or for the safety of the owners and occupiers of adjacent property and for the safety of the public.

If required in the SCC, prior to the Starting Date for the commencement of Services, the Service Provider shall submit for the Employer's No-objection a security management plan that sets the security arrangements for the locations in the country where the Services are executed.

In making security arrangements, the Service Provider shall be guided by applicable laws and any other requirements that may be stated in the Employer's Requirements.

The Service Provider shall (i) conduct appropriate background checks on any personnel retained to provide security; (ii) train the security personnel adequately (or determine that they are properly trained) in

the use of force (and where applicable, firearms), and appropriate conduct towards the Service Provider's personnel, Employer's personnel and affected communities; and (iii) require the security personnel to act within the applicable Laws and any requirements set out in the Employer's Requirements.

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

3.15 Protection of the Environment

As applicable, the Service Provider shall take all necessary measures to:

- i. protect the environment (both on and off the locations where the Services are executed) from damages resulting from its operations/and or activities; and
- ii. limit damage and nuisance to people and property resulting from pollution, noise and other results of the Service Provider's operations and/ or activities.

The Service Provider shall ensure that any emissions, surface discharges, effluent and any other pollutants from the its activities shall exceed neither the values that may be indicated in the Employer's Requirements, nor those prescribed by applicable laws.

In the event of damage to the environment, property and/or nuisance to people, on or off the locations where the Services are carried out, as a result of the Service Provider's operations and/or activities, the Service Provider shall agree with the Employer the appropriate actions and time scale to remedy, as practicable, the damaged environment to its former condition. The Service Provider shall implement such remedies at its cost to the satisfaction of the Employer.

3.16 Cultural Heritage Findings

All fossils, coins, articles of value or antiquity, structures, groups of structures, and other remains or items of geological, archaeological, paleontological, historical, architectural, religious interest found on the locations in the Republic of South Sudan where the Services are carried out shall be placed under the care and custody of the Employer.

As soon as practicable after discovery of any such finding, the Service Provider shall give a notice to the Employer, to give the Employer the opportunity to promptly inspect and/or investigate the finding before it is disturbed and to issue instructions for dealing with it.

4. Service Provider's Personnel

4.1 Description of Personnel

The titles, agreed job descriptions, minimum qualifications, and estimated periods of engagement in the carrying out of the Services of the Service Provider's Key Personnel are described in Appendix C. The Key Personnel

and Subcontractors listed by title as well as by name in Appendix C are hereby approved by the Employer.

4.2 Removal and/or Replacement of Personnel

- (a) Except as the Employer may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Service Provider, it becomes necessary to replace any of the Key Personnel, the Service Provider shall provide as a replacement a person of equivalent or better qualifications.
- (b) The Employer may require the Service Provider to remove (or cause to be removed) a Service Provider's Personnel, who:
 - (i) persists in any misconduct or lack of care;
 - (ii) carries out duties incompetently or negligently;
 - (iii) fails to comply with any provision of the Contract;
 - (iv) persists in any conduct which is prejudicial to safety, health, or the protection of the environment;
 - (v) based on reasonable evidence, is determined to have engaged in Fraud and Corruption during the execution of the Contract;
 - (vi) has been recruited from the Employer's Personnel;
 - (vii) undertakes behavior which breaches the Code of Conduct (ES), as applicable.

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

Notwithstanding any requirement from the Employer to remove or cause to remove any person, the Service provider shall take immediate action as appropriate in response to any violation of (i) through (vii) above. Such immediate action shall include removing (or causing to be removed) from the locations where the Services are carried out, any Service Provider's Personnel who engages in (i), (ii), (iii), (iv), (v) or (vii) above or has been recruited as stated in (vi) above.

- (c) The Service Provider shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

4.3 Service Provider's Personnel

4.3.1 Engagement of Service Provider's Personnel

The Service Provider shall make arrangements for the engagement of the Service Provider's Personnel.

The Service Provider is encouraged, to the extent practicable and reasonable, to use local labor that has the necessary skills.

Subject to GCC 5.1, the Service Provider shall be responsible for obtaining all necessary permit(s) and/or visa(s) from the appropriate authorities for the entry of all personnel to be employed for the Services into the Republic of South Sudan.

The Service Provider shall at its own expense provide the means of repatriation to all of its personnel employed for the execution of the Services to the place where they were recruited or to their domicile. It shall also provide suitable temporary maintenance of all such persons from the cessation of their employment on the Contract to the date programmed for their departure.

4.3.2 Persons in the Service of Employer The Service Provider shall not recruit, or attempt to recruit, staff and labor from amongst the Employer's Personnel.

4.3.3 Labor Laws The Service provider shall comply with all the relevant labor laws applicable to the Service Provider's Personnel, including laws relating to their employment, health, safety, welfare, immigration and emigration, and shall allow them all their legal rights.

The Service Provider shall at all times during the progress of the Contract use its best endeavors to prevent any unlawful, riotous or disorderly conduct or behavior by or amongst its employees and the labor of its Subcontractors.

The Service Provider shall, in all dealings with its personnel currently employed on or connected with the Contract, pay due regard to all recognized festivals, official holidays, religious or other customs and all local laws and regulations pertaining to the employment of labor.

4.3.4 Rates of Wages and Conditions of Labor The Service Provider shall pay rates of wages, and observe conditions of labor, which are not lower than those established for the trade or industry where the Service is carried out. If no established rates or conditions are applicable, the Service Provider shall pay rates of wages and observe conditions which are not lower than the general level of wages and conditions observed locally by employers whose trade or industry is similar to that of the Service Provider.

The Service Provider shall inform the Service Provider's Personnel about their liability to pay personal income taxes in the Republic of South Sudan in respect of such of their salaries, wages, allowances and any benefits as are subject to tax under the laws of the country for the time being in force, and the Service provider shall perform such duties in regard to such deductions thereof as may be imposed on him by such laws.

4.3.5 Facilities for Service Provider's Personnel If stated in the SCC and subject to GCC Sub-Clause 5.3, the Service Provider shall provide and maintain all necessary accommodation and welfare facilities for the Service Provider's Personnel employed for the execution of the Contract at the locations in the country where the Services are provided.

In the event of the death of any of the Service Provider's Personnel or accompanying members of their families, the Service Provider shall be responsible for making the appropriate arrangements for their return or burial, unless otherwise specified in the SCC.

4.3.6 Workers' Organizations

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

4.3.7 Non-Discrimination and Equal Opportunity

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

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

4.3.8 Forced Labor

The Service Provider, including its Subcontractors, shall not employ or engage forced labor. Forced labor consists of any work or service, not voluntarily performed, that is exacted from an individual under threat of force or penalty, and includes any kind of involuntary or compulsory labor, such as indentured labor, bonded labor or similar labor-contracting arrangements.

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

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

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

The Service Provider including its Subcontractors, shall only employ or engage children between the minimum age and the age of 18 after an appropriate risk assessment has been conducted by the Service Provider with the Employer's consent. The Service Provider shall be subject to regular monitoring by the Employer that includes monitoring of health, working conditions and hours of work.

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

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

5. Obligations of the Employer

5.1 Assistance and Exemptions

The Employer shall use its best efforts to ensure that the Government shall provide the Service Provider such assistance and exemptions as **specified in the SCC**.

- 5.2 Change in the Applicable Law** If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost of the Services rendered by the Service Provider, then the remuneration and reimbursable expenses otherwise payable to the Service Provider under this Contract shall be increased or decreased accordingly by agreement between the Parties, and corresponding adjustments shall be made to the amounts referred to in Sub-Clauses 6.2 (a) or (b), as the case may be.
- 5.3 Services and Facilities** The Employer shall make available to the Service Provider the Services and Facilities listed under Appendix F.

6. Payments to the Service Provider

- 6.1 Lump-Sum Remuneration** The Service Provider's remuneration shall not exceed the Contract Price and shall be a fixed lump-sum including all Subcontractors' costs, and all other costs incurred by the Service Provider in carrying out the Services described in Appendix A. Except as provided in Sub-Clause 5.2, the Contract Price may only be increased above the amounts stated in Sub-Clause 6.2 if the Parties have agreed to additional payments in accordance with Sub-Clauses 2.4 and 6.3.
- 6.2 Contract Price**
- (a) The price payable in local currency is **set forth in the SCC.**
 - (b) The price payable in foreign currency is set **forth in the SCC.**
- 6.3 Payment for Additional Services, and Performance Incentive Compensation**
- 6.3.1 For the purpose of determining the remuneration due for additional Services as may be agreed under Sub-Clause 2.4, a breakdown of the lump-sum price is provided in Appendices D and E.
 - 6.3.2 **If the SCC so specify,** the service provider shall be paid performance incentive compensation as set out in the Performance Incentive Compensation appendix.
- 6.4 Terms and Conditions of Payment** Payments will be made to the Service Provider according to the payment schedule **stated in the SCC. Unless otherwise stated in the SCC,** the advance payment (Advance for Mobilization, Materials and Supplies) shall be made against the provision by the Service Provider of a bank guarantee for the same amount, and shall be valid for the period **stated in the SCC.** Any other payment shall be made after the conditions **listed in the SCC** for such payment have been met, and the Service Provider have submitted an invoice to the Employer specifying the amount due.
- 6.5 Interest on Delayed Payments** If the Employer has delayed payments beyond fifteen (15) days after the due date stated in the SCC, interest shall be paid to the Service Provider for each day of delay at the rate stated in the SCC.
- 6.6 Price Adjustment**
- 6.6.1 Prices shall be adjusted for fluctuations in the cost of inputs only if **provided for in the SCC.** If so provided, the amounts certified in each payment certificate, after deducting for Advance Payment, shall be adjusted by applying the respective price adjustment factor to the

payment amounts due in each currency. A separate formula of the type indicated below applies to each Contract currency:

$$P_c = A_c + B_c \frac{Lm_c}{Lo_c} + C_c \frac{Im_c}{Io_c}$$

Where:

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

A_c , B_c and C_c are coefficients specified in the SCC, representing: A_c the nonadjustable portion; B_c the adjustable portion relative to labor costs and C_c the adjustable portion for other inputs, of the Contract Price payable in that specific currency “c”; and

Lm_c is the index prevailing at the first day of the month of the corresponding invoice date and Lo_c is the index prevailing 28 days before Bid opening for labor; both in the specific currency “c”.

Im_c is the index prevailing at the first day of the month of the corresponding invoice date and Ioc is the index prevailing 28 days before Bid opening for other inputs payable; both in the specific currency “c”.

If a price adjustment factor is applied to payments made in a currency other than the currency of the source of the index for a particular indexed input, a correction factor Z_o/Z_n will be applied to the respective component factor of p_n for the formula of the relevant currency. Z_o is the number of units of currency of the country of the index, equivalent to one unit of the currency payment on the date of the base index, and Z_n is the corresponding number of such currency units on the date of the current index.

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

6.7 Dayworks

- 6.7.1 If applicable, the Daywork rates in the Service Provider’s Bid shall be used for small additional amounts of Services only when the Employer has given written instructions in advance for additional services to be paid in that way.
- 6.7.2 All work to be paid for as Dayworks shall be recorded by the Service Provider on forms approved by the Employer. Each completed form shall be verified and signed by the Employer representative as indicated in Sub-Clause 1.6 within two days of the Services being performed.

- 6.7.3 The Service Provider shall be paid for Dayworks subject to obtaining signed Dayworks forms as indicated in Sub-Clause 6.7.2

7. Quality Control

- 7.1 Identifying Defects** The principle and modalities of Inspection of the Services by the Employer shall be as **indicated in the SCC**. The Employer shall check the Service Provider's performance and notify him of any Defects that are found. Such checking shall not affect the Service Provider's responsibilities. The Employer may instruct the Service Provider to search for a Defect and to uncover and test any service that the Employer considers may have a Defect. Defect Liability Period is as **defined in the SCC**.
- 7.2 Correction of Defects, and Lack of Performance Penalty**
- (a) The Employer shall give notice to the Service Provider of any Defects before the end of the Contract. The Defects liability period shall be extended for as long as Defects remain to be corrected.
 - (b) Every time notice a Defect is given, the Service Provider shall correct the notified Defect within the length of time specified by the Employer's notice.
 - (c) If the Service Provider has not corrected a Defect within the time specified in the Employer's notice, the Employer will assess the cost of having the Defect corrected, the Service Provider will pay this amount, and a Penalty for Lack of Performance calculated as described in Sub-Clause 3.8.

8. Settlement of Disputes

- 8.1 Amicable Settlement** The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.
- 8.2 Dispute Settlement**
- 8.2.1 If any dispute arises between the Employer and the Service Provider in connection with, or arising out of, the Contract or the provision of the Services, whether during carrying out the Services or after their completion, the matter shall be referred to the Adjudicator within 14 days of the notification of disagreement of one party to the other.
- 8.2.2 The Adjudicator shall give a decision in writing within 28 days of receipt of a notification of a dispute.
- 8.2.3 The Adjudicator shall be paid by the hour at the rate **specified in the BDS and SCC**, together with reimbursable expenses of the types **specified in the SCC**, and the cost shall be divided equally between the Employer and the Service Provider, whatever decision is reached by the Adjudicator. Either party may refer a decision of the Adjudicator to an Arbitrator within 28 days of the Adjudicator's written decision.

If neither party refers the dispute to arbitration within the above 28 days, the Adjudicator's decision will be final and binding.

8.2.4 Unless otherwise agreed by both the Employer and the Service Provider, arbitration shall be conducted as follows:

(a) For contracts with foreign Service Providers:

unless otherwise specified in the SCC; the dispute shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce; by one or three arbitrators appointed in accordance with these Rules. The place of arbitration shall be the neutral location **stated in the SCC**; and the arbitration shall be conducted in the ruling language **stated in the SCC**; and

(b) For contracts with national Service Providers, arbitration with proceedings conducted in accordance with the laws of the Republic of South Sudan.

8.2.5 Should the Adjudicator resign or die, or should the Employer and the Service Provider agree that the Adjudicator is not functioning in accordance with the provisions of the Contract, a new Adjudicator will be jointly appointed by the Employer and the Service Provider. In case of disagreement between the Employer and the Service Provider, within 30 days, the Adjudicator shall be designated by the Appointing Authority **designated in the SCC** at the request of either party, within 14 days of receipt of such request.

Section X - Special Conditions of Contract

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
1.1(a)	The Adjudicator is _____
1.1(e)	The contract name is _____.
1.1(h)	The Employer is _____
1.1(o)	The Member in Charge is _____
1.1(q)	The Service Provider is _____
1.2	The Applicable Law is: _____
1.3	The language is _____
1.4	<p>The addresses are:</p> <p>Employer: _____</p> <p>Attention: _____</p> <p>Telex: _____</p> <p>Facsimile: _____</p> <p>Service Provider: _____</p> <p>Attention: _____</p> <p>Telex: _____</p> <p>Facsimile: _____</p>
1.6	<p>The Authorized Representatives are:</p> <p>For the Employer: _____</p> <p>For the Service Provider: _____</p>
2.1	The date on which this Contract shall come into effect is _____.
2.2.2	The Starting Date for the commencement of Services is _____.
2.3	The Intended Completion Date is _____.

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
2.4.1	If the value engineering proposal is approved by the Employer the amount to be paid to the Service Provider shall be ____% [<i>insert appropriate percentage. The percentage is normally up to 50%</i>] of the reduction in the Contract Price.
3.1	[State: “health and safety manual is/is not required” and delete the option that is not applicable.]
3.2.3	Activities prohibited after termination of this Contract are: _____ _____
3.4	The risks and coverage by insurance shall be: (i) Third Party motor vehicle _____ (ii) Third Party liability _____ (iii) Employer’s liability and workers’ compensation _____ (iv) Professional liability _____ (v) Loss or damage to equipment and property _____
3.5(d)	The other actions are _____.]
3.7	Restrictions on the use of documents prepared by the Service Provider are: _____
3.8.1	The liquidated damages rate is _____ per day The maximum amount of liquidated damages for the whole contract is _____ percent of the final Contract Price.
3.8.3	The percentage _____ to be used for the calculation of Lack of performance Penalty(ies) is _____.
3.9	A Performance Security [<i>insert “shall” or “shall not” be required</i>] If required, the Performance Security shall be in the form of: [<i>insert “a Bank Guarantee” or” a Performance Bond”</i>] [<i>If a Performance Security is required, insert “the amount of the Performance Security shall be: [insert amount]</i>] [<i>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 Service provider. A 10% percentage is used under normal circumstances</i>]

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	<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> <p style="text-align: center;"><i>OR</i></p> <p>Performance Securing Declaration A Performance Security <i>[insert “shall” or “shall not” be required]</i></p> <p>If required, the Performance Securing Declaration shall be in the format provided in Section XI – Contract Forms</p>
3.11	<p><i>[Delete if not applicable] [Insert any sustainable procurement contractual provisions if applicable.]</i> The following sustainable procurement contractual provisions apply:</p>
3.13	<p><i>[State if the Service Provider shall not be responsible for the security at the locations in the country where the Services are carried out;</i></p> <p><i>If the Service Provider is responsible for the security at the locations in the country where the Services are carried out, state: The Service Provider (shall/shall not; select either option and delete the other) submit a security management plan.]</i></p>
5.1	<p>The assistance and exemptions provided to the Service Provider are:</p> <p>_____</p>
6.2(a)	<p>The amount in local currency is _____.</p>
6.2(b)	<p>The amount in foreign currency or currencies is _____.</p>
6.3.2	<p>The performance incentive paid to the Service Provider shall be: _____</p> <p>_____</p>
6.4	<p>Payments shall be made according to the following schedule:</p> <ul style="list-style-type: none"> • Advance for Mobilization, Materials and Supplies: _____ percent of the Contract Price shall be paid on the commencement date against the submission of a bank guarantee for the same. • Progress payments in accordance with the milestones established as follows, subject to certification by the Employer, that the Services have been rendered satisfactorily, pursuant to the performance indicators: <ul style="list-style-type: none"> ➤ _____(indicate milestone and/or percentage) _____ ➤ _____(indicate milestone and/or percentage) _____ and ➤ _____(indicate milestone and/or percentage) _____

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	<p>Should the certification not be provided, or refused in writing by the employer within one month of the date of the milestone, or of the date of receipt of the corresponding invoice, the certification will be deemed to have been provided, and the progress payment will be released at such date.</p> <ul style="list-style-type: none"> • The amortization of the Advance mentioned above shall commence when the progress payments have reached 25% of the contract price and be completed when the progress payments have reached 75%. • The bank guarantee for the advance payment shall be released when the advance payment has been fully amortized.
6.5	<p>Payment shall be made within _____ days of receipt of the invoice and the relevant documents specified in Sub-Clause 6.4, and within _____ days in the case of the final payment.</p> <p>The interest rate is _____.</p>
6.6.1	<p>Price adjustment is _____ in accordance with Sub-Clause 6.6.</p> <p>The coefficients for adjustment of prices are _____:</p> <p>(a) For local currency:</p> <p>A_L is _____</p> <p>B_L is _____</p> <p>C_L is _____</p> <p>L_{mc} and L_{oc} are the index for Labor from _____</p> <p>I_{mc} and I_{oc} are the index for _____ from _____</p> <p>(b) For foreign currency</p> <p>A_F is _____</p> <p>B_F is _____</p> <p>C_F is _____</p> <p>L_{mc} and L_{oc} are the index for Labor from _____</p> <p>I_{mc} and I_{oc} are the index for _____ from _____</p>
7.1	<p>The principle and modalities of inspection of the Services by the Employer are as follows: _____</p> <p>The Defects Liability Period is _____.</p>
8.2.3	<p>The Adjudicator is _____, who will be paid a rate of _____ per hour of work. The following reimbursable expenses are recognized: _____</p>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
8.2.4	<p>Rules of arbitration</p> <p>GCC 8.2.4 (a) <i>[insert either “shall” or “shall not”]</i> _____ apply.</p> <p><i>[Insert rules of arbitration if different from those of the International Chamber of Commerce.]</i></p> <p>GCC Sub-Clause 8.2.4 (b): <i>[insert either “shall” or “shall not”]</i> _____ apply.</p> <p><i>[GCC 8.2.4 (a) shall be retained in the case of a Contract with a foreign Service Provider. GCC 8.2.4 (b) shall be retained in the case of a Contract with a domestic Service Provider.]</i></p> <p><i>[insert place of arbitration if GCC 8.2.4 (a) applies]</i></p>
8.2.5	<p>The designated Appointing Authority for a new Adjudicator is _____</p>

Appendices

Appendix A - Description of the Services

Give detailed descriptions of the Services to be provided, dates for completion of various tasks, place of performance for different tasks, specific tasks to be approved by Employer, etc.

Appendix B - Schedule of Payments and Reporting Requirements

List all milestones for payments and list the format, frequency, and contents of reports or products to be delivered; persons to receive them; dates of submission; etc. If no reports are to be submitted, state here "Not applicable."

Appendix C - Key Personnel and Subcontractors

- List under:*
- C-1 Titles [and names, if already available], detailed job descriptions and minimum qualifications of foreign Personnel to be assigned to work in the country, and staff-months for each.*
 - C-2 Same as C-1 for Key foreign Personnel to be assigned to work outside the country.*
 - C-3 List of approved Subcontractors (if already available); same information with respect to their Personnel as in C-1 or C-2.*
 - C-4 Same information as C-1 for Key local Personnel.*

Appendix D—Breakdown of Contract Price in Foreign Currency(ies)

List here the elements of cost used to arrive at the breakdown of the lump-sum price—foreign currency portion:

- 1. Rates for Equipment Usage or Rental or for Personnel (Key Personnel and other Personnel).*
- 2. Reimbursable expenditures.*

This appendix will exclusively be used for determining remuneration for additional Services.

Appendix E - Breakdown of Contract Price in Local Currency

List here the elements of cost used to arrive at the breakdown of the lump-sum price—local currency portion:

1. *Rates for Equipment Usage or Rental or for Personnel (Key Personnel and other Personnel).*
2. *Reimbursable expenditures.*

This appendix will exclusively be used for determining remuneration for additional Services.

Appendix F - Services and Facilities Provided by the Employer

Appendix G- CODE OF CONDUCT FOR SERVICE PROVIDER'S PERSONNEL

Appendix H- Sexual Exploitation and Abuse (SEA) and/or Sexual Harassment (SH) Performance Declaration for Subcontractors

[The following table shall be filled in by each subcontractor proposed by the Service Provider, that was not named in the Contract]

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

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

Contract reference *[insert contract reference]*

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

SEA and/or SH Declaration
<p>We:</p> <p><input type="checkbox"/> (a) have not been subject to disqualification for non-compliance with SEA/ SH obligations.</p> <p><input type="checkbox"/> (b) are subject to disqualification for non-compliance with SEA/ SH obligations.</p> <p><input type="checkbox"/> (c) had been subject to disqualification for non-compliance with SEA/ SH obligations. An arbitral award on the disqualification case has been made in our favor.</p>
<p><i>[If (c) above is applicable, attach evidence of an arbitral award reversing the findings on the issues underlying the disqualification.]</i></p>

Name of the Subcontractor _____

Name of the person duly authorized to sign on behalf of the Subcontractor _____

Title of the person signing on behalf of the Subcontractor _____

Signature of the person named above _____

Date signed _____ day of _____, _____

Countersignature of authorized representative of the Service Provider:

Signature: _____

Date signed _____ day of _____, _____

Section XI - Contract Forms

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Notification of Intention to Award

[This Notification of Intention to Award shall be sent to each Bidder that submitted a Bid.]

[Send this Notification to the Bidder's Authorized Representative named in the Bidder Information Form]

For the attention of Bidder's Authorized Representative

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

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

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

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

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

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

Notification of Intention to Award

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

Project: *[insert name of project]*

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

Country: *[insert country where IFB is issued]*

Loan No. /Credit No. / Grant No.: *[insert reference number for loan/credit/grant]*

IFB No: *[insert IFB 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)
[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) Business Days of receipt of this Notification of Intention to Award.

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

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

Title/position: [insert title/position]

Agency: [insert name of Employer]

Email address: [insert email address]

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

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

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

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

5. How to make a complaint

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

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

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

Title/position: [insert title/position]

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) Business Days after the date of transmission of this Notification of Intention to Award.

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

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

On behalf of the Employer:

Signature: _____

Name: _____

Title/position: _____

Telephone: _____

Email: _____

Letter of Acceptance

[letterhead paper of the Employer]

[date]

To: *[name and address of the Service Provider]*

This is to notify you that your Bid dated *[date]* for execution of the *[name of the Contract and identification number, as given in the Special Conditions of Contract]* for the Contract Price of the equivalent of *[amount in numbers and words] [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 (i) the Performance Security within 28 days in accordance with the Conditions of Contract, using for that purpose one of the Performance Security Forms and (ii) the additional information on beneficial ownership in accordance with BDS ITB 45.1, within eight (8) Business days using the Beneficial Ownership Disclosure Form, included in Section X, - Contract Forms, of the bidding document.

OR

You are requested to furnish (i) the Performance Securing Declaration within 7 days in accordance with the Conditions of Contract, using for that purpose one of the Performance Securing Declaration Form and (ii) the additional information on beneficial ownership in accordance with BDS ITB 45.1, within eight (8) Business days using the Beneficial Ownership Disclosure Form, included in Section XI, - Contract Forms, of the bidding document.

Note: Insert one of the 3 options for the second paragraph. The first option should be used if the Bidder has not objected the name proposed for Adjudicator. The second option if the Bidder has objected the proposed Adjudicator and proposed a name for a substitute, who was accepted by the Employer. And the third option if the Bidder has objected the proposed Adjudicator and proposed a name for a substitute, who was not accepted by the Employer.

We confirm that *[insert name proposed by Employer in the Bid Data Sheet]*,

or

We accept that *[name proposed by Bidder]* be appointed as the Adjudicator

or

We do not accept that *[name proposed by Bidder]* be appointed as Adjudicator, and by sending a copy of this letter of acceptance to *[insert the name of the Appointing Authority]*, we are hereby requesting *[name]*, the Appointing Authority, to appoint the Adjudicator in accordance with ITB 47.1

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Agency: _____

Attachment: Contract

Contract Agreement

THIS AGREEMENT made the _____ day of _____, _____, between _____ of _____ (hereinafter “the Employer”), of the one part, and _____ of _____ (hereinafter “the Service Provider”), of the other part:

WHEREAS the Employer desires that the Works known as _____ should be executed by the Service Provider, and has accepted a Bid by the Service Provider for the execution and completion of these Works and the remedying of any defects therein,

The Employer and the Service Provider 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.
 - (i) the Letter of Acceptance;
 - (ii) the Letter of Bid;
 - (iii) the addenda Nos _____ (if any);
 - (iv) the Particular Conditions;
 - (v) the General Conditions;
 - (vi) the Specification;
 - (vii) the Drawings; and
 - (viii) the completed Schedules and any other documents forming part of the contract, including, but not limited to:
 - i. the ES Management Strategies and Implementation Plans; and
 - ii. Code of Conduct for Service Provider’s Personnel(ES).
 3. In consideration of the payments to be made by the Employer to the Service Provider as specified in this Agreement, the Service Provider hereby covenants with the Employer to execute the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract.
 4. The Employer hereby covenants to pay the Service Provider in consideration of the execution and completion of the Works 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 _____ on the day, month and year specified above.
- Signed by _____ (for the Employer)
- Signed by _____ (for the Service Provider)

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 Employer]*

Date: *_ [Insert date of issue]*

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

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

We have been informed that *_ [insert name of Service Provider 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 Non-Consulting Services of *_ [insert name of contract and brief description of the Non-Consulting 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 GCC. The Service Provider should note that in the event of an extension of this date for completion of the Contract, the Service Provider 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 Service Provider might consider adding the following text to the form, at the end of the penultimate paragraph: "The*

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.

Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

Option 2: Performance Bond

By this Bond *[insert name of Principal]* as Principal (hereinafter called “the Service Provider”) and *[insert name of Surety]* as Surety (hereinafter called “the Surety”), are held and firmly bound unto *[insert name of Employer]* as Obligee (hereinafter called “the Service Provider”) 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 Service Provider and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Service Provider has entered into a written Agreement with the Employer dated the ____ day of ____, 20____, for *[name of contract and brief description of Non-Consulting 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 Service Provider 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 Service Provider shall be, and declared by the Employer to be, in default under the Contract, the Employer having performed the Employer’s obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

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

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

Any suit under this Bond must be instituted before the expiration of one year from the date of 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 Employer named herein or the heirs, executors, administrators, successors, and assigns of the Employer.

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

SIGNED ON _____ on behalf of _____

By _____ in the capacity of _____

In the presence of _____

SIGNED ON _____ on behalf of _____

By _____ in the capacity of _____

In the presence of _____

Performance Securing Declaration

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

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

I/We, the undersigned, declare that:

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

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

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

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

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

Corporate Seal (where appropriate)

Advance Payment Security

[Guarantor letterhead or SWIFT identifier code]

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

Date: *[Insert date of issue]*

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

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

We have been informed that *[insert name of Service Provider, 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 Non-Consulting 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 Services; 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 credited to the Applicant on its account number *[insert number]* at *[insert name and address of Applicant's bank]*.

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

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.