

GOVERNMENT OF THE REPUBLIC OF
SOUTH SUDAN



GENERAL CONDITIONS OF CONTRACT
FOR

The Construction of Minor Works

Preface

The General Conditions of Contract for Construction of Minor Works is part of the Standard Bidding Document (SBD) prepared by the Public Procurement and Disposal of Assets Authority (PPDAA) for use by Procuring Entities (PEs) in the Republic of South Sudan in the execution of Minor Works obtained through Request for Quotation for Minor Works

The General Conditions of Contract presented in this document have been developed through broad national and international experience, and are mandatory for use in contracts for construction of Minor Works that are financed in whole or in part by public funds, and whose Contractor has been obtained in accordance with the provisions of the Public Procurement and Disposal of Assets Act, 2018 and the Public Procurement and Disposal of Assets Regulations, 2024.

This General Conditions of Contract 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 the use of these General Conditions of Contract, contact

The Executive Director
South Sudan Public Procurement and Disposal of Assets Authority

SECTION V: GENERAL CONDITIONS OF CONTRACT FOR LPO

GENERAL

1. Definitions

In these Conditions of Contract the following expressions shall have the meanings assigned to them as hereunder:

The **Adjudicator** is the person named in the Special Conditions of Contract (SCC), to resolve contractual disputes in the first instance if they arise, and as provided for in GCC 25.1

The **Arbitrator** is the person appointed by the appointing authority specified in the SCC, to resolve contractual disputes, and as provided for in GCC 25.4.

Bill of Quantities means the priced and completed Bill of Quantities forming part of the Bid.

The **Commencement Date** is the date when the Contractor shall commence execution of the Works as specified in the **Certificate of Contract Commencement**. The Commencement Date may be revised by the Project Manager in consultation with the employer by issuing an extension of time

The **Completion Date** is the date of completion of the Works as certified by the Project Manager, in accordance with GCC 20.

The **Contract** is the Contract entered between the Employer and the Contractor to execute, complete, and maintain the Works. It consists of the documents listed in GCC 2.3.

The **Contractor** is a person whether natural or legal whose Bid to carry out the Works has been accepted by the Employer.

The **Employer** is the person named as employer in the **SCC** and the legal successors in title to this person.

The **Project Manager** is the person named in the **SCC** (or any other competent person appointed by the Employer and notified to the Contractor, to act in replacement of the Project Manager) who is responsible for supervising the execution of the Works and administering the Contract.

A **Subcontractor** is a person whether natural or legal who has a Contract with the Contractor to carry out a part of the work in the Contract, which includes work on the Site.

Works means the works to be executed in accordance with the contract.

A **Defect** is any part of the Works not completed in accordance with the Contract.

Effective Contract date is the date shown in the Certificate of Contract Commencement issued by the Employer upon fulfillment of the conditions precedent stipulated in GCC 3.

The **Defects Liability Certificate** is the certificate issued by Project Manager upon correction of defects by the Contractor.

The **Defects Liability Period** is the period named in the **SCC** and calculated from the Completion Date.

The **Intended Completion Date** is the date on which it is intended that the Contractor shall complete the Works. The Intended Completion Date is specified in the **SCC**.

2. Interpretation

- 2.1 In interpreting these Conditions of Contract headings and marginal notes are used for convenience only and shall not affect their interpretations unless specifically stated; references to singular include the plural and vice versa; and masculine include the feminine. Words have their ordinary meaning under the language of the Contract unless specifically defined.
- 2.2 If sectional completion is specified in the **SCC**, references in the Conditions of Contract to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).
- 2.3 The documents forming the Contract shall be interpreted in the following order of priority:
 - a) Local Purchase Order (LPO),
 - b) Letter of Acceptance,
 - c) Quotation Submission Form
 - d) Special Conditions of Contract for LPO,
 - e) General Conditions of Contract for LPO,
 - f) Specifications,
 - g) Drawings,
 - h) Priced Bill of Quantities,
 - i) Any other document listed in the Special Conditions of Contract as forming part of the Contract.

3. Language and Law

- 3.1 The language of the Contract and the law governing the Contract are stated in the **SCC**.

- 4. Project Manager's role** 4.1 Except where otherwise specifically stated, the Project Manager will supervise execution of the contract between the Employer and the Contractor. The Project Manager shall have no authority to amend the contract.
- 5. Communications** 5.1 Communications between the Parties to the Contract shall be effective only when in writing whether in hard or electronic form that provides record of the content of the communication. A notice shall be effective only when it is delivered at the address specified in the **SCC**.
- GENERAL OBLIGATIONS**
- 6. Execution of Works** 6.1 The Contractor shall supply all labour, tools, plant, transport, materials and whatever is required for the completion of the works including water and power supply. He shall carry out the works in accordance with the requirements of the contract documents, and such additional instructions as may be issued from time to time.
- 7. Adverse Physical Conditions** 7.1 If during the execution of the works, the Contractor encounters adverse physical conditions other than climatic conditions which were not reasonably foreseeable by the Contractor; the Project Manager in consultation with the Employer shall determine any extension of time to which the Contractor is entitled.
- 8. Sub-contracting** 8.1 The Contractor may subcontract with the approval of the Project Manager, subject to consultation with the Employer. Subcontracting shall not alter the Contractor's obligations.
- 9. Supervision of Works by Contractor** 9.1 The Contractor shall execute the works with due diligence and comply with the established standard specifications required by the Project Manager so as to meet the specific requirements of quality, quantity and time frame. If at any time the Project Manager observes laxity or serious departures from set norms, appropriate action(s) shall be taken by the Contractor to correct the situation.
- 10. Inspection** 10.1 The Project Manager or his authorized representative has the right to inspect the works to see if it complies with the established standard specifications issued by the Employer and the Contractor shall provide reasonable assistance for the same as and when required by the Project Manager.
- 11. Rejected Works** 11.1 Works not in compliance with the requirements of the established standard specifications stipulated in the contract will be rejected. On the instruction of the Project Manager, the Contractor shall at his own cost repair or correct or re-execute such rejected work to the full satisfaction of the Project Manager.
- 12. Insurances** 12.1 The Contractor shall provide, in the joint names of the Employer and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period in the amounts and deductibles stated in the **SCC** for the following events which are due to the Contractor's risks; loss or damage to Contractors equipment and plant, Materials and for compensation of personal injury or death.

- 12.2 Policies and certificates for insurance shall be delivered by the Contractor to the Project Manager for the Project Manager's approval before the Start Date. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.
- 12.3 If the Contractor does not provide any of the policies and certificates required, the Employer may effect the insurance which the Contractor should have provided and recover the premiums the Employer has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.
- 12.4 Alterations to the terms of insurance shall not be made without the approval of the Project Manager.
- 12.5 Both parties shall comply with any conditions of the insurance policies.
- 13. Liabilities of the Contractor**
- 13.1 The Contractor shall keep the Employer harmless against all claims arising from loss or damage to third parties. He shall fully indemnify the Employer against any liability arising under the Employment and Workmen's Compensation Ordinances.
- 14. Performance Securing Declaration**
- 14.1 Within three (3) days of receipt of the notification of Contract award, the successful Contractor shall furnish to the Employer the Performance Securing Declaration in the Format provided in the bidding documents.
- 14.2 The Performance Securing Declaration, shall remain in force until the completion of the works, and in the event the Contractor failing to complete the works, the Employer, following the termination of the contract, shall initiate the blacklisting process with the Public Procurement and Disposal Authority.
- 15. Force Majeure**
- 15.1 Notwithstanding the provisions of GCC 24 and 26, the Contractor shall not be liable for liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.
- 15.2 For purposes of this GCC, "Force Majeure" means an event beyond the control of the Contractor and not involving the Contractor's fault or negligence and not foreseeable. Such events may include, but are not restricted to, acts of the Employer in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.
- 15.3 If a Force Majeure situation arises, the Contractor shall promptly notify the Employer in writing or in electronic forms that provide record of the content of communication of such condition and the cause thereof. Unless otherwise directed by the Employer in writing or in electronic forms that provide record of the content of communication, the Contractor shall continue to perform its

	obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.
	15.4 In the event of any loss or damage happening from any operation of the forces of nature against which the parties to the contract could not reasonably have foreseen, the Contractor shall rectify the loss or damage. The Employer shall determine an addition to the contract price and may consider an extension of the contract period.
16. Quality of Materials and Workmanship	16.1 All materials and workmanship shall be of the respective kind and quality as provided for in the contract and in accordance with the Project Manager's instructions and subjected to such tests as the Project Manager may require. The Contractor shall provide, free of charge, all assistance necessary for material testing and shall be responsible for meeting all costs of required testing.
17. Access to Materials	17.1 The Contractor shall identify all sources of materials required for works prior to the commencement of the works. The Employer shall where required facilitate access to such sources. The Contractor shall not use materials without prior written authorization of the Project Manager.
18. Clearance of Site	18.1 Upon completion of the works the Contractor shall remove from the site all equipment, tools, surplus materials, rubbish and temporary works and shall have the site clean and in a condition satisfactory to the Project Manager.
19. Health and Safety and Protection of the Environment.	19.1 The Contractor shall through the contract period have full regard for the health and safety of the working zone and all persons entitled to be on the site and to keep the site in an orderly state to avoid any danger to such persons. 19.2 The Contractor shall comply with all the existing environmental requirements and regulations as stipulated by the Government of South Sudan.
20. Commencement and Completion of Work.	20.1 The Contractor shall commence and complete the works within the time specified in the SCC or within an extended contract period if such extended time is allowed by the Employer.
21. Variation	21.1 Upon the approval of the Employer, the Project Manager may make any variation of the form, quality or quantity of the works and he shall have the authority to instruct the Contractor accordingly. Such variation(s) shall be through a Variation Order to the Contract. 21.2 The Project Manager shall determine the amount (if any) which in his opinion should be added to or deducted from the sum named in the contract in respect of any extra or additional work done or work omitted by such order. The amount so determined shall be based on the Bid unit rates or in case no unit rate is applicable, such other rate as will be determined by the Project Manager and agreed upon

between the Employer and the Contractor and approved by the Employer.

22. Quantities

- 22.1 The quantities set out in the Bill of Quantities are the estimated quantities for the works and they are not to be taken as the actual and correct quantities to be executed by the Contractor.
- 22.2 The Project Manager shall determine by measurement the value of the actual works and he shall certify payment for the works in compliance with such measurement at the contractually stipulated unit cost.
- 22.3 A contract amendment for additional quantities of the same items shall use the same or lower unit prices as the original contract.
- 22.4 If the final quantity of the work done differs from the quantity in the Bill of Quantities for the particular item by more than 25 percent, provided the change exceeds 1 percent of the Initial Contract Price, the Project Manager or Project Manager shall adjust the rate to allow for the change after consultation with and approval by the Employer.
- 22.5 Upon approval of the employer, the Project Manager or Project Manager shall adjust rates from changes in quantities if thereby the Initial Contract Price is not exceeded by more than 15 percent. If the change is exceeded by 15 percent, the approval should be sought from the relevant authority of the Employer.

23. Payments

- 23.1 Advance Payment: An advance payment of up to **25%** of contract value **may** be provided if so specified in the **SCC** upon submission of acceptable collateral. This advance payment will be deducted in equal installments against each bill submitted by the Contractor, and shall be wholly recovered.
- 23.2 Interim Payments: Payments will be made to the Contractor through interim certificates if the completed works are in compliance with the terms of the contract. With each interim certificate, retention money of **amount stated in the SCC** will be withheld up to a maximum of 10% of contract price. Such retention money will be released together with the final payment certificate. The amount due to the Contractor under any Interim Certificate shall be paid by the Employer to the Contractor within **14 working days** after approval of the interim certificate by the Project Manager.
- 23.3 Final Payment: The Final payment certificate shall be effected within **28** working days after the date such document has been approved by the Employer, provided that all works, corrections and repairs, if any, have been executed to the satisfaction of the Project Manager.
- 23.4 Delayed Payments: If the Employer fails to make payment within the time stated the Employer shall pay to the Contractor interest at the rate stated in the **SCC**.

- 23.5 Deductions to Payments: The Employer shall be entitled to deduct any sums, advances or debts recoverable from the Contractor to the Employer from any sums payable by the Employer to the Contractor under this contract or any other contract provided always that this provision shall not effect any other remedy by action at law or otherwise by which the Employer may be entitled to the recovery of any such moneys.
- 23.6 Payment to Workmen: In case of failure of payment of wages or any other compensation due to the workmen and/or rental fees for plant/ equipment/ vehicle hire and material under this contract the Employer shall be entitled to withhold payments from the Contractor. The Employer shall make use of such withheld payments to pay the Contractor's workmen, their wages or other compensation and/or outstanding rental fees and such payments shall be treated as the payment received from the Employer by the Contractor under this contract.
- 24. Liquidated Damages** 24.1 If the Contractor fails to perform the works within the time stated in the contract or within any extended time allowed for by the Employer the Contractor shall pay to the Employer as Liquidated Damages at a rate ***stated in the SCC*** of the Contract value per day up to a sum of equivalent to the amount of the performance guarantee.
- 25. Settlement of Disputes** 25.1 In the event of any dispute arising out of this contract, either party shall issue a notice of dispute to settle the dispute amicably. The parties hereto shall, within twenty eight (28) days from the notice date, use their best efforts to settle the dispute amicably through mutual consultations and negotiation. Any unsolved dispute may be referred by either party to an adjudicator named in the SCC.
- 25.2 The Adjudicator stated in the SCC shall give a decision in writing or in electronic forms that provide record of the content of communication within twenty eight (28) days of receipt of a notification of a dispute.
- 25.3 If either Party is dissatisfied with the Adjudicator's decision may, within days specified in the SCC refer the dispute for arbitration. If either party within the period mentioned in the SCC has not referred the matter for arbitration the decision shall become final and binding to the Parties.
- 25.4 Any dispute or difference in respect of which a notice of intention to commence arbitration has been given, in accordance with this GCC, shall be finally settled by arbitration. Arbitration may be commenced prior to or after rendering the services under the Contract.
- 25.5 The arbitration shall be conducted in accordance with the arbitration procedure published by the institution named and in the place shown in the **SCC**.
- 25.6 Notwithstanding any reference to arbitration herein,

- a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and
 - b) the Client shall pay the **Contractor** any monies due.
- 25.7 The rate of the Adjudicator's fee and administrative costs of adjudication shall be borne equally by the Parties. The rates and costs shall be in accordance with the rules of the Appointing Authority. In conducting adjudication to its finality each party shall bear its costs and expenses incurred.
- 25.8 Should the Adjudicator resign or die, or should the Client and the Contractor agree that the Adjudicator is not functioning in accordance with the provisions of the Contract, a new Adjudicator will be appointed by the Appointing Authority.
- 26 **Termination of Contract**
 - 26.1 If the Contractor fails to commence the works within the specified time or there are reasons to believe that he may not complete the works within the specified time or there are delays beyond the completion date or he fails to comply with any one of the contract conditions or he pays no attention to the instructions issued by the Project Manager or he becomes bankrupt, the Employer shall be entitled to terminate the contract and engage a new Contractor to carry out the works.
 - 26.2 If the Employer fails to pay the Contractor within 60 days of the date of the Project Manager's certificate, the Contractor may terminate the contract
 - 26.3 If the Client determines, based on the reasonable evidence that the Contractor has engaged in corrupt, coercive, collusive, obstructive or fraudulent practices in competing for or in executing the Contract shall terminate the contract.
 - 26.4 Notwithstanding the above, the Client may terminate the Contract for convenience.
 - 26.5 If the Contract is terminated, the Contractor shall stop work immediately, make the Site safe and secure, and leave the Site as soon as reasonably possible.
- 27 **Payment if Contract Terminated**
 - 27.1 If the contract shall be terminated, the Contractor shall be paid by the Employer, in so far as such amounts or items shall not have already been covered by payments on account made to the contractor, for all work executed prior to the date of termination at the rates and prices provided in the contract. Provided always that against any payments due from the Employer under this GCC the Employer shall be entitled to be credited with any outstanding balances due from the contractor for advances in respect of plant/equipment/vehicles and materials and any sum previously paid by the employer to the contractor in respect of the execution of the works.

- 28 Assignment** 28.1 The Contractor shall not assign, in whole or in part, its obligations to perform under this Contract, except with the prior written consent of the Employer.
- 29 Notices** 29.1 Any notice given by one party to the other pursuant to this Contract shall be sent to the other party in writing or in electronic forms that provide record of the content of communication and confirmed in writing or in electronic forms that provide record of the content of communication to the other party's address specified in the Local Purchase Order.
- 29.2 A notice shall be effective when delivered or on the notice's effective date, whichever is later.
- 30 Change of Laws and Regulations** 30.1 If after the date invitation to quotations, any law or regulation changed in Republic of South Sudan (which shall be deemed to include any change in interpretation or application by competent authorities) that subsequently affects the duration of the contract and/or the contract price, then such duration and/or contract price shall be correspondingly increased or decreased, to the extent that the Contractor has thereby been affected in the performance of any of its obligations under the contract.