



**Republic of Uganda**

**Ministry of Education and Sports**

**Standard Bidding Document**

**for the**

**Non Consultancy Services**

**Subject of Procurement: Transportation and Distribution of 9 million radios from selected sites in Kampala to the District Local Government Headquarters countrywide under four Lots (Northern, Eastern, Central and Western)**

**Procurement Reference Number: MOES/NCS/2020-21 /00030**

**Date of Issue: : 24<sup>th</sup> August 2020**

## PREFACE

1. This Standard Bidding Document (SBD) document has been prepared by the Public Procurement and Disposal of Public Assets Authority (PPDA) for use by Procuring and Disposing Entities (PDEs) for the procurement of Non-Consultancy Services. The procedures and practices presented in this SBD have been developed to reflect the requirements of the Public Procurement and Disposal of Assets Act, 2003, the Public Procurement and Disposal of Public Assets Regulations, 2014 and best international procurement practices.
2. This SBD for the Procurement of Non-Consultancy Services is suitable for use under the Open (International or Domestic) Bidding procurement method with or without pre-qualification. It is also suitable for the Restricted (International or Domestic) Bidding procurement method. The SBD may also be used for procurement under the Direct Procurement method with appropriate modifications to the document.
3. This SBD is suitable for lump-sum contracts where the services are pre-defined and the period of the services are fixed to enable a total lump sum amount to be calculated representing the total amount under the contract. Thus time based contracts would not normally be applicable to non-consultancy services. The User Guide to this SBD further explains the circumstances in which this SBD for non-consultancy services is most appropriate.
4. The preferred evaluation methodology for procurement of non-consultancy services is Technical Compliance Selection (TCS) as described in the PPDA Regulations, and further elaborated in the User Guide to this SBD.
5. Before using this SBD, the user should be familiar with the PPDA Act and Regulations and should read the User Guide to this SBD which has been prepared to provide guidance to public officials in the correct use of the Standard Bidding Document (SBD) for Non-Consultancy Services as a model for preparing an individual Bidding Document.

PPDA welcomes any feedback or comments from the users of this SBD which will assist in improving this document.

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# Standard Bidding Document

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## Republic of Uganda

### Standard Invitation to Bidders BID NOTICE UNDER OPEN BIDDING

#### Transportation and Distribution of 9 Million radios from selected sites in Kampala to District Local Government Headquarters countrywide under four Lots – MOES/NCS/20-21/00030

1. The Ministry of Education and Sports has allocated funds to be used for the transportation of 9 million radios from selected sites in Kampala to District Local Government Headquarters in four Lots based on geographical areas of Uganda as indicated in the table below

Lot No.	Region	Bid Security amount (UGX)
1.	Northern,	15,000,000
2.	Eastern	15,000,000
3.	Central	15,000,000
4.	Western	15,000,000

2. The Entity invites sealed bids from eligible bidders for the provision of the above transportation services.
3. Bidding will be conducted in accordance with the open domestic bidding procedures contained in the Public Procurement and Disposal of Public Assets Act, 2003, and is open to all bidders.
4. Interested eligible bidders may obtain further information and inspect the bidding documents at the address given below at 8(a) from 9:00am to 4:30pm.
5. The Bidding Documents in English may be purchased by interested bidders on the submission of a written application to the address below at 8(b) and upon payment of a non-refundable fee of UGX.100,000.
6. Bids must be delivered to the address below at 8(c) at or before 22<sup>nd</sup> September 2020 at 11:00am. All bids must be accompanied by a bid security of UGX.15 million per Lot. Bid securities must be valid until 31<sup>st</sup> December 2020. Late bids shall be rejected. Bids will be opened in the presence of the bidders' representatives who choose to attend at the address below at 8(d) at 11:30am on 22<sup>nd</sup> September 2020.

7. There shall be a pre – bid meeting via zoom on the dates indicated in the proposed schedule in this notice.
8. (a) Documents may be inspected at: Ministry of Education and Sports, Embassy House, Room 7.2
- (b) Documents will be issued from: same as above
- (c) Bids must be delivered to: same as above
- (d) Address of Bid Opening: via zoom (details to be provided within 24 hours to the bid closing time)
9. The planned procurement schedule (subject to changes) is as follows:

<b>Activity</b>	<b>Date</b>
a. Publish bid notice	24 <sup>th</sup> August 2020
b. Pre-bid meeting	2 <sup>nd</sup> September 2020
c. Bid closing date	22 <sup>nd</sup> September 2020
d. Evaluation process	<i>(Within 10 working days from bid closing date)</i>
e. Display and communication of best evaluated bidder notice	<i>(Within 5 working days from Contracts Committee award)</i>
f. Contract Signature	<i>(After expiry of at least 10 working days from display of the best evaluated bidder notice and Solicitor General's approval).</i>

Signature:

Name: Yerusa Nyangoma

For: **PERMANENT SECRETARY**

# Section 1. Instructions to Bidders

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# **Section 1. Instructions to Bidders**

## **A. General**

### **1. Scope of Bid**

- 1.1 The Procuring and Disposing Entity indicated in the Bid Data Sheet (BDS), invites bids for the provision of the Services specified in Section 6, Statement of Requirements to commence on the date indicated on the BDS.
- 1.2 The Instructions to Bidders (ITB) should be read in conjunction with the BDS. The subject and procurement reference number and inputs to be provided by the Procuring and Disposing Entity are provided in the SCC.
- 1.3 Throughout this Bidding Document:
  - (a) the term “in writing” means communicated in written form with proof of receipt;
  - (b) if the context so requires, singular means plural and vice versa; and
  - (c) “day” means working day,
- 1.4 Procurement will be undertaken in compliance with the Public Procurement and Disposal of Public Assets Act 2003 and the Public Procurement and Disposal of Public Assets Regulations, 2014.

### **2. Source of Funds**

- 2.1 The Procuring and Disposing Entity has an approved budget from Government funds towards the cost of the procurement. The Procuring and Disposing Entity intends to use these funds to place a contract for which this Bidding Document is issued.
- 2.2 Payments will be made directly by the Procuring and Disposing Entity and will be subject in all respects to the terms and conditions of the resulting contract placed by the Procuring and Disposing Entity.

### **3. Corrupt Practices**

- 3.1 It is the Government of Uganda’s policy to require that Procuring and Disposing Entities, as well as Bidders and Providers, observe the highest standards of ethics during procurement and the execution of contracts. In pursuit of this policy, the Government of Uganda represented by the Public Procurement and Disposal of Public Assets Authority (herein referred to as the Authority);
  - (a) defines, for the purposes of this provision, the terms set forth below as follows:
    - (i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value, to influence the action of a public official in the procurement process or in contract execution; and
    - (ii) “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
    - (iii) “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;

- (iv) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
  - (b) will reject a recommendation for award if it determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the Contract;
  - (c) will suspend a Provider from engaging in any public procurement proceeding for a stated period of time, if it at any time determines that the Provider has engaged in corrupt or fraudulent practices in competing for, or in executing, a Government contract.
- 3.2 Furthermore, Bidders shall be aware of the provision stated in Clause 2.2, 2.3 and 14.1(g)-(h) of the General Conditions of Contract.
- 3.3 In pursuit of the policy defined in Sub-Clause 3.1, the Procuring and Disposing Entity may terminate a contract or be ordered by the Public Procurement and Disposal of Public Assets Appeals Tribunal to cancel a contract if it at any time determines that corrupt, fraudulent, collusive or coercive practices were engaged in by representatives of the Procuring and Disposing Entity or of a Bidder or Provider during the procurement or the execution of that contract.
- 3.4 In pursuit of the policy defined in Sub-clause 3.1, the Government of Uganda requires representatives of both Procuring and Disposing Entities and of Bidders and Providers to adhere to the relevant codes of ethical conduct. The Code of Ethical Conduct for Bidders and Providers as provided in the bidding forms shall be signed by the Bidder and submitted together with the other bidding forms.
- 3.5 In pursuit of the policy defined in Sub-clause 3.1, the Government of Uganda may suspend a provider from engaging in any public procurement or disposal process for a period determined by the Authority, where the provider is debarred from the procurement processes of an international agency of which Uganda is a member.
- 3.6 Any communications between a Bidder and the Procuring and Disposing Entity related to matters of alleged fraud or corruption must be made in writing and addressed to the Accounting Officer of the Procuring and Disposing Entity.

#### **4. Eligible Bidders**

- 4.1 A Bidder, and all parties constituting the Bidder, shall meet the following criteria to be eligible to participate in public procurement:
- (a) the bidder has the legal capacity to enter into a contract;
  - (b) the bidder is not:
    - (i) insolvent;
    - (ii) in receivership;
    - (iii) bankrupt; or
    - (iv) being wound up
  - (c) the bidder’s business activities have not been suspended;
  - (d) the bidder is not the subject of legal proceedings for any of the circumstances in (b); and



## Part 1: Section 1 Instructions To Bidders

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- (e) the bidder has fulfilled his or her obligations to pay taxes and social security contributions.
- 4.2 A Bidder may be a natural person, private entity, government-owned entity, subject to ITB Sub-Clause 4.6, or any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a joint venture, consortium, or association. In the case of a joint venture, consortium, or association, all parties shall be jointly and severally liable. For bids submitted by an existing or intended JV, a Power of Attorney from each member of the JV nominating a Representative in the JV and a Power of Attorney from the JV nominating a representative who shall have the authority to conduct all business for and on behalf of any and all the parties of the JV during the bidding process and, in the event the JV is awarded the Contract, during contract execution.
- 4.3 A Bidder, and all parties constituting the Bidder including sub-contractors shall have the nationality of an eligible country, in accordance with Section 5, Eligible Countries. A Bidder shall be deemed to have the nationality of a country if the Bidder is a citizen or is constituted, incorporated, or registered and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors for any part of the Contract including related works or supplies.
- 4.4 A Bidder shall not have a conflict of interest. All Bidders found to be in conflict of interest shall be disqualified. A Bidder may be considered to have a conflict of interest with one or more parties in this bidding process, if they:
- (a) have controlling shareholders in common; or
  - (b) receive or have received any direct or indirect subsidy from any of them; or
  - (c) have the same legal representative for purposes of this bid; or
  - (d) have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the bid of another Bidder, or influence the decisions of the Procuring and Disposing Entity regarding this bidding process; or
  - (e) submit more than one bid in this bidding process. However, this does not limit the participation of subcontractors in more than one bid, or as Bidders and subcontractors simultaneously.
- 4.5 A firm that is under a declaration of suspension by the Authority, at the date of the deadline for bid submission or thereafter before contract signature, shall be disqualified.
- 4.6 Government-owned enterprises shall be eligible only if they can establish that they are legally and financially autonomous and operate under commercial law.
- 4.7 Bidders shall provide such evidence of their continued eligibility satisfactory to the Procuring and Disposing Entity, as the Procuring and Disposing Entity shall reasonably request. All related supplies and staff employed under the contract shall have their origin or nationality in an eligible country.
- 5. Qualification of the Bidder**
- 5.1 To establish its qualifications to perform the Contract, the Bidder shall complete and submit:

- (a) the Qualification Form provided in Section 4, Bidding Forms; and
  - (b) the information and documents stated in Section 3, Evaluation Methodology and Criteria.
- 5.2 The qualifications of the best evaluated Bidder will be assessed as part of a post-qualification in accordance with ITB Clause 36.
- 5.3 In the event that pre-qualification of potential Bidders has been undertaken, only bids from pre-qualified Bidders will be considered for award of Contract. These qualified Bidders should submit with their bids any information updating their original pre-qualification applications or, alternatively, confirm in their bids that the originally submitted pre-qualification information remains essentially correct as of the date of bid submission. The update or confirmation should be provided in the Qualification Form.

## **B. Bidding Document**

### **6. Contents of Bidding Document**

- 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 Clause 8.

#### **PART 1 Bidding Procedures**

- Section 1. Instructions to Bidders
- Section 2. Bid Data Sheet
- Section 3. Evaluation Methodology and Criteria
- Section 4. Bidding Forms
- Section 5. Eligible Countries

#### **PART 2 Statement of Requirements**

- Section 6. Statement of Requirements

#### **PART 3 Contract**

- Section 7. General Conditions of Contract (GCC) for the Procurement of Non-Consultancy Services
- Section 8. Special Conditions of Contract (SCC)
- Section 9. Contract Forms

- 6.2 The Bid Notice, Pre-qualification Notice or letter of invitation is not part of the Bidding Document.
- 6.3 Bidders who did not obtain the Bidding Document directly from the Procuring and Disposing Entity will be rejected during evaluation. Where Bidding Document are obtained from the Procuring and Disposing Entity on a Bidder's behalf, the Bidder's name must be registered with the Procuring and Disposing Entity at the time of sale and issue.
- 6.4 The Bidder is expected to examine all instructions, forms, terms, and requirements in the Bidding Document. Failure to furnish all information or documentation required by the Bidding Document may result in the rejection of the bid.
- 6.5 Where an electronic copy of the bidding document is issued, the paper or hard copy of

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the bidding document is the original version. In the event of any discrepancy between the two, the hard copy shall prevail.

### **7. Clarification of Bidding Document**

- 7.1 A prospective Bidder requiring any clarification of the Bidding Document shall contact the Procuring and Disposing Entity in writing at the Procuring and Disposing Entity's address indicated in the BDS. The Procuring and Disposing Entity will respond in writing to any request for clarification, provided that such request is received no later than the date indicated in the BDS. The Procuring and Disposing Entity shall forward copies of its response to all Bidders who have acquired the Bidding Document directly from it, including a description of the inquiry but without identifying its source. Should the Procuring and Disposing Entity deem it necessary to amend the Bidding Document as a result of a clarification, it shall do so following the procedure under ITB Clause 8.

### **8. Amendment of Bidding Document**

- 8.1 At any time prior to the deadline for submission of bids, the Procuring and Disposing Entity may amend the Bidding Document by issuing addenda.
- 8.2 Any addendum issued shall be part of the Bidding Document and shall be communicated in writing to all who have obtained the Bidding Document directly from the Procuring and Disposing Entity.
- 8.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their bids, the Procuring and Disposing Entity may, at its discretion, extend the deadline for the submission of bids, pursuant to ITB Clause 8.

## **C. Preparation of Bids**

### **9. Cost of Bidding**

- 9.1 The Bidder shall bear all costs associated with the preparation and submission of its bid, including any negotiations with or visits to the Procuring and Disposing Entity, and the Procuring and Disposing Entity shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

### **10. Language of Bid**

- 10.1 The medium of communication shall be in writing unless otherwise specified in the BDS.
- 10.2 The bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Procuring and Disposing Entity, shall be written in English unless otherwise specified in the BDS.
- 10.3 Supporting documents and printed literature that are part of the bid may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified in ITB Sub-Clause 10.2, in which case, for purposes of interpretation of the bid, such translation shall govern.

### **11. Preparation of Bids**

- 11.1 Bidders are required to prepare and submit a single bid containing both technical and financial information (one stage one envelope).
- 11.2 A pre-bid meeting will be held where indicated in the BDS. Attendance at the pre-bid

meeting is optional.

**12. Documents Comprising the Bid**

12.1 The bid shall comprise the following:

- (a) the Bid Submission Sheet, in accordance with ITB Clause 13, 14 and 15;
- (b) a Bid Security or a Bid Securing Declaration, in accordance with ITB Clause 19;
- (c) written confirmation authorising the signatory of the bid to commit the Bidder, in accordance with ITB Sub-Clause 20.2;
- (d) documentary evidence in accordance with ITB Clause 16 establishing the Bidder's eligibility to bid;
- (e) documentary evidence in accordance with ITB Clause 5 establishing the Bidder's qualifications to perform the contract if its bid is accepted;
- (f) The Code of Ethical Conduct for Bidders and Providers in accordance with ITB Clause 3.4; and
- (g) any other document(s) required in the BDS.

**13. Bid Submission Sheet and price schedules**

13.1 The Bidder shall submit the Bid Submission Sheet using the form provided in Section 4, Bidding Forms. This form must be completed without any alterations to its format, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested, which includes:

- (a) the Procurement Reference Number of the Bidding Document and the number of each addenda received;
- (b) a brief description of the Services offered;
- (c) the total bid price;
- (d) any discounts offered and the methodology for their application;
- (e) the period of validity of the bid ;
- (f) a commitment to submit any Performance Security required and the amount;
- (g) a declaration that the Bidder is eligible to participate in public procurement;
- (h) a declaration of nationality of the Bidder and of any eligibility for a margin of preference;
- (h) a commitment to adhere to the Code of Ethical Conduct for Bidders and Providers;
- (i) a declaration that the Bidder, including all parties comprising the Bidder, is not participating, as a Bidder, in more than one bid in this bidding process;
- (j) confirmation that the Bidder has not been suspended by the Authority;
- (k) a declaration on commissions and gratuities; and
- (l) an authorised signature.

13.2 The Bidder shall submit the Price Schedule for Services, using the format provided in Section 4, Bidding Forms. The Price Schedule shall include, as appropriate:

- (a) a brief description of the Services to be performed;

- (b) the unit prices where applicable;
- (c) local taxes paid or payable in Uganda;
- (d) the total price per line item;
- (e) subtotals and totals per Price Schedule; and
- (f) an authorised signature.

**14. Bid Prices and Discounts**

- 14.1 The price to be quoted in the Bid Submission Sheet, in accordance with ITB Sub-Clause 13.1(c) shall be the total price of the bid, excluding any discounts offered.
- 14.2 The Bidder shall quote any unconditional and conditional discounts and the methodology for their application in the Bid Submission Sheet, in accordance with ITB Sub-Clause 13.1(d).
- 14.3 Prices quoted by the Bidder shall be fixed during the Bidder's performance of the Contract and not subject to variation on any account, unless otherwise specified in the BDS. A bid submitted with an adjustable price quotation shall be treated as non-responsive and shall be rejected, pursuant to ITB Clause 31.

**15. Currencies of Bid**

- 15.1 Unless otherwise specified in the BDS, bid prices shall be quoted in Uganda Shillings.

**16. Documents Establishing the Eligibility of the Bidder**

- 16.1 To establish their eligibility in accordance with ITB Clause 4, Bidders shall complete the eligibility declarations in the Bid Submission Sheet, included in Section 4, Bidding Forms and submit the documents required in Section 3, Evaluation Methodology and Criteria.

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

- 17.1 To establish its qualifications to perform the Contract, the Bidder shall submit the evidence indicated for each qualification criteria specified in Section 3, Evaluation Methodology and Criteria.
- 17.2 Bidders with a current registration with the Authority are not required to submit:
  - (a) a copy of the bidder's current trading licence or equivalent;
  - (b) a copy of the bidder's certificate of registration or equivalent.

But should include details of their Authority registration number in the bid submission sheet.

**18. Period of Validity of Bids**

- 18.1 Bids shall remain valid until the date specified in the BDS. A bid valid for a shorter period shall be rejected by the Procuring and Disposing Entity as non-compliant.
- 18.2 The Procuring and Disposing Entity will make its best effort to complete the procurement process within this period.
- 18.3 In exceptional circumstances, prior to the expiration of the bid validity period, the Procuring and Disposing Entity may request Bidders to extend the period of validity of their bids. The

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request and the responses shall be made in writing. If a Bid Security or Bid Securing Declaration is requested in accordance with ITB Clause 19, it shall also be extended for a corresponding period. A Bidder may refuse the request without forfeiting its Bid Security or being liable for suspension in case of a Bid Securing Declaration. A Bidder granting the request shall not be required or permitted to modify its bid.

### **19. Bid Security or Bid Securing Declaration**

- 19.1 The Bidder shall furnish as part of its bid, a Bid Security or a Bid-Securing Declaration, if required, as specified in the BDS.
- 19.2 The Bid Security shall be in the amount specified in the BDS and denominated in the currency of Uganda or a freely convertible currency, and shall:
- (a) at the bidder's option, be in the form of either a letter of credit, or a bank guarantee, or Bank draft or Cashier's Check from a banking institution;
  - (b) be issued by a reputable financial institution selected by the bidder from an eligible country. If the institution issuing the security is located outside the Uganda, it shall have a correspondent financial institution located in Uganda to make it enforceable;
  - (c) be substantially in accordance with one of the forms of Bid Security included in Section 4, Bidding Forms;
  - (d) be payable promptly upon written demand by the Procuring and Disposing Entity in case the conditions listed in ITB Clause 19.6 are invoked;
  - (e) be submitted in its original form - copies will not be accepted.
- 19.3 The Bid Security or Bid Securing Declaration shall be submitted using the forms included in Section 4, Bidding Forms and shall remain valid until the date specified in the BDS.
- 19.4 Any bid not accompanied by a substantially responsive Bid Security or Bid Securing Declaration, if one is required in accordance with ITB Sub-Clause 21.1, shall be rejected by the Procuring and Disposing Entity as non-compliant.
- 19.5 The Bid Security or Bid Securing Declaration of all Bidders shall be returned as promptly as possible once the successful Bidder has signed the Contract and provided the required Performance Security where applicable or upon request by the unsuccessful bidder after publication of the notice of best evaluated bidder.
- 19.6 If a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Bid Submission Sheet, except as provided in ITB Sub-Clause 18.3; or
- If the successful Bidder fails to:
- (a) sign the Contract in accordance with ITB Clause 39;
  - (b) furnish any Performance Security in accordance with ITB Clause 41; or
  - (c) accept the correction of its bid price pursuant to ITB Sub-Clause 29.5.

The Bid Security may be forfeited or Bid Securing Declaration executed.

**20. Format and Signing of Bid**

- 20.1 The Bidder shall prepare one original of each of the documents comprising the bid as described in ITB Clauses 11 and 12 and clearly marked “ORIGINAL”. In addition, the Bidder shall submit copies of the bid, in the number specified in the BDS and clearly mark each of them “COPY”. In the event of any discrepancy between the original and the copies, the original shall prevail.
- 20.2 The original and all copies of the bid shall be typed or written in indelible ink and shall be signed by a person duly authorised to sign on behalf of the Bidder. This authorisation shall consist of a Power of Attorney which if signed in Uganda shall be registered and if signed outside Uganda, shall be notarized and shall be attached to the bid. The name and position held by each person signing the authorisation must be typed or printed below the signature. All pages of the bid, except for unamended printed literature, shall be signed or initialled by the person signing the bid.
- 20.3 Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialled by the person signing the bid.

**D            Submission and Opening of Bids**

**21. Sealing and Marking of Bids**

- 21.1 The Bidder shall enclose the original and each copy of the bid, in separate sealed envelopes, duly marking the envelopes as “ORIGINAL” and “COPY.” These envelopes containing the original and the copies shall then be enclosed in one single plain envelope securely sealed in such a manner that opening and resealing cannot be achieved undetected.
- 21.2 The inner and outer envelopes shall:
- (a) bear the name and address of the Bidder;
  - (b) be addressed to the Procuring and Disposing Entity in accordance with ITB Sub-Clause 22.1;
  - (c) bear the Procurement Reference number of this bidding process; and
  - (d) bear a warning not to open before the time and date for bid opening.
- 21.3 If all envelopes are not sealed and marked as required, the Procuring and Disposing Entity will assume no responsibility for the misplacement or premature opening of the bid.

**22. Deadline for Submission of Bids**

- 22.1 Bids must be received by the Procuring and Disposing Entity at the address and no later than the date and time indicated in the BDS.
- 22.2 The Procuring and Disposing Entity may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Document in accordance with ITB Clause 8, in which case all rights and obligations of the Procuring and Disposing Entity and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.

**23. Late Bids**

## **Part 1: Section 1            Instructions To Bidders**

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23.1 The Procuring and Disposing Entity shall not consider any bid that arrives after the deadline for submission of bids, in accordance with ITB Clause 22. Any bid received by the Procuring and Disposing Entity after the deadline for submission of bids shall be declared late, rejected, and returned unopened to the Bidder.

### **24. Withdrawal and Replacement of Bids**

24.1 A Bidder may withdraw or replace its bid after it has been submitted at any time before the deadline for submission of bids by sending a written notice, duly signed by an authorised representative, which shall include a copy of the authorisation in accordance with ITB Sub-Clause 20.2. Any corresponding replacement of the bid must accompany the respective written notice. All notices must be:

- (a) submitted in accordance with ITB Clauses 21 and 22 (except that withdrawals notices do not require copies), and in addition, the respective envelopes shall be clearly marked “WITHDRAWAL” or “REPLACEMENT” and
- (b) received by the Procuring and Disposing Entity prior to the deadline prescribed for submission of bids, in accordance with ITB Clause 22.

24.2 Bids requested to be withdrawn in accordance with ITB Sub-Clause 24.1 shall be returned unopened to the Bidder.

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

24.4 Bids may only be modified by withdrawal of the original bid and submission of a replacement bid in accordance with ITB Sub-Clause 24.1. Modifications submitted in any other way shall not be taken into account in the evaluation of bids.

### **25. Bid Opening**

25.1 The Procuring and Disposing Entity shall conduct the bid opening in the presence of Bidders` designated representatives who choose to attend, at the address, date and time specified in the BDS.

25.2 First, envelopes marked “WITHDRAWAL” shall be opened and read out and the envelope with the corresponding bid shall not be opened, but returned to the Bidder. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorisation to request the withdrawal and is read out at the bid opening.

25.3 All other outer envelopes including those marked “REPLACEMENT” shall be opened and the technical bids within them opened. Replacement bids shall be recorded as such on the record of the bid opening.

25.4 All bids shall be opened one at a time, reading out: the name of the Bidder; the presence of a Bid Security or Bid Securing Declaration, if required the total bid price and any discounts; and any other details as the Procuring and Disposing Entity may consider appropriate. No bid shall be rejected at the bid opening except for late bids, in accordance with ITB Sub-Clause 23.1.

25.5 Only envelopes that are opened and read out at the bid opening shall be considered further.

25.6 The Procuring and Disposing Entity shall prepare a record of the bid opening that shall include, as a minimum: the name of the Bidder, whether there is a withdrawal and/or



replacement, the bid price and the presence or absence of a Bid Security, where required. The Bidders' representatives who are present shall be requested to sign the record. The omission of a Bidder's signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to Bidders upon payment of a fee and displayed on the Procuring and Disposing Entity's Notice Board within one working day from the date of the bid Opening.

### **E. Evaluation of Bids**

#### **26. Confidentiality**

- 26.1 A procuring and disposing entity shall not disclose to a bidder or to any other person who is not involved in the preparation of the solicitation documents, the evaluation process or the award decision, any information relating to-
- (a) solicitation documents, before the solicitation documents are officially issued;
  - (b) the examination, clarification, evaluation and comparison of bids before the best evaluated bidder notice is displayed on the procurement and disposal notice board of the procuring and disposing entity.
- 26.2 Any effort by a Bidder to influence the Procuring and Disposing Entity in the examination, evaluation, comparison, and post-qualification of the bids or contract award decisions may result in the rejection of its bid.
- 26.3 Notwithstanding ITB Sub-Clause 26.2, from the time of bid opening to the time of Contract award, if any Bidder wishes to contact the Procuring and Disposing Entity on any matter related to the bidding process, it should do so in writing.

#### **27. Clarification of Bids**

- 27.1 To assist in the examination, evaluation, comparison and post-qualification of the bids, the Procuring and Disposing Entity may, at its discretion, ask any Bidder for a clarification of its bid. Any clarification submitted by a Bidder that is not in response to a request by the Procuring and Disposing Entity shall not be considered. The Procuring and Disposing Entity's request for clarification and the response shall be in writing. The request for clarification shall be copied to all bidders for information purposes. No change in the price or substance of the bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Procuring and Disposing Entity in the evaluation of the financial bids, in accordance with ITB Clause 29.4.

#### **28. Compliance and Responsiveness of Bids**

- 28.1 The Procuring and Disposing Entity's determination of a bid's compliance and responsiveness is to be based on the contents of the bid itself.
- 28.2 A substantially compliant and responsive bid is one that conforms to all the terms, conditions, and requirements of the Bidding Document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:
- (a) affects in a substantial way, the scope or quality of the supplies or services or the performance of the works to be procured;
  - (b) is inconsistent with the bidding document and which may in a substantial way, limit the rights of the procuring and disposing entity or the obligations of the bidder under the contract;
  - (c) if corrected would unfairly affect the competitive position of the other bidders whose bids are administratively compliant and responsive; or

- (d) impacts the key factors of a procurement including cost, risk, time and quality and causes -
- (i) unacceptable time schedules, where it is stated in the bidding document that time is of the essence;
  - (ii) unacceptable alternative technical details, such as design, materials, workmanship, specifications, standards or methodologies; or
  - (iii) unacceptable counter-bids with respect to key contract terms and conditions, such as payment terms, price adjustment, liquidated damages, sub-contracting or warranty.

28.3 If a bid is not substantially compliant and responsive to the Bidding Document, it shall be rejected by the Procuring and Disposing Entity and may not subsequently be made compliant and responsive by the Bidder by correction of the material deviation, reservation, or omission.

### **29. Nonconformities, Errors, and Omissions**

29.1 Provided that a bid is substantially compliant and responsive, the Procuring and Disposing Entity may waive any non-conformity or omission in the bid that does not constitute a material deviation.

29.2 Provided that a bid is substantially compliant and responsive, the Procuring and Disposing Entity may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities or omissions in the bid related to documentation requirements. Such omission shall not be related to any aspect of the price of the bid. Failure of the Bidder to comply with the request may result in the rejection of its bid.

29.3 Provided that a bid is substantially compliant and responsive, the Procuring and Disposing Entity shall rectify nonmaterial nonconformities or omissions. To this effect, the bid price shall be adjusted, for comparison purposes only, to reflect the price of the missing or non-conforming item or component.

29.4 Provided that the bid is substantially compliant and responsive, the Procuring and Disposing Entity shall correct arithmetic errors on the following basis:

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

29.5 If the Bidder that submitted the best evaluated bid does not accept the correction of errors, its bid shall be rejected and its Bid Security may be forfeited or Bid Securing Declaration executed.

### **30. Preliminary Examination of Bids – Eligibility and Administrative Compliance**

## **Part 1: Section 1            Instructions To Bidders**

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- 30.1 The Procuring and Disposing Entity shall examine the legal documentation and other information submitted by Bidders to verify the eligibility of Bidders in accordance with ITB Clause 4.
- 30.2 If after the examination of eligibility, the Procuring and Disposing Entity determines that the Bidder is not eligible, it shall reject the bid.
- 30.3 The Procuring and Disposing Entity shall examine the bids to confirm that all documents and technical documentation requested in ITB Clause 12 have been provided, and to determine the completeness of each document submitted.
- 30.4 The Procuring and Disposing Entity shall confirm that the following documents and information have been provided in the bid. If any of these documents or information is missing, the offer shall be rejected.
- (a) the Bid Submission Sheet, including:
    - (i) a brief description of the Services offered;
    - (ii) the price of the bid; and
    - (iii) the validity date of the bid;
  - (b) the Price Schedule;
  - (c) written confirmation of authorisation to commit the Bidder;
  - (d) a Bid Security or Bid Securing Declaration, if applicable; and
  - (e) samples as may be required

### **31. Detailed Commercial and Technical Evaluation**

- 31.1 The Procuring and Disposing Entity shall examine the bid to confirm that all terms, conditions and requirements of the bidding document have been accepted by the Bidder without any material deviation or reservation.
- 31.2 If, after the examination of the terms, conditions and requirements, the Procuring and Disposing Entity determines that the bid is not substantially responsive in accordance with ITB Clause 28, it shall reject the bid.

### **32. Conversion to Single Currency**

- 32.1 For evaluation and comparison purposes, the Procuring and Disposing Entity shall convert all bid prices expressed in amounts in various currencies into a single currency, using the selling exchange rate established by the source and on the date specified in the BDS.

### **33. Margin of Preference**

- 33.1 Unless otherwise specified in the BDS, a margin of preference shall apply. Where a Margin of Preference applies, its application and detail shall be specified in Section 3, Evaluation Methodology and Criteria.
- 33.2 For the purpose of granting a margin of domestic preference, bids will be classified in one of three groups, as follows:
- (a) Group A: bids from providers incorporated or registered in Uganda where more than fifty percent of the bidder's capital is owned by Ugandan citizens or by the

## **Part 1: Section 1            Instructions To Bidders**

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Government or a procuring and disposing entity of Uganda;

- (b) Group B: bids from joint ventures or associations registered in Uganda and including a provider qualifying under the conditions in paragraph (a) which holds more than fifty percent beneficiary interest in the joint venture or association; and
- (c) Group C: all other bids which do not qualify for preference under paragraphs (a) or (b).

33.3 Bidders claiming eligibility for a Margin of Preference must complete the declarations in the bid submission sheet and provide documentary evidence of their eligibility in accordance with paragraphs 33.2 (a) or (b) above.

### **34. Financial Comparison of Bids**

34.1 The Procuring and Disposing Entity shall financially evaluate each bid that has been determined, up to this stage of the evaluation, to be substantially compliant and responsive.

34.2 To financially evaluate a bid, the Procuring and Disposing Entity shall only use the criteria and methodologies defined in this Clause and in Section 3, Evaluation Methodology and Criteria. No other criteria or methodology shall be permitted.

34.3 To financially compare bids, the Procuring and Disposing Entity shall:

- (a) determine the bid price, taking into account the costs listed in Section 3, Evaluation Methodology and Criteria;
- (b) correct any arithmetic errors in accordance with ITB Sub-Clause 29.4;
- (c) apply any unconditional discounts offered in accordance with ITB Sub-Clause 13.1(d);
- (d) make adjustments for any nonmaterial nonconformities and omissions in accordance with ITB Sub-Clause 29.3;
- (e) convert all bids to a single currency in accordance with ITB Clause 32;
- (f) apply any margin of preference in accordance with ITB Clause 33; and
- (g) determine the total evaluated price of each bid.

### **35. Determination of Best Evaluated Bid(s)**

35.1 The Procuring and Disposing Entity shall compare all substantially compliant and responsive bids to determine the best evaluated bid or bids, in accordance with Section 3, Evaluation Methodology and Criteria.

### **36. Post-qualification of the Bidder**

36.1 The Procuring and Disposing Entity shall determine to its satisfaction whether the Bidder that is selected as having submitted the best evaluated bid is qualified to perform the Contract satisfactorily.

36.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB Clause 5, to clarifications in accordance with ITB Clause 27 and the qualification criteria indicated in Section 3, Evaluation Methodology and Criteria. Factors not included in Section 3 shall not be used in the evaluation of the Bidder's qualifications.

## **Part 1: Section 1            Instructions To Bidders**

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- 36.3 An affirmative determination shall be a prerequisite for award of the Contract to the Bidder. A negative determination shall result in disqualification of the bid, in which event the Procuring and Disposing Entity shall proceed to the next best evaluated bid to make a similar determination of that Bidder's capabilities to perform satisfactorily.
- 36.4 If pre-qualification has been conducted, no post-qualification will be conducted but pre-qualification information shall be verified.

### **F.        Award of Contract**

#### **37. Award Procedure**

- 37.1 The Procuring Entity shall issue a Notice of Best Evaluated Bidder within five (5) days after the decision of the contracts committee to award a contract, place such a Notice on its notice board for a prescribed period, copy the Notice to all Bidders and to the Authority for publication on its website.
- 37.2 No contract shall be signed for a period of at least ten (10) working days after the date of display of the Best Evaluated Bidder.
- 37.3 The Procuring and Disposing Entity shall award the Contract to the Bidder whose offer has been determined to be the best evaluated bid, provided that the Bidder is determined to be qualified to perform the Contract satisfactorily and subject to satisfactory negotiations.
- 37.4 Negotiations will only be held in exceptional circumstances as provided for under the PPDA Act.

#### **38. The Procuring and Disposing Entity's Right to Accept or Reject Any or All Bids**

- 38.1 The Procuring and Disposing Entity 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 signature and issue by the Procuring and Disposing Entity, without thereby incurring any liability to Bidders.

#### **39. Signing and Effectiveness of Contract**

- 39.1 On expiry of the ten (10) working day period after the display of the Best Evaluated Bidder, and upon approval of the Attorney General where applicable, the Procuring and Disposing Entity shall sign a contract with the successful Bidder.
- 39.2 Failure by the successful Bidder to sign the contract shall constitute sufficient ground for annulment of the contract award.
- 39.3 Effectiveness of the contract shall be subject to submission of a satisfactory Performance Security where applicable and any other conditions specified in the Contract.

#### **40. Debriefing**

- 40.1 Where a bidder information on the reasons for the success or failure of their bid, the Procuring and Disposing Entity shall promptly give the Bidder a written debrief after the signing of the contract.

#### **41. Performance Security**

- 41.1 Within twenty-one (21) days of signing of the contract, the successful Bidder shall where applicable, furnish to the Procuring and Disposing Entity a Performance Security in the amount stipulated in the SCC and in the form of on demand Bank Guarantee as stipulated in Section 9, denominated in the type and proportions of currencies of the Contract. The performance security shall be issued by a Bank located in Uganda or a foreign Bank through correspondence with a Bank located in Uganda. On demand insurance bonds with proof of re-insurance, in the format included in Section 9 (contract forms) can be accepted.
- 41.2 Failure of the successful Bidder to submit the above-mentioned Performance Security shall constitute sufficient ground for annulment of the contract award. In this case, or where the successful Bidder fails to sign the contract in accordance with ITB Clause 39.2, the successful Bidder's Bid Security may be forfeited or the Bidder may be suspended by the Authority from participating in Government of Uganda public procurement and disposal processes under the terms of its Bid Securing Declaration. In that event, the Procuring and Disposing Entity may award the Contract to the next best evaluated Bidder.

**42. Advance Payment and Security**

- 42.1 If so stated in the BDS, the Employer will provide an Advance Payment on the Contract Price, subject to a maximum amount, as stated in the BDS. This Payment shall be in the same currencies and proportions as the Contract Payment and shall be made in accordance with the GCC. The performance security shall be issued by a Bank located in Uganda or a foreign Bank through correspondence with a Bank located in Uganda. On demand insurance bonds with proof of re-insurance, in the format included in Section 9 (contract forms) can be accepted.

**43. Administrative Review**

- 42.1 Bidders may seek an Administrative Review by the Accounting Officer in accordance with the Public Procurement and Disposal of Assets Act, 2003 if they are aggrieved with the decision of the Procuring and Disposing Entity.

## Section 2. Bid Data Sheet

Instructions to Bidders Reference	Data relevant to the ITB
<b>A. General</b>	
<b>ITB 1.1</b>	The Procuring and Disposing Entity is: Ministry of Education and Sports
<b>ITB 1.1</b>	<b>Commencement:</b> The assignment is expected to commence on around 3 <sup>rd</sup> week of October 2020
<b>ITB 1.2</b>	<b>Subject:</b> The subject of the procurement is: Transport and distribution of radios from Kampala to all District Local Government Headquarters under Four Lots – Eastern, Northern, Central and Western Regions
<b>ITB 1.2</b>	<b>Reference:</b> The Procurement Reference Number is: MOES/NCS/20-21/00030
<b>B. Bidding Document</b>	
<b>ITB 7.1</b>	<p><b>Clarification:</b> For clarification purposes only the Procuring and Disposing Entity’s address is:</p> <p>Attention: The Head of Procurement and Disposal Unit</p> <p>Street Address: King George VI Way</p> <p>Floor/Room number: Embassy House, room 7.2</p> <p>Town/City: Kampala</p> <p>PO Box No: 7063</p> <p>Country: Uganda</p> <p>Facsimile number: N/A</p> <p>Email: nyangomayerusa@gmail.com</p> <p>The Procuring and Disposing Entity will respond to any request for clarification provided that such request is received no later than</p>
<b>C. Preparation of Bids</b>	
<b>ITB 10.1</b>	<b>Medium:</b> The medium of communication shall be in writing.
<b>ITB 10.2</b>	<b>Language:</b> The language for the bid is English.
<b>ITB 11.2</b>	<p><b>Pre-bid meeting:</b> A pre-bid meeting shall / shall not be held.</p> <p>Date: 22<sup>nd</sup> September 2020 Time: 11:00am</p> <p>Address for Pre-bid meeting: zoom address to be provided on the Ministry website on 21<sup>st</sup> September 2020</p> <p>Street Address: N/A</p>

## Part 1: Section 2. Bid Data Sheet

Instructions to Bidders Reference	Data relevant to the ITB
	Floor/Room number: N/A Town/City: N/A Country: UGANDA
<b>ITB 12.1(f)</b>	<b>Additional bid information:</b> Additional information required in the bid includes:
<b>ITB 14.3</b>	<b>Prices:</b> The prices quoted by the Bidder shall be: Fixed
<b>ITB 15.1</b>	<b>Currency:</b> The currency of the bid shall be: Uganda Shillings.
<b>ITB 18.1</b>	<b>Validity Period:</b> Bids shall be valid until 31 <sup>st</sup> November 2020
<b>ITB 19.1</b>	A Bid Security shall be required.
<b>ITB 19.2</b>	[Where a Bid Security is required insert “The amount and currency of the Bid Security shall be UGX. 15 million per Lot. It must be in the format contained in this bidding document.
<b>ITB 19.3</b>	The Bid Security shall be valid until 31 <sup>st</sup> December 2020.
<b>ITB 20.1</b>	<b>Number of Copies:</b> In addition to the Original of the Bid, the number of copies required is: 3 copies
<b>D. Submission and Opening of Bids</b>	
<b>ITB 22.1</b>	<b>Bid Submission:</b> For bid submission purposes only, the Procuring and Disposing Entity’s address is : Attention: Street Address: King George VI Way Floor/Room number: Embassy House, room 7.2 Town/City: Kampala PO Box No: 7063 Country: Uganda Facsimile number: N/A The deadline for bid submission is: 22 <sup>nd</sup> September 2020 Date: 11:00am
<b>ITB 25.1</b>	<b>Bid Opening:</b> The bid opening shall take place via Zoom: ID and password details will be provided on 21 <sup>st</sup> September 2020 Country: Uganda Date & time: 22 <sup>nd</sup> September 2020 at 11:30am
<b>E. Evaluation of Bids</b>	
<b>ITB 32.1</b>	<b>Conversion to Single Currency:</b> The currency that shall be used for



## Part 1: Section 2. Bid Data Sheet

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<b>Instructions to Bidders Reference</b>	<b>Data relevant to the ITB</b>
	financial comparison purposes to convert all bid prices expressed in various currencies into a single currency is: UGANDA SHILLINGS ONLY The source of exchange rate shall be: N/A The date for the exchange rate shall be: N/A
<b>ITB 33.1</b>	A margin of preference shall/shall not apply. If a margin of preference applies, the application methodology shall be as stated in Section 3 Evaluation Methodology and Criteria.
<b>ITB 33.3</b>	The Bidder shall submit with its bid the following documents to evidence that they qualify for a margin of preference:  Copies of National IDs  Form 7 of the Registration of the Companies detailing the Company Directors
<b>F. Award of Contract</b>	
<b>ITB 42.1</b>	The Advance Payment shall not be applicable.

## **Section 3. Evaluation Methodology and Criteria**

### **Procurement Reference Number:**

#### **A Evaluation Methodology**

##### **1. Methodology Used**

1.1 The evaluation methodology to be used for the evaluation of bids received shall be the Technical Compliance Selection (TCS) methodology.

##### **2. Summary of Methodology**

2.1 The Technical Compliance Selection methodology recommends the lowest priced bid, which is eligible, compliant and substantially responsive to the technical and commercial requirements of the Bidding Document, provided that the Bidder is determined to be qualified to perform the contract satisfactorily.

2.2 The evaluation shall be conducted in three sequential stages –

- (a) a preliminary examination to determine the eligibility of bidders and the administrative compliance of bids received;
- (b) a detailed evaluation to determine the commercial and technical responsiveness of the eligible and compliant bids; and
- (c) a financial comparison to compare costs of the eligible, compliant, responsive bids received and determine the best evaluated bid.

2.3 Failure of a bid at any stage of the evaluation shall prevent further consideration at the next stage of evaluation. Substantial responsiveness shall be considered a pass.

#### **B Preliminary Examination Criteria**

##### **3. Eligibility Criteria**

3.1 The eligibility requirements shall be determined for eligible Bidders in accordance with ITB Clause 4.

3.2 The documentation required to provide evidence of eligibility shall be: -

- (a) a certificate of registration issued by the Authority for bidders currently registered with the Authority or a copy of the Bidder's Trading licence or equivalent and a copy of the Bidder's Certificate of Registration or equivalent for bidders not currently registered with the Authority;
- (b) a statement in the Bid Submission Sheet that the bidder meets the eligibility criteria stated in ITB 4.1;
- (c) a declaration in the Bid Submission Sheet of nationality of the Bidder;
- (d) a declaration in the Bid Submission Sheet that the Bidder is not under suspension by the Authority;

- (e) fulfilment of obligations to pay taxes and social security contributions for the past 12 months in Uganda where applicable.
- (f) Evidence of past experience in similar services of at least two assignments of not less than UGX.200 million in the past 3 years. Copies of signed contract forms and completion certificates or reference letters from previous Clients on their letterheads **CONFIRMING SUCCESSFUL EXECUTION** of the contracts. The contact details of the previous Clients should be provided.
- (g) Copies of secure/lockable box-body trucks not less than 20 to be used. If not registered in the names of the Company bidding, there should be a Commitment from the Owner to hire/lease/release them to the Bidder for use for the required period.
- (h) Evidence of access to financial credit of at least UGX.500 Million per Lot
- (g) Bidder Must give a written commitment to insure the radios while in transit.

**4. Administrative Compliance Criteria**

- 4.1 The evaluation of Administrative Compliance shall be conducted in accordance with ITB Sub-Clauses 30.3 and 30.4.

**C Detailed Evaluation Criteria**

**5. Commercial Criteria**

- 5.1 The commercial responsiveness of bids shall be evaluated in accordance with ITB Clause 31. The criteria shall be:
  - (a) acceptance of the conditions of the proposed contract;
  - (b) acceptable mobilisation period.

**6. Technical Criteria**

- 6.1 Technical responsiveness shall be evaluated in accordance with ITB Clause 31.
- 6.2 The Terms of Reference detail the minimum technical requirements. Responsiveness is determined by comparison of the specification offered to the specification required in Section 6 and the evaluation is conducted on a pass/fail basis. Substantial responsiveness shall be considered a pass.

**D Financial Comparison Criteria**

**6. Costs to be included in Bid Price**

- 6.1 The financial comparison shall be conducted in accordance with ITB Clause 34. The costs to be included in the bid price bid are:
  - (a) the unit and total rates in the Price Schedule;

(b) taxes, duties and levies;

**7. Margin of Preference**

7.1 If the BDS specifies the application of a margin of preference for the purpose of bid comparison, the following procedures will apply:

7.2 The Procuring and Disposing Entity will first review the bids to confirm the appropriateness of the classification, and to identify the bid group classification of each based upon bidders' declarations in the Bid Submission Sheet and supporting evidence.

7.3 The Procuring and Disposing Entity will then add the following margins to the evaluated bid price, as determined in accordance with paragraph 6.1 above, for the purpose of further comparison only:

(a) seven (7) percent of the bid price to all bids in Group C;

(b) four (4) percent of the bid price to all bids in Group B.

7.4 The lowest-evaluated bid shall be determined using the adjusted bid prices including added margins.

**8. Determination of Best Evaluated Bid or Bids**

8.1 The bid with the lowest evaluated price, from among those which are eligible, compliant and substantially responsive shall be the best evaluated bid.

**E Post-qualification**

The Procuring and Disposing Entity shall undertake a post qualification on the Best Evaluated Bidder to confirm whether the best evaluated bidder has the capacity and financial resources to execute the procurement.

- a) Visit the parking yard to view the trucks
- b) Confirm with past Clients on the past performance of the Bidder
- c) Confirm with Bankers of financial credit
- d) Engage Chief Mechanical Engineering Department on soundness of the trucks

## Section 4. Bidding Forms

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<b>5</b>	<b>Qualification Form..... 36</b>

## Part 1: Section 5 Eligible Countries

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*[This Bid Submission Sheet should be on the letterhead of the Bidder and should be signed by a person with the proper authority to sign documents that are binding on the Bidder. It should be included by the Bidder in its bid]*

### 1. Bid Submission Sheet

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

Procurement Reference No: *[insert Procurement Reference number]*

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

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Document, including Addenda No.: *[insert the number and issuing date of each Addenda]*;
- (b) We offer to provide the services in conformity with the Bidding Document for the *[insert a brief description of the Services]*;
- (c) The total price of our Bid is: *[insert the total bid price in words and figures, indicating the amounts and currency]*; This amount is exclusive of local taxes which we have estimated at *[insert amount in words and figures]*;
- (d) Our bid shall be valid until the date specified in ITB Sub-Clause 18.1 and it shall remain binding upon us and may be accepted at any time before that date;
- (e) If our bid is accepted, we commit to obtain a Performance Security in accordance with the Bidding Document where required in the amount of *[insert amount and currency in words and figures of the performance security]* for the due performance of the Contract;
- (f) We, including any subcontractors or providers for any part of the contract resulting from this procurement process, are eligible to participate in public procurement in accordance with ITB Clause 4.1;
- (g) We, including any subcontractors or providers for any part of the contract resulting from this procurement process are registered with the Authority. *[Bidders who are not registered or whose subcontractors are not registered should amend the statement to reflect their status. Registered bidders should indicate their registration number]*;
- (h) We, including any associates or Joint Venture partners for any part of the contract, have nationals from the following eligible countries; *[Insert details]*
- (i) We are eligible for a Margin of Preference in accordance with ITB Clause 33 and are eligible for inclusion in *[insert Group A or Group B as appropriate]* and enclose documentary evidence of our eligibility;

*[or]*

We are not eligible for a Margin of Preference in accordance with ITB Clause 33;

- (j) We have signed and undertake to abide by the Code of Ethical Conduct for Bidders and Providers attached during the procurement process and the execution of any resulting contract;

## Part 1: Section 5 Eligible Countries

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- (k) The following commissions, gratuities, or fees have been paid or are to be paid 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]*;

<b>Name and address of Recipient</b>	<b>Purpose/Reason</b>	<b>Currency and Amount</b>

*[If none has been paid or is to be paid, indicate "none"]*

- (l) We are not participating, as Bidders, in more than one bid in this bidding process;
- (m) We, including any subcontractors, do not have any conflict of interest as detailed in ITB Clause 4.4;
- (n) We, our affiliates or subsidiaries—including any subcontractors or Providers for any part of the contract—have not been suspended by the Public Procurement and Disposal of Public Assets Authority in Uganda from participating in public procurement;
- (o) Our Bid is binding upon us, subject to modifications agreed during any contract negotiations;
- (p) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive;

Name: *[insert complete name of person signing the Bid]*

In the capacity of *[insert legal capacity of person signing the bid]*

Signed: *[signature of person whose name and capacity are shown above]*

Duly authorised to sign the bid for and on behalf of: *[insert complete name of Bidder]*

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ *[insert date of signing]*

**CODE OF ETHICAL CONDUCT IN BUSINESS FOR BIDDERS AND PROVIDERS**

(Under Section 93 of the Public Procurement and Disposal of Public Assets Act, 2003)

**1. Ethical Principles**

Bidders and providers shall at all times-

- (a) maintain integrity and independence in their professional judgement and conduct;
- (b) comply with both the letter and the spirit of-
  - i. the laws of Uganda; and
  - ii. any contract awarded.
- (c) avoid associations with businesses and organisations which are in conflict with this code.

**2. Standards**

Bidders and providers shall-

- (a) strive to provide works, services and supplies of high quality and accept full responsibility for all works, services or supplies provided;
- (b) comply with the professional standards of their industry or of any professional body of which they are members.

**3. Conflict of Interest**

Bidders and providers shall not accept contracts which would constitute a conflict of interest with, any prior or current contract with any procuring and disposing entity. Bidders and providers shall disclose to all concerned parties those conflicts of interest that cannot reasonably be avoided or escaped.

**4. Confidentiality and Accuracy of Information**

- (1) Information given by bidders and providers in the course of procurement processes or the performance of contracts shall be true, fair and not designed to mislead.
- (2) Providers shall respect the confidentiality of information received in the course of performance of a contract and shall not use such information for personal gain.

**5. Gifts and Hospitality**

Bidders and providers shall not offer gifts or hospitality directly or indirectly, to staff of a procuring and disposing entity that might be viewed by others as having an influence on a government procurement decision.

**6. Inducements**

- (1) Bidders and providers shall not offer or give anything of value to influence the action of a public official in the procurement process or in contract execution.
- (2) Bidders and providers shall not ask a public official to do anything which is inconsistent with the Act, Regulations, Guidelines or the Code of Ethical Conduct in Business.

**7. Fraudulent Practices**

Bidders and providers shall not-

- (a) collude with other businesses and organisations with the intention of depriving a procuring and disposing entity of the benefits of free and open competition;
- (b) enter into business arrangements that might prevent the effective operation of fair competition;
- (c) engage in deceptive financial practices, such as bribery, double billing or other improper financial practices;



## Part 1: Section 5 Eligible Countries

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- (d) misrepresent facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring and Disposing Entity; or utter false documents;
- (e) unlawfully obtain information relating to a procurement process in order to influence the process or execution of a contract to the detriment of the PDE; and
- (f) withholding information from the PDE during contract execution to the detriment of the PDE.

I ..... agree to comply with the above code of ethical conduct in business.

-----  
-  
**AUTHORISED SIGNATORY**

-----  
**NAME OF BIDDER/PROVIDER**

## Part 1: Section 5 Eligible Countries

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*[This Bid Security should be on the letterhead of the issuing Financial Institution and should be signed by a person with the proper authority to sign the Bid Security. It should be included by the Bidder in its bid].*

### 2. Bid Security

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

Procurement Reference No.: [insert Procurement Reference Number]

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

Whereas *[insert complete name of Bidder]* (hereinafter “the Bidder”) has submitted its bid dated *[insert date (as day, month and year)]* for Procurement Reference number *[insert Procurement Reference number]* for the supply of *[insert brief description of the Services]*, hereinafter called “the Bid.”

KNOW ALL PEOPLE by these presents that WE *[insert complete name of institution issuing the Bid Security]*, of *[insert city of domicile and country of nationality]* having our registered office at *[insert full address of the issuing institution]* (hereinafter “the Guarantor”), are bound unto *[insert complete name of the Procuring and Disposing Entity]* (hereinafter “the Procuring and Disposing Entity”) in the sum of *[specify in words the amount and currency of the bid security] [specify the amount and currency in figures]*, for which payment well and truly to be made to the aforementioned Procuring and Disposing Entity, the Guarantor binds itself, its successors or assignees by these presents. Sealed with the Common Seal of this Guarantor this *[insert day in numbers]* day of *[insert month]*, *[insert year]*.

THE CONDITIONS of this obligation are the following:

1. I  
if the Bidder withdraws its bid during the period of bid validity specified by the Bidder in the Bid Submission Sheet, except as provided in ITB Sub-Clause 18.3; or
2. If the Bidder, having been notified of the acceptance of its bid by the Procuring and Disposing Entity, during the period of bid validity, fails or refuses to:
  - (a) sign the Contract in accordance with ITB Clause 39; or
  - (b) furnish the Performance Security, in accordance with the ITB Clause 41; or
  - (c) accept the correction of its bid by the Procuring Entity, pursuant to ITB Clause. 29;

we undertake to pay the Procuring and Disposing Entity up to the above amount upon receipt of its first written demand, without the Procuring and Disposing Entity having to substantiate its demand, provided that in its demand the Procuring and Disposing Entity states that the amount claimed by it is due to it, owing to the occurrence of one or more of the above conditions, specifying the occurred conditions.

This security shall remain in force up to and including *[insert date in accordance with ITB Clause 19.3]*, and any demand in respect thereof should be received by the Guarantor no later than the above date. This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 758.

Signed: *[insert signature of person whose name and capacity are shown below]*

## **Part 1: Section 5 Eligible Countries**

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Name: *[insert complete name of person signing the Bid]*

In the capacity of *[insert legal capacity of person signing the bid]*

Duly authorised to sign the bid for and on behalf of: *[insert complete name of Bidder]*

## Part 1: Section 5 Eligible Countries

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*[This Price Schedule should be signed by a person with the proper authority to sign documents for the Bidder. It should be included by the Bidder in its bid. The Bidder may reproduce this in landscape format but is responsible for its accurate reproduction].*

### 4. Price Schedule

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

Procurement Reference No: *[insert Procurement Reference number]*

Name of Bidder: *[Insert the name of the Bidder]*

Activity	Input Qty	Unit of measure	Unit Price	Total Price
Transportation/km mileage rate for a full truck of radios to be given. Rate to include insurance and security costs				
Loading and offloading rate per truck to be quoted				
Other services – please give a breakdown				
Local Taxes				
<b>Total bid price</b>				

Insurance cover (Bidder Must give a written commitment to insure the radios while in transit.

***Since the assignment cannot be fully and explicitly defined, Bidders are expected to give mileage rates for the various types of trucks they intend to use.***

Signed: *[signature of person whose name and capacity are shown below ]*

Name: *[insert complete name of person signing the bid]*

In the capacity of *[insert legal capacity of person signing the bid]*

## Part 1: Section 5 Eligible Countries

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Duly authorised to  
sign the bid for  
and on behalf of:  
*Bidder*

*[insert complete name of*

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ *[insert date of signing]*

## Part 1: Section 5 Eligible Countries

*[This Qualification Form should be submitted for the Bidder. The form should be on the letterhead of the Bidder and should be signed by a person with the proper authority to sign. It should be included by the Bidder in its bid, if so stated in Section 3.*

*The information will be used for purposes of post-qualification or for verification of pre-qualification. This information will not be incorporated in the Contract. Attach additional pages as necessary.*

*Refer to Section 3, Evaluation Methodology and Criteria for details of the criteria to be met and information to be completed].*

### 5. Qualification Form

<b>Name of Bidder:</b>	
------------------------	--

1. The work performed providing Services of a similar nature and value over recent years is: *[List also details of Services under way or committed, including expected completion date.]*

No	Name of Client and Contact Person	Type of Work Performed	Duration and Dates of Contract	Value of contract

2. The major items of equipment proposed for carrying out the Services are:

Item of Equipment	Description, make and age (years)	Condition (new, good, poor) and number available	Owned, leased, or to be purchased

## Part 1: Section 5 Eligible Countries

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3. The qualifications and experience of key personnel proposed for administration and execution of the Contract are: *[Attach biographical data.]*

Position	Name	Years of Experience (general)	Year of Experience in proposed position

4. Banks that may provide references if contacted by the Procuring and Disposing Entity are: *[State name, address and telephone, telex and facsimile numbers]*

5. Additional qualification information is attached, as required.

We, the undersigned, declare that

(a) the information contained in and attached to this form is true and accurate as of the date of bid submission:

*or [delete statement which does not apply]*

(b) the originally submitted pre-qualification information remains essentially correct as of the date of bid submission.

Signed: *[signature of person whose name and capacity are shown below]*

Name: *[insert complete name of person signing the Qualification Form]*

In the capacity of *[insert legal capacity of person signing the Qualification Form]*

Duly authorised to sign  
the Qualification Form

for and on behalf of: *[insert complete name of Bidder]*

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ *[insert date of signing]*

## **Part 1: Section 5 Eligible Countries**

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### **Appendix A Statement of Requirements**

Terms of Reference for the Distribution of Radios country wide

#### **1. INTRODUCTION**

- a) On the onset of COVID 19 Pandemic, H. E. the President of the Republic of Uganda directed that all Education Institutions be closed on 20th March 2020. This affected a total of about 15 million Learners from Pre-Primary, Primary, Secondary and Tertiary Institutions and Universities.
- b) The initial Lockdown of two weeks and then one month gave the Education Sector hope that the Schools would be opening soon. The Sector approved a Preparedness and Response Plan which majorly focuses on the continuity of learning and preparing for the re-opening of schools.
- c) Against this background and to ensure continuity of learning, the Sector developed Learning Materials which were broadcast on Television, radios and print self-study materials for the first four weeks that ended in the first week of June 2020. In addition, the opening of Education Institutions for candidate classes including P7, S4, S6 and Undergraduate Finalists which H. E. the President had announced in his Speech of 19th May 2020 could not happen as the President was still studying the matter in collaboration with Scientists. This implies that the harmonized Learning by Ministry of Education and Sports ended leaving the Learners including Candidates redundant hence the need for immediate action to mitigate the effects.

#### **2. Objective**

The main objective for the assignment is to ensure efficient and effective delivery of 9 million radios to District Local Government Headquarters for downstream distribution to the individual households for continuity of studying by all Learners of Primary and Secondary levels.

#### **3. Scope**

The plan covers the distribution of all 9 million radios to beneficiaries countywide. The assignment has been allotted into four basing on the geographical areas of coverage as follows: Eastern, Central, Western and Northern as detailed in Annex 1.

The service will also involve loading and offloading of the radios at the pick-up and delivery points.

Bidders are expected to insure the radios in transit and therefore the insurance coverage must be reflected separately or included in the mileage cost.

#### **4. BENEFICIARIES OF THE EQUIPMENT**

The beneficiaries of the radios are detailed at Annex 1



## **Part 1: Section 5 Eligible Countries**

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### **5. Distribution of the Radios**

The radios distribution is expected to commence around the first week of October 2020 and end around last week of December 2020. Carriers from private firms shall be used for the distribution exercise

Costing:

Since the assignment cannot be fully and explicitly defined, Bidders are expected to give mileage rates for the various types of trucks they intend to use.

Annex 1 is a detailed distribution schedule for the radios. Each District Local Government shall each receive types and quantities of radios as summarised in the Table 3 below;

**DELIVERY TERMS, PROCEDURES AND OTHER CONDITIONS**

## Part 1: Section 5 Eligible Countries

S/ N	DESCRIPTION OF REQUIREMENTS	BIDDERS RESPONSE
a	Bidders to provide evidence of demonstrated capabilities and experience in organising transportation by Semi trailer trucks, Lorry/Truck (Box body), Convoy management and all facilities required for safe and quick deliveries of Radios. Should demonstrate experience in similar transportation contracts.	
b	For each shipment/delivery, the client will provide the Contractor with a Task Order giving the description and relevant particulars of the goods, point of origin and ultimate destination within Uganda, shipping marks, and special handling instructions and other relevant details. Omission of any of the foregoing information shall not invalidate the task or diminish the Contractor's responsibilities under the contractors.	
c	Upon receipts of the Task Order, the contractor shall designate suitable means of Transport and provide and position the same at the required loading point within the period stipulated in contract	
d	Upon loading of the goods, the Contractor shall ensure the numbers of pieces, dimensions of pieces, the description of the item, the serial numbers/markings are in accordance with the information contained in the document provided by the client	
e	<p>The Contractor shall, as soon as he has received the goods from the client, sign a delivery /Receipt Note, indicating the date and the place of receipt as well as the Delivery Note number under which the cargo is delivered to its final destination.</p> <p>Upon receipt of the goods, the contractor shall be responsible for damages to and / or loss of cargo while in transit and/ or in the custody of the contractor or while storage under the custody of the contractor. The liability shall be the contractor's sole responsibility. The contractor is required to hold valid insurance during the term of the contract, to facilitate payment of all claims arising out of the negligence or improper handling and any other such claims resulting in damage or loss of cargo. The Contractor will provide relevant proof to this effect.</p>	
f	<p>The contractors shall ensure that all of its personnel used to perform the services in connection with this contract are (i) medically fit to perform such services and (ii) are adequately covered by insurance for any service related illness, injury, death or disability</p> <p>Secure holding facilities: The contractor must be able to provide a secure holding facility outside the client's facility, for vehicles awaiting loading or dispatch from Kampala after being loaded.</p>	

## Part 1: Section 5 Eligible Countries

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S/N	Description/Vehicle Category	Approximate Internal dimensions (m)			Estimated number of radio units that can fit	Unit price per Km for each truck category
		Length	Width	Height		
1.	Semi-trailer (40 ft Container) Weight approximately: 27tons	12.03	2.35	2.39	18,720	
2	Truck/Lorry (Box Body) Weight approximately : 16tons	8.5	2.4	2.4	14,144	
3.	Truck/Lorry (Box Body) Weight approximately : 10tons	6	2.2	2.2	8,064	
4.	Truck/Lorry (Box Body) Weight approximately : 3tons	4.5	2	2	5,148	

### SPECIFICATIONS BASED ON VEHICLE CATEGORIES AND THE APPROXIMATE NUMBER OF RADIO UNITS THAT CAN FIT IN EACH

Table 1: Vehicle categories and approximate number of radios that can fit in each vehicle category basing on approximate vehicle internal dimensions

Note:

The above quantities are based on the unit dimensions and weight of each packaged radio as per information from Procuring and Disposing Entity (MoES) which are indicated below;

a) Dimensions

Length: 25cm, Width: 15cm, Height: 9cm

b) Weight 0.6Kgs

## **Section 5. Eligible Countries**

### **Procurement Reference Number:**

All countries are eligible except countries subject to the following provisions.

A country shall not be eligible if:

- (a) as a matter of law or official regulation, the Government of Uganda prohibits commercial relations with that country, provided that the Government of Uganda is satisfied that such exclusion does not preclude effective competition for the provision of services required; or
- (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Government of Uganda prohibits any import of Services from that country or any payments to persons or entities in that country.

## **Section 6. Statement of Requirements**

**Procurement Reference Number:**

**Terms of Reference** (*PDE to insert the terms of reference*)

**Part 3: Section 7**

**General Conditions of Contract for the Procurement of Non-Consultancy Services**

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**Section 7: General Conditions of Contract for the Procurement of Non-Consultancy Services**

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# **Section 7: General Conditions of Contract for the Procurement of Non-Consultancy Services**

## **A General Provisions**

### **1 Definitions**

- 1.1 The headings and titles of these General Conditions of Contract shall not limit, alter or affect the meaning of the Contract.
- 1.2 Unless the context otherwise requires, the following words and terms shall have the meanings assigned to them:
- (a) “Contract” means the Agreement entered into between the Parties and includes the Contract Documents.
  - (b) “Contract Documents” means the documents listed in the GCC, including all attachments, appendices, and all documents incorporated by reference therein, and shall include any amendments thereto.
  - (c) “Contract Price” means the sum stated in the Agreement representing the total amount payable for the provision of the Services.
  - (d) “Day” means working day. “Month” means calendar month.
  - (e) “Eligible Countries” means the countries and territories eligible as listed in the SCC.
  - (f) “GCC” means the General Conditions of Contract.
  - (g) “Party” means the Procuring and Disposing Entity or the Provider, as the case may be, and “Parties” means both of them.
  - (h) “Personnel” means persons engaged by the Provider or by any Sub-contractor as employees and assigned to the performance of the Services or any part thereof;
  - (i) “Procuring and Disposing Entity” means the entity purchasing the Services, as specified in the Agreement.
  - (j) “Provider” means the natural person, private or government entity, or a combination of the above, whose bid to perform the Contract has been accepted by the Procuring and Disposing Entity and is named as such in the Agreement, and includes the legal successors or permitted assigns of the Provider.
  - (k) “SCC” means the Special Conditions of Contract.
  - (l) “Services” means the services to be performed by the Provider as described in the contract.
  - (m) “Subcontractor” means any natural person, private or government entity, or a combination of the above, including its legal successors or permitted assigns, to whom any part of the Services to be provided or execution of any part of the Services is subcontracted by the Provider.
  - (n) “Tribunal” means the Tribunal established under the Public Procurement and

## **Part 3: Section 7**

### **General Conditions of Contract for the Procurement of Non-Consultancy Services**

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Disposal of Public Assets Act 2003.

- 1.3 The word “Government” shall mean the Government of the Republic of Uganda.
- 1.4 If the context so requires it, singular means plural and vice versa.
- 1.5 Nothing contained herein shall be construed as establishing a relation of master and servant or of principal and agent between the Procuring and Disposing Entity and the Provider.

#### **2 Corrupt Practices**

- 2.1 It is the Government of Uganda’s policy to require that Procuring and Disposing Entities, as well as Bidders and Providers under Government financed contracts, observe the highest standards of ethics during the procurement and execution of such contracts. In pursuit of this policy, the Government of Uganda:
  - a) defines, for the purposes of this provision, the terms set forth below as follows:
    - (i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value, to influence the action of a public official in the procurement process or in contract execution; and
    - (ii) “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
    - (iii) “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
    - (iv) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
  - b) will suspend a firm, either indefinitely or for a stated period of time, from being awarded a Government funded contract if it at any time determines that the firm has engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a Government funded Contract.
- 2.2 The Provider shall permit the Government of Uganda to inspect the Provider’s accounts and records relating to the performance of the Services and to have them audited by auditors appointed by the Government of Uganda, if so required by the Government.
- 2.3 In pursuit of the policy defined in GCC Clause 2.1, the Procuring and Disposing Entity may terminate a Contract for Services if it at any time determines that corrupt, fraudulent, collusive or coercive practices were engaged in by representatives of the Procuring and Disposing Entity or of a Provider, during the procurement or the execution of that contract, without the Procuring and Disposing Entity having taken timely and appropriate action satisfactory to the Government of Uganda to remedy the situation.

#### **B The Contract**

#### **3 Contract Documents**

- 3.1 The documents forming the Contract shall be interpreted in the following order of priority:



## **Part 3: Section 7**

### **General Conditions of Contract for the Procurement of Non-Consultancy Services**

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- (a) Agreement,
- (b) Provider's Bid as amended by clarifications,
- (c) Special Conditions of Contract,
- (d) General Conditions of Contract,
- (e) Statement of Requirements,
- (f) any other document listed in the SCC as forming part of the Contract.

All documents forming the Contract are intended to be correlative, complementary, and mutually explanatory.

- 3.2 No amendment, modification or other variation of the Contract shall be valid unless an Amendment to Contract is made in writing, is dated, expressly refers to the Contract, and is signed by a duly authorised representative of each party thereto.
- 3.3 If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.
- 3.4 Any action required or permitted to be taken, and any document required or permitted to be executed, under the Contract by the Procuring and Disposing Entity or the Provider may be taken or executed by the authorised representatives specified in the SCC.
- 3.5 The Contract constitutes the entire agreement between the Procuring and Disposing Entity and the Provider and supersedes all communications, negotiations and agreements (whether written or oral) of parties with respect thereto made prior to the date of Contract. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.

#### **4 Governing Law**

- 4.1 The Contract shall be governed by and interpreted in accordance with the laws of Uganda unless otherwise specified in the SCC.

#### **5 Language**

- 5.1 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Provider and the Procuring and Disposing Entity, shall be written in English unless specified otherwise in the SCC.

#### **6 Notices**

- 6.1 Any notice, request or consent required or permitted to be given or made pursuant to the Contract shall be in writing. Any such notice shall be deemed to have been given when delivered to the authorised representative of the Party at the address specified in the SCC.
- 6.2 A Party may change its address for notice hereunder by giving the other Party notice of such change.

#### **7 Assignment**

- 7.1 The Procuring and Disposing Entity or the Provider shall not assign, in whole or in part, their obligations under this Contract, except with the prior written consent of the other

## **Part 3: Section 7**

### **General Conditions of Contract for the Procurement of Non-Consultancy Services**

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party.

#### **8 Subcontracting**

- 8.1 The Provider shall request approval in writing from the Procuring and Disposing Entity of all subcontracts awarded under the Contract that are not included in the Contract. Subcontracting shall in no event relieve the Provider from any of its obligations, duties, responsibilities or liability under the Contract.
- 8.2 Subcontracts shall comply with the provisions of GCC Clauses 2 and 27.

#### **9 Change Orders and Contract Amendments**

- 9.1 The Procuring and Disposing Entity may at any time request the Provider through notice in accordance with GCC Clause 6, to make changes within the general scope of the Contract.
- 13.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Provider's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Completion Schedule, or both, and the Contract shall accordingly be amended. Any claims by the Provider for adjustment must be asserted within twenty-eight days from the date of the Provider's receipt of the Procuring and Disposing Entity's change order.
- 13.3 Prices to be charged by the Provider for any additional Services or any related Supplies or Works that might be needed but which were not included in the Contract shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Provider for similar services.

#### **10 Change in Laws**

- 10.1 Unless otherwise specified in the Contract, if after the date of the Bidding Document, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in Uganda or where the Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Statement of Requirements and/or the Contract Price, then such Statement of Requirements and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Provider has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the contract amendment provisions in accordance with GCC Clause 9 or price adjustment in accordance with GCC Clause 23.

#### **11 Taxes and Duties**

- 11.1 The Provider shall bear and pay all taxes, duties, and levies imposed on the Provider, by all municipal, state or national government authorities, both within and outside Uganda, in connection with the provision of the Services to be supplied under the Contract.
- 11.2 For the purpose of the Contract, it is agreed that the Contract Price specified in the Agreement is based on the taxes, duties, levies, and charges prevailing at the date twenty-eight (28) days prior to the date of bid submission in Uganda (called "tax" in this clause).

### **Part 3: Section 7**

## **General Conditions of Contract for the Procurement of Non-Consultancy Services**

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If any tax rates are increased or decreased, a new tax is introduced, an existing tax is abolished, or any change in interpretation or application of any tax occurs in the course of the performance of the Contract, which was or will be assessed on the Provider, its Subcontractors, or their employees in connection with performance of the Contract, an equitable adjustment to the Contract Price shall be made to fully take into account any such change by addition to or reduction from the Contract Price, as the case may be.

### **12 Force Majeure**

- 12.1 For the purposes of the Contract, “Force Majeure” shall mean an event or events which are beyond the reasonable control of a Party, and which makes a Party’s performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by government agencies.
- 12.2 Force Majeure shall not include
- (a) any event which is caused by the negligence or intentional action of a Party or such Party’s Sub-contractors or agents or employees; nor
  - (b) any event which a diligent Party could reasonably have been expected to both:
    - (i) take into account from the effective date of the Contract; and
    - (ii) avoid or overcome in the carrying out of its obligations; nor
  - (c) insufficiency of funds or failure to make any payment required hereunder.
- 12.3 The failure of a Party to fulfil any of its obligations hereunder shall not be considered to be a breach of, or default under, the Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of the Contract.
- 12.4 A Party affected by an event of Force Majeure shall take all reasonable measures to
- (a) remove such Party’s inability to fulfil its obligations hereunder with a minimum of delay; and
  - (b) minimise the consequences of any event of Force Majeure.
- 12.5 A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any event not later than fourteen (14) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible.
- 12.6 During the period of their inability to perform the Services as a result of an event of Force Majeure, the Provider shall be entitled to continue to be paid under the terms of the 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 Services after the end of such period.

## **Part 3: Section 7**

### **General Conditions of Contract for the Procurement of Non-Consultancy Services**

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12.7 Not later than thirty (30) days after the Provider, as the result of an event of Force Majeure, has become unable to perform a material portion of the Services, the Parties shall consult with each other with a view to agreeing appropriate measures to be taken in the circumstances.

#### **13 Suspension of Assignment**

13.1 The Procuring and Disposing Entity may, by written notice of suspension of the assignment to the Provider, suspend all payments to the Provider hereunder if the Provider fails to perform any of its obligations under the Contract, including the carrying out of the Services, provided that such notice of suspension shall:

- (a) specify the nature of the failure; and
- (b) request the Provider to remedy such failure within a period not exceeding thirty days after receipt by the Provider of such notice of suspension.

#### **14 Termination**

14.1 The Procuring and Disposing Entity may, by not less than thirty days written notice of termination to the Provider (except in the event listed in paragraph (f) below, for which there shall be a written notice of not less than sixty days), such notice to be given after the occurrence of any of the events specified in GCC Clause 14.1 (a) to (g), terminate the Contract if:

- (a) the Provider fails to remedy a failure in the performance of its obligations as specified in a notice of suspension of assignment pursuant to GCC Clause 13 within thirty days of receipt of such notice of suspension of assignment or within such other period agreed between the Parties in writing;
- (b) the Provider becomes, or if any of the Provider's Members becomes, insolvent or bankrupt or enters into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary (other than for a reconstruction or amalgamation) in such event, termination will be without compensation to the provider, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the Procuring and Disposing Entity;
- (c) the Provider fails to comply with any final decision reached as a result of arbitration proceedings pursuant to GCC Clause 17 hereof;
- (d) the Provider submits to the Procuring and Disposing Entity a statement which has a material effect on the rights, obligations or interests of the Procuring and Disposing Entity and which the Procuring and Disposing Entity knows to be false;
- (e) the Provider is unable as the result of Force Majeure, to perform a material portion of the Services for a period of not less than sixty days;
- (f) the Procuring and Disposing Entity, in its sole discretion and for any reason whatsoever, decides to terminate the Contract; or
- (g) the Provider, in the judgment of the Procuring and Disposing Entity, has engaged in corrupt, fraudulent, collusive or coercive practices in competing for or in executing the Contract.
- (h) where the Tribunal direct that a contract should be terminated.

## **Part 3: Section 7**

### **General Conditions of Contract for the Procurement of Non-Consultancy Services**

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#### 14.2. Termination for Convenience

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

#### 14.3 The Provider may, by not less than thirty days written notice to the Procuring and Disposing Entity, such notice to be given after the occurrence of any of the events specified in GCC Clause 14.2 (a) to (d) terminate the Contract if:

- (a) the Procuring and Disposing Entity fails to pay any money due to the Provider pursuant to the Contract and not subject to dispute pursuant to GCC Clause 17 within thirty days after receiving written notice from the Provider that such payment is overdue;
- (b) the Procuring and Disposing Entity is in material breach of its obligations pursuant to the Contract and has not remedied the same within thirty days (or such longer period as the Provider may have subsequently approved in writing) following the receipt by the Procuring and Disposing Entity of the Provider's notice specifying such breach;
- (c) the Provider is unable as the result of Force Majeure, to perform a material portion of the Services for a period of not less than sixty days; or
- (d) the Procuring and Disposing Entity fails to comply with any final decision reached as a result of arbitration pursuant to GCC Clause 17 hereof.

#### 14.4 If either Party disputes whether an event specified GCC Clauses 14.1 or GCC Clause 14.2 has occurred, such Party may, within thirty days after receipt of notice of termination from the other Party, refer the matter to arbitration pursuant to GCC Clause 17 and the Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

## **15 Cessation of Rights and Obligations or Services**

#### 15.1 Upon termination of the Contract pursuant to GCC Clause 14, or upon completion of the Services pursuant to GCC Clause 20 hereof, all rights and obligations of the Parties hereunder shall cease, except:

- (a) such rights and obligations as may have accrued on the date of termination or completion;
- (b) the obligation of confidentiality set forth in GCC Clause 3;
- (c) the Provider's obligation to permit inspection, copying and auditing of their accounts and records set forth in GCC Sub-Clause 2.2; and

### **Part 3: Section 7**

## **General Conditions of Contract for the Procurement of Non-Consultancy Services**

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(d) any right which a Party may have under the Governing Laws.

### **16 Cessation of Services**

16.1 Upon termination of the Contract by notice of either Party to the other pursuant to GCC Clause 14 the Provider shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum.

### **17 Settlement of Disputes**

17.1 The Procuring and Disposing Entity and the Provider shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract or interpretation thereof.

17.2 If the parties fail to resolve such a dispute or difference by mutual consultation within twenty-eight days from the commencement of such consultation, either party may require that the dispute be referred for resolution in accordance with the Arbitration and Conciliation Act 2000 of Uganda or such other formal mechanism specified in the SCC.

### **18 Liquidated Damages**

18.1 If so stated in the SCC, the Provider shall pay liquidated damages to the Procuring and Disposing Entity at the rate per day stated in the SCC for each day that the Completion Date is later than the Completion Date. The total amount of liquidated damages shall not exceed the amount defined in the SCC. The Procuring and Disposing Entity may deduct liquidated damages from payments due to the Provider. Payment of liquidated damages shall not affect the Provider's liabilities.

18.2 If the Completion Date is extended after liquidated damages have been paid, the Procuring and Disposing Entity shall correct any overpayment of liquidated damages by the Provider by adjusting the next payment certificate.

### **19 Commencement of Services**

19.1 The Provider shall commence the Services within the time period after the date of the Agreement whichever is the earlier which shall be detailed in the SCC.

19.2 If the Contract has not become effective within such time period after the date of Contract stated in GCC Sub-Clause 19.1, either Party may, by not less than four weeks' written notice to the other Party, declare the Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.

### **20 Completion Period and Completion of the Services**

20.1 The period for the completion or the period within which the Services are required to be performed shall be detailed in the SCC. The completion period shall commence from the date of the commencement of the Services detailed in GCC Sub-Clause 19.1.

20.2 The completion of the Services shall be in accordance with the Agreement.

## **C Obligations of the Procuring and Disposing Entity**

### **21 Provision of Information and Assistance**

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### **General Conditions of Contract for the Procurement of Non-Consultancy Services**

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- 21.1 The Procuring and Disposing Entity shall supply the Provider with any information or documentation at its disposal which may be relevant to the performance of the contract. Such documents shall be returned to the Procuring and Disposing Entity at the end of the period of the Contract.
- 21.2 The Procuring and Disposing Entity shall issue to its employees, agents and representatives all such instructions as may be necessary or appropriate to facilitate the prompt and effective performance of the Services.
- 21.3 The Procuring and Disposing Entity shall give the Provider access to its premises, where required for the performance of the Services, and assist the Provider with any security documentation necessary at the premises where the Services are to be performed in accordance with the Contract.

#### **D Payment**

#### **22 Contract Price**

- 22.1 The Contract Price shall be as specified in the Agreement subject to any additions and adjustments thereto, or deductions therefrom, as may be made pursuant to the Contract.
- 22.2 The Contract Price shall include the total cost for performing the Services and shall include payments for all Personnel, materials and supplies used for the Services and any other overhead or incidental costs except any costs specifically excluded and described in the SCC.
- 22.3 The Contract Price shall be paid in accordance with the payment schedule in the SCC.
- 22.4 The Contract Price may only be increased if the Parties have agreed to additional payments by contract amendment in accordance with GCC Clause 9.

#### **23 Price Adjustments**

- 23.1 Contracts shall be at fixed prices which shall not be revised or varied.

#### **24 General Payment Procedure**

- 24.1 In consideration of the Services performed by the Provider under the Contract, the Procuring and Disposing Entity shall make to the Provider such payments in such manner as is provided by the Contract.
- 24.2 Payments made by the Procuring and Disposing Entity shall be made in response to requests for payment made by the Provider. The Provider's request for payment shall be made to the Procuring and Disposing Entity in writing by production of an invoice supported by the documentation required and as specified in the SCC.
- 24.3 Unless otherwise specified in the SCC, payments shall be made by the Procuring and Disposing Entity, no later than thirty days after submission of a request for payment by the Provider and its certification by the Procuring and Disposing Entity. The Procuring and Disposing Entity shall certify or reject such requests for payment within five days from receipt. Where such payment requests are rejected, the Procuring and Disposing Entity shall promptly advise the Provider of the reasons for rejection.
- 24.4 The Procuring and Disposing Entity shall not unreasonably withhold any undisputed portion of a request for payment. The Procuring and Disposing Entity shall notify the

## **Part 3: Section 7**

### **General Conditions of Contract for the Procurement of Non-Consultancy Services**

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Provider of the inadmissibility of a request for payment due to an error, discrepancy, omission or any other reason so that the Parties may resolve such error, discrepancy, omission or other fault and agree a solution to enable payment of the corrected request for payment. Only such portion of the request for payment that is inadmissible may be withheld from payment. Should any discrepancy be found to exist between actual payment made and costs authorised to be incurred by the Provider, the Procuring and Disposing Entity may add or subtract the difference from any subsequent payments.

- 24.5 Any amount which the Procuring and Disposing Entity has paid or caused to be paid which is in excess of the amounts actually payable in accordance with the provisions of the Contract, shall be reimbursed by the Provider to the Procuring and Disposing Entity within thirty days after receipt by the Provider of a notice thereof. Any such claim by the Procuring and Disposing Entity for reimbursement must be made within twelve months after receipt by the Procuring and Disposing Entity of a final statement approved by the Procuring and Disposing Entity.

#### **25 Advance Payment Guarantee**

- 25.1 Unless otherwise stated in the SCC, where any payment is made in advance of performance of Services, payment of the advance payment shall be made against the provision by the Provider of a bank guarantee or an on demand insurance bond with proof of re-insurance, for the same amount, and shall be valid for the period stated in the SCC.
- 25.2 Should the advance payment guarantee cease to be valid and the Provider fails to re-validate it, a deduction equal to the amount of the advance payment may be made by the Procuring and Disposing Entity from future payments due to the Provider under the contract.
- 25.3 If a Contract is terminated for any reason, the guarantee securing the advance may be invoked in order to recover the balance of the advance still owed by the Provider.

## **E Obligations of the Provider**

### **26 Obligations of the Provider**

- 26.1 The Provider shall perform the Services under the contract with due care, efficiency and diligence, in accordance with best professional practices.
- 26.2 The Provider shall respect and abide by all laws and regulations in force. The Provider shall indemnify the Procuring and Disposing Entity against any claims and proceedings arising from any infringement by the Provider, its sub-contractors or their employees of such laws and regulations.
- 26.3 The Provider shall ensure that services conform to applicable environmental and quality standards, that no chemical or other product/equipment is used in such a way as to cause negative impact on the environment in general and occupational health hazards for the personnel of the Procuring and Disposing Entity in particular, and shall employ the most recent technology, safe and effective equipment, machinery, materials and methods, as necessary. The Provider shall always act, in respect of any matter relating to this Contract, to safeguard the Procuring and Disposing Entity's legitimate interests, pursuant to



## **Part 3: Section 7**

### **General Conditions of Contract for the Procurement of Non-Consultancy Services**

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Conditions of this Contract

- 26.4 The Provider shall obtain the Procuring and Disposing Entity'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, it being understood that the Provider shall remain fully liable for the performance of the Services by the Sub-contractor and its Personnel pursuant to the Contract;
  - (b) any other action that may be specified in the SCC.
- 26.5 The Provider shall furnish the Procuring and Disposing Entity with any personnel data or information required by the Procuring and Disposing Entity to arrange the provision of documentation required in accordance with GCC Clause 21.3.

#### **27 Eligibility**

- 27.1 The Provider and its Subcontractors shall have the nationality of an eligible country. A Provider or Subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.
- 27.2 The Provider and its Sub-contractors shall provide Personnel who shall be citizens of eligible countries and use supplies with their origin from an eligible country.

#### **28 Code of Conduct**

- 28.1 The Provider shall at all times refrain from making any public statements concerning the Services without the prior approval of the Procuring and Disposing Entity, and from engaging in any activity which conflicts with its obligations towards the Procuring and Disposing Entity under the contract. It shall not commit the Procuring and Disposing Entity without its prior written consent, and shall, where appropriate, make this obligation clear to third parties.

#### **29 Indemnification**

- 29.1 At its own expense, the Provider shall indemnify, protect and defend, the Procuring and Disposing Entity, its agents and employees, from and against all actions, claims, losses or damage arising from any act or omission by the Provider in the performance of the Services, including any violation of any legal provisions, or rights of third parties, in respect of patents, trade marks and other forms of intellectual property such as copyrights.
- 29.2 At its own expense, the Provider shall indemnify, protect and defend the Procuring and Disposing Entity, its agents and employees, from and against all actions, claims, losses or damages arising out of the Provider's failure to perform its obligations provided that:
- (a) the Provider is notified of such actions, claims, losses or damages not later than 30 days after the Procuring and Disposing Entity becomes aware of them;
  - (b) the ceiling on the Provider's liability shall be limited to an amount equal to the contract value, but such ceiling shall not apply to actions, claims, losses or damages caused by the Provider's wilful misconduct;
  - (c) the Provider's liability shall be limited to actions, claims, losses or damages directly caused by such failure to perform its obligations under the contract and shall not

## **Part 3: Section 7**

### **General Conditions of Contract for the Procurement of Non-Consultancy Services**

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include liability arising from unforeseeable occurrences incidental or indirectly consequential to such failure.

- 29.3 The aggregate liability of the Provider to the Procuring and Disposing Entity shall not exceed the total contract value or such other amount specified in the SCC.
- 29.4 The Provider shall have no liability whatsoever for actions, claims, losses or damages occasioned by:
- a) the Procuring and Disposing Entity omitting to act on any recommendation, or overriding any act, decision or recommendation, of the Provider, or requiring the Provider to implement a decision or recommendation with which the Provider disagrees or on which it expresses a serious reservation; or
  - b) the improper execution of the Provider's instructions by agents, employees or independent contractors of the Procuring and Disposing Entity.
- 29.5 The Provider shall remain responsible for any breach of its obligations under the contract for such period after the Services have been performed as may be determined by the law governing the contract.

#### **30 Insurance to be Taken Out by the Provider**

- 30.1 The Provider shall take out, maintain and shall cause any Sub-contractors to take out and maintain, at their own cost insurance coverage against the risks and on terms and conditions approved by the Procuring and Disposing Entity as shall be specified in the SCC.
- 29.2 The Provider shall at the Procuring and Disposing Entity's request, provide evidence to the Procuring and Disposing Entity showing that such insurance has been taken out and maintained.

#### **31 Accounting, Inspection and Auditing**

- 31.1 The Provider shall keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time charges and costs.

#### **F Performance of the Services**

##### **32 Scope of Services**

- 32.1 The Services to be provided shall be as specified in the Statement of Requirements in the Contract.
- 32.2 The Services shall be performed at such locations as are specified in the Statement of Requirements.

##### **33 Provider's Personnel**

- 33.1 The Provider shall employ and provide such qualified and experienced Personnel and Sub-contractors as are required to carry out the Services. The Provider shall be responsible for the performance of the Personnel.
- 33.2 If required by the Agreement, the Provider shall ensure that a manager, acceptable to the Procuring and Disposing Entity, takes charge of the performance of the Services.

## **Part 3: Section 7**

### **General Conditions of Contract for the Procurement of Non-Consultancy Services**

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#### **34 Working hours of the Personnel**

- 34.1 Where the Services are performed on a regular basis at the premises of the Procuring and Disposing Entity, the Provider shall work the hours agreed with the Procuring and Disposing Entity where not specified in the Statement of Requirements or the SCC.

#### **35 Replacement of Personnel**

- 35.1 If the Procuring and Disposing Entity requests the Provider to remove a person who is a member of the Providers staff or work force, stating the reasons, the Provider shall ensure that the person leaves the Site within seven days and has no further connection with the work in the Contract.

#### **36 Performance Security**

- 36.1 If so stated in the SCC, the Provider shall, within twenty-eight (28) days of the notification of contract award, provide a Performance Security for the due performance of the Contract in the amount and currency specified in the SCC or in a freely convertible currency acceptable to the Procuring and Disposing Entity.
- 36.2 The proceeds of the Performance Security shall be payable to the Procuring and Disposing Entity as compensation for any loss resulting from the Provider's failure to complete its obligations under the Contract.
- 36.3 The Performance Security shall be in one of the forms stipulated by the Procuring and Disposing Entity in the SCC, or in another form acceptable to the Procuring and Disposing Entity.
- 36.4 The Performance Security shall be discharged by the Procuring and Disposing Entity and returned to the Provider not later than twenty-eight (28) days following the date of completion of the Provider's performance obligations under the Contract, unless specified otherwise in the SCC.

## Section 8 Special Conditions of Contract

GCC clause reference	Special Conditions of Contract
	The Procurement Reference Number is: MOES/NCS/20-21/00030
<b>GCC 1.2(e)</b>	<b>Eligible Countries:</b> The Eligible Countries are those listed in Section 5 of the Bidding Document.
<b>GCC 3.1(f)</b>	The other documents forming part of the Contract are: Bidder's bid Negotiation Minutes where applicable Minutes of Contracts Committee Terms of Reference Solicitor General's letter clearing the Contract
<b>GCC 3.4</b>	<b>Authorised Representatives:</b> The Authorised Representatives are: For the Procuring and Disposing Entity: The Permanent Secretary For the Provider
<b>GCC 4.1</b>	<b>Law:</b> The Governing Law shall be the Law of Uganda.
<b>GCC 5.1</b>	<b>Language:</b> The language of the contract shall be English.
<b>GCC 6.1</b>	For <b>notices</b> , the Procuring and Disposing Entity's address shall be: Attention: The Permanent Secretary Street Address: King George VI Way Floor/Room number: Embassy House, 8 <sup>th</sup> Floor Town/City: Kampala PO Box: 7063 Country: Uganda Telephone: Facsimile number: N/A Email address: permasec@education.go.ug For <b>notices</b> , the Provider's address shall be: Attention: Street Address: Floor/Room number: Town/City: PO Box:

**Part 3: Section 8 Special Conditions of Contract**

GCC clause reference	Special Conditions of Contract
	Country: Telephone: Facsimile number: Email address:
<b>GCC 17.2</b>	<b>Dispute settlement:</b> The Dispute settlement shall be the Arbitration and Conciliation Act CAP 4 of Laws of Uganda 2000.
<b>GCC 18.1</b>	Liquidated Damages shall apply. The liquidated damage shall be: 0.05% per week The maximum amount of liquidated damages shall be:
<b>GCC 19.1</b>	<b>Commencement:</b> The Period within which Services shall have commenced following the date of the Agreement is: Date of handover of the consignments
<b>GCC 20.1</b>	<b>Completion:</b> The Services shall be completed by/shall be performed for a period of: within 4 weeks
<b>GCC 22.2</b>	<b>Excluded costs:</b> The following costs are excluded from the Contract Price: None
<b>GCC 22.3</b>	<b>Payment Schedule:</b> The payment schedule shall be: <b>100% payment upon completion of the assignment.</b>
<b>GCC 24.2</b>	<b>Documentation for Payment:</b> The following documentation shall be required to support invoices requesting payments:
<b>GCC 24.3</b>	<b>Payment Period:</b> Payment shall be made by the Procuring and Disposing Entity within days of receipt of the invoice and the relevant documents specified in Clause 24.2.
<b>GCC 25.1</b>	An Advancement Payment Guarantee shall NOT be required if the Bidder requires an advance payment. The amount of the Advance Payment Guarantee shall be: N/A
<b>GCC 26.4(b)</b>	<b>The Procuring and Disposing Entity's prior approval:</b> The Procuring and Disposing Entity's prior approval is also required for: in case of change in service
<b>GCC 29.3</b>	<b>Total Liability:</b> The total liability under the Contract shall be 100% of the contract sum
<b>GCC 30.1</b>	<b>Insurance taken out by Provider:</b> The risks and coverage shall be: (i) Third Party motor vehicle (ii) Third Party liability (iii) Employer's liability and workers' compensation (iv) Professional liability

**Part 3: Section 8 Special Conditions of Contract**

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<b>GCC clause reference</b>	<b>Special Conditions of Contract</b>
	(v) Loss or damage to equipment and property (vi) Other
<b>GCC 34.1</b>	<b>Working hours:</b> The working hours for the Provider shall be: <b>8:30am – 4:30pm</b>
<b>GCC 36.1</b>	<b>Performance Security:</b> A Performance Security of 10% of the contract sum be required. The amount and currency of the Performance Security is:
<b>GCC 36.3</b>	<b>Form of Performance Security:</b> The forms of acceptable Performance Security are: Bank guarantee in the format contained in this document.
<b>GCC 36.4</b>	<b>Discharge of Performance Security:</b> The Performance Security shall be discharged: within two weeks after completion of assignment.

## **Section 9. Contract Forms**

### **Table of Forms**

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# Agreement

## For Lump Sum Contracts

Procurement Reference No: \_\_\_\_\_

This Agreement is made the \_\_\_\_ day of the month of \_\_\_\_\_, \_\_\_\_\_,

between \_\_\_\_\_ of

(hereinafter called the “Procuring and Disposing Entity”) and

\_\_\_\_\_ of \_\_\_\_\_

(hereinafter called the “Provider”).

**WHEREAS**

- (a) the Procuring and Disposing Entity has requested the Provider to provide certain services (hereinafter called the “Services”) as defined herein and attached to this Contract;
- (b) the Provider having represented to the Procuring and Disposing Entity that it has the required skills, personnel and technical resources, has agreed to provide the Services on the terms and conditions set forth in this Contract;

NOW THEREFORE the parties hereto hereby agree as follows:

- 1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract referred to.
- 2. In consideration of the payments to be made by the Procuring and Disposing Entity to the Provider as indicated in this Agreement, the Provider hereby covenants with the Procuring and Disposing Entity to provide the Services in conformity in all respects with the provisions of the Contract.
- 3. The Procuring and Disposing Entity hereby covenants to pay the Provider in consideration of the provision of the Services, the Contract Price of \_\_\_\_\_ 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 Contract to be signed in their respective names as of the day and year first above written.

Signed by \_\_\_\_\_ (for the Procuring and Disposing Entity)

Name: \_\_\_\_\_ Authorised Representative

Position: \_\_\_\_\_

In the presence of:

Name: \_\_\_\_\_ Position: \_\_\_\_\_



### **Part 3: Section 9: Contract Form**

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Signed by \_\_\_\_\_ (for the Provider)

Name: \_\_\_\_\_ Authorised Representative

Position: \_\_\_\_\_

In the presence of:

Name: \_\_\_\_\_ Position: \_\_\_\_\_

# Appendices

**Appendix A            Statement of Requirements**

**Appendix B            Breakdown of Contract Price in Uganda Shillings**

<b>Activity</b>	<b>Input Qty</b>	<b>Unit of measure</b>	<b>Unit Price</b>	<b>Total Price</b>
<b>Total Contract Price</b>				

## Part 3: Section 9: Contract Form

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*[The Performance Security should be on the letterhead of the issuing Financial Institution and should be signed by a person with the proper authority to sign documents that are binding on the Financial Institution]*

# Performance Security

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

Procurement Reference No: *[insert Procurement Reference Number]*

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

WHEREAS *[insert name complete of Provider]* (hereinafter “the Provider”) has undertaken, pursuant to Contract No. *[insert number]* dated *[insert day, month and year]* to supply *[brief description of the Services]* (hereinafter “the Contract”).

AND WHEREAS it has been stipulated by you in the aforementioned Contract that the Provider shall furnish you with a security *[insert type of security]* issued by a reputable guarantor for the sum specified therein as security for compliance with the Provider’s performance obligations in accordance with the Contract.

AND WHEREAS the undersigned *[insert complete name of Guarantor]*, legally domiciled in *[insert complete address of Guarantor]*, (hereinafter the “Guarantor”), have agreed to give the Provider a security:

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the Provider, up to a total of *[insert currency and amount of guarantee in words and figures]* and we undertake to pay you, upon your first written demand declaring the Provider to be in default under the Contract, without cavil or argument, any sum or sums within the limits of *[insert currency and amount of guarantee in words and figures]* as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This security is valid until the *[insert number]* day of *[insert month]*, *[insert year]*.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 758.

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

In the capacity of *[insert legal capacity of person signing the Performance Security]*

Signed: *[signature of person whose name and capacity are shown above]*

Duly authorised to sign the Performance Security for and on behalf of: *[insert complete name of Financial Institution]*

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ *[insert date of signing]*