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# **Bidding Document for the Procurement of Works**

**Subject of Procurement: CONSTRUCTION OF FACILITIES  
UNDER DEVELOPMENT OF  
SECONDARY EDUCATION  
PROGRAMME PHASE II (LOT 1 -  
LOT 12)**

**Procurement Reference Number: MoES/WRKS/20-21/00138**

**Procurement Method: Open Domestic Bidding**

**Date of Issue: JANUARY 2021**

## **PREFACE**

This Standard Bidding Document (SBD) 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 Works. 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 Assets Regulations, 2014 and best international procurement practices.

1. This SBD for the Procurement of Works is suitable for use under the Open (International or Domestic) Bidding procurement method without following pre-qualification. Pre-qualification is not envisaged for small and medium works that is works whose value is less than USD 10 Million. 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.
2. For procurements under the Quotation Method, a simpler SBD has been developed which is generally more appropriate for this method.
3. This SBD is suitable for ad measurement and lump-sum works contracts. This SBD can also be used for framework contracts with appropriate modifications to the documents. The User Guide to this SBD indicates the circumstances in which its use is most appropriate.
4. This SBD includes wording for Technical Compliance Selection (TCS) as the required evaluation methodology for works (except for design and build contracts for which this SBD would not be suitable).
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 on the correct use of the Standard Bidding Document (SBD) for Works 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.

**The Executive Director,  
Public Procurement and Disposal of Public Assets Authority  
P.O. Box 3925,  
KAMPALA.  
[info@ppda.go.ug](mailto:info@ppda.go.ug)  
[www.ppda.go.ug](http://www.ppda.go.ug)**

# Standard Bidding Document

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**MINISTRY OF EDUCATION AND SPORTS**



**ABRIDGED BID NOTICE UNDER OPEN BIDDING**

1. Ministry of Education and Sports invites sealed bids from eligible bidders for:

No.	Procurement Reference Number	Subject matter of Procurement	Bid Security
01	MoES/WRKS/20-21/00138	<b>CONSTRUCTION OF VARIOUS SECONDARY SCHOOLS PROGRAMME PHASE II (LOTS 1 - 12)</b>	Details in SBD

2. The Bidding document(s) shall be inspected and issued at: -

The Procurement and Disposal Unit

Ministry of Education and Sports

Plot 9/11 King George VI Way

3<sup>rd</sup> Floor, Embassy House

Room 3.7

3. The deadline for bid submission shall be at 11:00 Am on **09<sup>th</sup> February, 2021**

4. The detailed bid notice is available at the Entity's website [www.educ.go.ug](http://www.educ.go.ug) and at [www.pdda.go.ug](http://www.pdda.go.ug)

Alex Kakooza  
**Permanent Secretary**

## Part 1: Section 1 Instructions to Bidders



THE REPUBLIC OF UGANDA

### MINISTRY OF EDUCATION AND SPORTS

#### INVITATION FOR BIDS (IFB)

#### FOR

#### CONSTRUCTION OF VARIOUS SECONDARY SCHOOLS (LOT 1 - LOT 12)

#### Procurement Reference Number: MoES/WRKS/20-21/00138

1. The Government of the Republic of Uganda through the Ministry of Education and Sports has allocated funds to be used for the Construction of Various Secondary Schools as per the Lots below;

Lot No.	District	School	Bid Security Amount in UGX
LOT 1	Gomba	Kasaka Secondary School	14,600,000/=
	Butambala	Kaggulwe Secondary School	
	Mubende	Nabingoola Public Secondary School	
	Kyegegwa	Humura Secondary School	
LOT 2	Masaka	Kijjabwemi Secondary School	16,500,000/=
	Lyantonde	St. John's Comprehensive Secondary School	
	Kiruhura	St. Peter's S.S. Kitura	
LOT 3	Luweero	Wakatayi Secondary School	7,800,000/=
	Buikwe	Sacred Heart Najja Secondary School	
LOT 4	Bulambuli	Bumasoobo Secondary School	12,800,000/=
	Kapchorwa	Sipi Secondary School	
LOT 5	Butaleja	Bukedi College Kachonga	11,900,000/=
	Busia	Buhehe Secondary School	
	Bududa	Bukalasi Secondary School	
LOT 6	Karenga	Jubilee S.S. Karenga	11,300,000/=
LOT 7	Bundibugyo	Kakuka Hill School	14,400,000/=
	Kasese	Kisinga Vocational Secondary School	
	Kabarole	Ruteete Secondary School	
LOT 8	Omoro	Koro Secondary School	12,400,000/=
	Lira	Lango College	
	Lira	Lira Secondary School	
LOT 9	Isingiro	St. Raphael Vocational Secondary School	
	Kanungu	Kihihi High School	16,900,000/=
	Kabale	St. Barnabas S.S. Karujanga	
	Rukungiri	Rukungiri Vocational Secondary School	
LOT 10	Ntungamo	Kyamate Secondary School	19,300,000/=
LOT 11	Madi-Okollo	Uleppi Secondary School	8,200,000/=

## Part 1: Section 1 Instructions to Bidders

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	Madi-Okollo	Okollo Secondary School	
<b>LOT 12</b>	Soroti	Teso College Aloit	<b>9,000,000/=</b>

- The Ministry of Education and Sports on behalf of the Government of Uganda invites sealed bids for the provision of the above works.
- Bidding will be conducted in accordance with the Open Domestic bidding method contained in the Government of Uganda's Public Procurement and Disposal of Public Assets Act, 2003.
- Interested bidders may obtain further information from the Entity and inspect the bidding documents at the address given below at 8(a) from 9.00am to 4:00pm during official working days
- Bidding documents in English may be purchased by interested bidders on submission of a written application to the address below at 8(a) upon payment of a non-refundable fee of **UShs.100,000 (Uganda Shillings One Hundred Thousand Only)** per Lot. The method of payment will be through obtaining a Bank Payment Advise Forms from the cashier on 5th Floor, Embassy House and pay at the designated Bank with effect from **11<sup>th</sup> January, 2021**. On presentation of proof of payment, bidding documents may then be collected from the Procurement and Disposal unit Room 7.2 with effect from **11<sup>th</sup> January, 2021**.
- Bids must be delivered to the address below at 8(a) at or before at 11:00 am **09<sup>th</sup> February, 2021**.

All bids must be accompanied with a bid security in the format of an unconditional bank guarantee and in the values indicated in the table above. Bid securities must be valid until **30<sup>th</sup> August 2021**. Late bids shall be rejected. Bids will be opened online via zoom and details will be availed to all bidders or representatives by 8<sup>th</sup> February .

- There will be an online via zoom pre – bid meeting on the, **21<sup>st</sup> January 2021** at 11.00am at the address indicated in 8(b) below.
- (a) Documents may be inspected at, issued from and delivered to:

Procurement and disposal Unit  
Ministry of Education and Sports  
Plot 9/11 King George VI Way  
3<sup>rd</sup> Floor, Embassy House  
Room 7.2  
P.O. Box 7063  
Kampala, Uganda.

[Tel:256-41-252063](tel:256-41-252063)/Fax 256-41-340685

- (b) Address of bid opening: Procurement and disposal Unit  
Ministry of Education and Sports  
Plot 9/11 King George VI Way

## Part 1: Section 1 Instructions to Bidders

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7<sup>th</sup> Floor, Embassy House

Room 7.7

P.O. Box 7063

Kampala, Uganda

11. The planned procurement schedule (subject to changes) is as follows:

<b>Activity</b>	<b>Date</b>
a. Issue invitation to bid letter	<b>11<sup>th</sup> January, 2021</b>
b. Pre-bid meeting/ Site visits where applicable	21 <sup>st</sup> January, 2021
c. Bid closing date	<b>09<sup>th</sup> February, 2021</b>
d. Evaluation process	Within <b>20 working days</b> from bid closing date
e. Display and communication of best evaluated bidder notice	Within <b>10 working days</b> from Contracts Committee award
f. Contract Signature	After expiry of <b>10 working days</b> from display of the best evaluated bidder notice and Clearance by the Solicitor General

Alex Kakooza

**Permanent Secretary**

**PART 1 – Bidding Procedures**  
**Section 1: Instructions to Bidders**  
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## **Section 1. Instructions to Bidders**

### **A. General**

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

- 1.1 The Employer, as defined in the Bid Data Sheet (BDS), invites bids for the construction of Works, as described in the BDS. The name and procurement reference number of the Contract and number of lots in this Bidding Document are provided in the BDS. The Instructions to Bidders (ITB) should be read in conjunction with the BDS.
- 1.2 The successful Bidder will be expected to complete the Works by the Intended Completion Date specified in the Special Conditions of Contract (SCC).
- 1.3 Throughout this Bidding Document:
  - (a) the “Employer” means the procuring and disposing entity; and
  - (b) the “Contractor” means the provider.
- 1.4 Procurement will be undertaken in compliance with the Public Procurement and Disposal of Public Assets Act, 2003 and Regulations, 2014.

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

- 2.1 The Employer has an approved budget from Government funds towards the cost of the procurement named in the BDS. The Employer 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 Employer and will be subject in all respects to the terms and conditions of the resulting contract placed by the Employer.

#### **3. Corrupt Practices**

- 3.1 It is the Government of Uganda’s policy to require that Employers, as well as Bidders and Contractors, observe the highest standards of ethics during procurement and the execution of 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:
    1. “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;
    2. “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;
    3. “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;
    4. “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;

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

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- (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; and
  - (c) will suspend a Contractor from engaging in any public procurement proceeding for a stated period of time, if it at any time determines that the Contractor 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 ITB Sub-Clause 23.2 and ITB Sub-Clause 59.2(h) of the General Conditions of Contract (GCC).
- 3.3 In pursuit of the policy defined in ITB Sub-Clause 3.1, the Employer may terminate a contract for Works, 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 or fraudulent practices were engaged in by representatives of the Employer or of a Bidder or Contractor during the procurement or the execution of that contract.
- 3.4 In pursuit of the policy defined in ITB Sub-Clause 3.1, the Government of Uganda requires representatives of both the Employer and of Bidders and Contractors 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 shall 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 Employer related to matters of alleged fraud or corruption must be made in writing and addressed to the Accounting Officer of the Employer.

### **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. Joint ventures, consortia and associations shall comply with the requirements of ITB Clause 6.
- 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 or incorporated 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.
- 4.4 A Bidder, and all parties constituting the Bidder including sub-contractors, shall not have a conflict of interest. All Bidders found to have a conflict of interest shall be disqualified. A Bidder may be considered to have a conflict of interest 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 Employer regarding this bidding process; or
  - (e) submit more than one bid in this bidding process, except for alternative bids permitted under ITB Clause 19. However, this does not limit the participation of subcontractors in more than one bid, or as Bidders and subcontractors simultaneously; or
  - (f) is associated, or has been associated in the past, directly or indirectly, with the consultant or any other entity that has prepared the design, specifications, and other documents for the Project or being proposed as Project Manager for the Contract. A firm that has been engaged by the Employer to provide consulting services for the preparation or supervision of the Works, and any of its affiliates, shall not be eligible to bid.
- 4.5 A firm that is under a declaration of suspension by the Authority in accordance with ITB Sub-Clause 3.1 (c) or 3.5, 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 Employer, as the Employer shall reasonably request.

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

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- 4.8 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.
- 4.9 A Bidder whose circumstances in relation to eligibility change during a procurement process or during the execution of a contract, shall immediately inform the Employer.
- 4.10 All materials, equipment and services to be used in the performance of the contract shall have as their country of origin an eligible country in accordance with Section 5, Eligible Countries.

### **5. Post 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.

### **6. Joint Ventures, Consortia and Associations**

Bids submitted by a joint venture, consortium or association of two or more firms as partners shall comply with the following requirements, unless otherwise stated in the BDS:

- (a) the bid shall include all the information listed in Section 3, Evaluation Methodology and Criteria for each partner;
- (b) the bid shall be signed so as to be legally binding on all partners;
- (c) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
- (d) one of the partners will be nominated as being in charge and receive instructions for and on behalf of any and all partners; and
- (e) the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.

### **7. One Bid per Bidder**

Each Bidder shall submit only one Bid, either individually or as a partner in a joint venture, consortium or association. A Bidder who submits or participates in more than one bid (other than as a subcontractor or in cases of alternatives that have been permitted or requested) will cause all the bids with the Bidder's participation to be rejected.

### **8. Cost of Bidding**

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

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The Bidder shall bear all costs associated with the preparation and submission of his Bid, and the Employer shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

### **9. Site Visit and Pre-Bid Meeting**

- 9.1 The Bidder, at the Bidder's own responsibility and risk, is encouraged to visit and examine the Site of Works and its surroundings and obtain all information that may be necessary for preparing the bid and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the Bidder's own expense.
- 9.2 If so indicated in the BDS, the Employer will hold a pre-bid meeting or site visit at the time, date and location specified in the BDS to clarify issues and to answer questions on any matter that may be raised at that stage.
- 9.3 Bidders may submit any questions in writing to the Entity prior to the date of the meeting and may also orally raise questions at the meeting.
- 9.4 Minutes of the pre-bid meeting, if any, including the text of the questions asked by Bidders, without identifying the source, and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Bidders who have acquired the Bidding Documents. Any modification to the Bidding Documents that may become necessary as a result of the pre-bid meeting shall be made by the Employer exclusively through the issue of an Addendum pursuant to ITB 12 and not through the minutes of the pre-bid meeting. Nonattendance at the pre-bid meeting will not be a cause for disqualification of a Bidder.

## **B. Bidding Document**

### **10. Content of Bidding Document**

- 10.1 The Bidding Document consists of Parts 1, 2, and 3, which includes all the Sections indicated below, and should be read in conjunction with any addenda issued in accordance with ITB Clause 12.

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

- Section 1. Instructions to Bidders (ITB)
- Section 2. Bid Data Sheet (BDS)
- 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 Works
- Section 8. Special Conditions of Contract (SCC)
- Section 9. Contract Forms

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

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- 10.2 The Bid Notice or letter of invitation to bid is not part of the Bidding Document.
- 10.3 Bidders who did not obtain the Bidding Document directly from the Employer will be rejected during evaluation. Where a Bidding Document is obtained from the Employer on a Bidder's behalf, the Bidder's name must be registered with the Employer at the time of sale and issue.
- 10.4 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Document. Failure to furnish all information or documentation required by the Bidding Document, may result in the rejection of the bid.
- 10.5 Where an electronic copy of the bidding document is issued, the paper or hard copy of the bidding document is the original version. In the event of any discrepancy between the two, the hard copy shall prevail.

### **11. Clarification of Bidding Document**

A prospective Bidder requiring any clarification of the Bidding Document shall contact the Employer in writing at the Employer's address indicated in the BDS. The Employer 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 Employer 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 Employer deem it necessary to amend the Bidding Document as a result of a clarification, it shall do so following the procedure under ITB Clause 12 and ITB Sub-Clause 22.2.

### **12. Amendment of Bidding Document**

- 12.1 At any time prior to the deadline for submission of bids, the Employer may amend the Bidding Document by issuing an addendum.
- 12.2 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 Employer.
- 12.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their bids, the Employer may, at its discretion, extend the deadline for the submission of bids, pursuant to ITB Sub-Clause 22.2.

## **C. Preparation of Bids**

### **13. Language of Bid**

- 13.1 The medium of communication shall be in writing unless otherwise specified in the BDS.
- 13.2 The bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Employer, shall be written in English, unless otherwise specified in the BDS.
- 13.3 Supporting documents and printed literature that are part of the bid may be in another language provided they are accompanied by a translation of the relevant passages in English by a competent authority, in which case, for purposes of interpretation of the Bid, such translation shall govern.

### **14. Documents Comprising the Bid**



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- 14.1 The bid submitted by the Bidder shall comprise the following:
- (a) the Bid Submission Sheet, in accordance with ITB Sub-Clause 14.2;
  - (b) a Bid Security or a Bid Securing Declaration in accordance with ITB Clause 18;
  - (c) written confirmation authorising the signatory of the bid to commit the Bidder, in accordance with ITB Clause 20;
  - (d) documentary evidence in accordance with ITB Sub-Clause 4.8 establishing the Bidder's eligibility to bid;
  - (e) a priced Activity Schedule or Bill of Quantities in accordance with ITB Clauses 15 and 16;
  - (f) the Qualification Form and Documents in accordance with ITB Clause 5;
  - (g) a preliminary description of the proposed work method and schedule, including drawings and charts, as necessary;
  - (h) The Code of Ethical Conduct for Bidders and Providers in accordance with ITB Clause 3.4; and
  - (i) any other document(s) required in the BDS.

14.2 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.

### **15. Bid Prices**

15.1 The Contract shall be for the whole Works, as described in ITB Sub-Clause 1.1, based on the priced Activity Schedule or Bill of Quantities submitted by the Bidder.

15.2 The Bidder shall fill in rates and prices for all items of the Works described in the drawings and specifications and listed in the Activity Schedule or Bill of Quantities included in Section 6, Statement of Requirements. Items for which no rate or price is entered by the Bidder will not be paid for by the Employer when executed and shall be deemed covered by the other rates and prices in the Activity Schedule or Bill of Quantities.

15.3 Unless otherwise specified in the BDS, all duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 21 days prior to the deadline for submission of bids, shall be included in the total bid price submitted by the Bidder.

15.4 The lump sum price quoted by the Bidder shall be subject to adjustment during the performance of the Contract if provided for in the SCC and the provisions of Clause 47 of the GCC. The Bidder shall submit with the bid all the information required under the SCC and Clause 47 of the GCC.

### **16. Currencies of Bid and Payment**

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- 16.1 The lump sum/ unit rates and prices shall be quoted by the Bidder entirely in Uganda Shillings, unless otherwise stated in the BDS.
- 16.2 The rates of exchange to be used by the Bidder in arriving at the local currency equivalent and the percentage(s) mentioned in ITB Sub-Clause 16.1 above shall be the selling rates for similar transactions established by the authority specified in the BDS prevailing on the date 21 days prior to the latest deadline for submission of bids. These exchange rates shall apply for all payments so that no exchange risk will be borne by the Bidder. If the Bidder uses other rates of exchange, the provisions of ITB Sub-Clause 32.1 shall apply. In any case, payments will be computed using the rates quoted in the Bid.
- 16.3 Bidders shall indicate details of their expected foreign currency requirements in the Bid. Foreign currency requirements shall be indicated as a percentage of the bid price (excluding provisional sums) and shall be payable at the option of the Bidder in up to three foreign currencies, unless otherwise stated in the BDS.
- 16.4 Bidders may be required by the Employer to clarify their foreign currency requirements and to substantiate that the amounts included in the lump sum and in the SCC are reasonable and responsive to ITB Sub-Clause 16.3.

### **17. Bid Validity**

- 17.1 Bids shall remain valid until the date specified in the BDS. A bid valid for a shorter period shall be rejected by the Employer as non-compliant.
- 17.2 In exceptional circumstances, prior to the expiration of the bid validity period, the Employer may request Bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. If a Bid Security or a Bid Securing Declaration is requested in accordance with ITB Clause 18, it shall also be extended for a corresponding period. A Bidder may refuse the request without forfeiting its Bid Security or Bid Securing Declaration. A Bidder granting the request shall not be required or permitted to modify its bid.
- 17.3 In the case of contracts in which the Contract Price is fixed (not subject to price adjustment), if the period of bid validity is extended beyond 60 days after the expiry of the initial bid validity, the amounts payable in local and foreign currency to the Bidder selected for award, shall be increased by applying to both the local and the foreign currency component of the payments, respectively, the factors specified in the BDS or in the request for extension, for the period of delay beyond 60 days after the expiry of the initial bid validity, up to the notification of award. Bid evaluation will be based on the bid prices without taking the above correction into consideration.

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

- 18.1 The Bidder shall furnish as part of its bid a Bid Security or a Bid-Securing Declaration if so specified in the BDS.
- 18.2 The Bid Security shall be in the amount specified in the BDS and denominated in Uganda Shillings or a freely convertible currency.
- 18.3 The Bid Security shall be, at the Bidder's option, in any of the following forms:

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- (a) a demand guarantee;
- (b) a cashier's or certified check; or
- (c) another security indicated in the BDS,

from a reputable Financial Institution 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. The Bid Security or Bid Securing Declaration shall be submitted using the appropriate form included in Section 4, Bidding Forms. The Bid Security or Bid Securing Declaration shall be valid until the date specified in the BDS.

- 18.4 Any bid not accompanied by an acceptable Bid Security or Bid Securing Declaration, if one is required, shall be rejected by the Employer as non-compliant. The Bid Security or Bid Securing Declaration of a joint venture must define as "Bidder" all joint venture partners and list them in the following manner: a joint venture consisting of "\_\_\_\_\_", "\_\_\_\_\_", and "\_\_\_\_\_".
- 18.5 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.
- 18.6 The Bid Security may be forfeited or Bid Securing Declaration executed:
- (a) 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 17.2; or
  - (b) if the successful Bidder fails to:
    - (i) sign the Contract in accordance with ITB Clause 39;
    - (ii) furnish a Performance Security in accordance with ITB Clause 41; or
    - (iii) accept the correction of its bid price pursuant to ITB Sub-Clause 29.5.

### 19. Alternative Bids

- 19.1 Bidders shall submit offers that comply with the requirements of the bidding documents, including the basic technical design as indicated in the drawings and specifications. Alternative bids shall not be considered unless otherwise indicated in the BDS.
- 19.2 Where permitted, alternative bids do not need to conform precisely to the Statement of Requirements, but must-
- (a) meet the objectives and/or performance requirements prescribed in the Statement of Requirements;
  - (b) be substantially within any delivery or completion schedule, budget or other performance parameters stated in the solicitation document;
  - (c) provide all information necessary for a complete evaluation of the alternative by the Employer, including design calculations, technical specifications, breakdown of prices, proposed construction methods and other relevant details; and

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- (d) clearly state the benefits of the alternative bid over any solution which conforms precisely to the Statement of Requirements, in terms of technical performance, price, operating costs or any other benefit.
- 19.3 A Bidder may submit both a main bid which conforms precisely to the Statement of Requirements and an alternative bid.
- 19.4 Where a Bidder submits more than one bid, each bid shall be submitted as a completely separate bid and shall conform to the instructions for preparation and submission of bids in its own right, without any reliance on any other bid. In particular, each bid shall be separately signed, authorised, sealed, labelled and submitted in accordance with the instructions for submission of bids and shall be accompanied by a separate Bid Security or Bid Securing Declaration, if so required. Such bids shall be labelled “Main Bid” and “Alternative Bid”.

### **20. Format and Signing of Bid**

- 20.1 The Bidder shall prepare one original of the documents comprising the bid as described in ITB Clause 14 and clearly mark it “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 discrepancy between them, 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 The bid shall contain no alterations or additions, except those to comply with instructions issued by the Employer, or as necessary to correct errors made by the Bidder, in which case such corrections shall be initialed by the person or persons signing the Bid.
- 20.4 The Bidder shall furnish information as described in the Bid Submission Sheet on commission or gratuities, if any, paid or to be paid to agents relating to this Bid, and to contract execution if the Bidder is awarded the contract.

### **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 Employer in accordance with ITB Sub-Clause 22.1;

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- (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, in accordance with ITB Sub-Clause 25.1.

21.3 If all envelopes are not sealed and marked as required, the Employer 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 Employer at the address and no later than the date and time indicated in the BDS.

22.2 The Employer may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Documents in accordance with ITB Clause 12, in which case all rights and obligations of the Employer and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.

### **23. Late Bids**

The Employer 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 Employer 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 20 and 21 (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 Employer 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.

24.5 Bidders may only offer discounts to, or otherwise modify the prices of their bids, by withdrawing and replacing their bid in accordance with this clause, or by including the discount in the original bid submission.

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### **25. Bid Opening**

- 25.1 The Employer shall conduct the bid opening in the presence of Bidders` designated representatives who choose to attend, and 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.
- All other envelopes including those marked “REPLACEMENT” shall be opened and the relevant details read out. Replacement bids shall be recorded as such on the record of the bid opening.
- Only envelopes that are opened and read out at the bid opening shall be considered further.
- 25.3 All other envelopes shall be opened one at a time, reading out: the name of the Bidder; the bid price, per lot where applicable, including any discounts; the presence of a Bid Security or Bid Securing Declaration, if required; and any other details as the Employer may consider appropriate. Only discounts and alternative offers read out at the bid opening shall be considered for evaluation. No bid shall be rejected at the bid opening except for late bids, in accordance with ITB Sub-Clause 23.1.
- 25.4 The Employer shall prepare a record of the bid opening that shall include, as a minimum: the name of the Bidder and whether there is a withdrawal and/or replacement; the bid price, per lot if applicable, including any discounts; and the presence or absence of a Bid Security or Bid Securing Declaration, if one was required. The Bidders` representatives who are present shall be requested to sign the record. The omission of a Bidder`s signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to Bidders upon payment of a fee and displayed on the Employer`s Notice Board within one working day from the date of the bid opening.

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

#### **26. Confidentiality**

- 26.1 Information relating to the examination, evaluation, comparison, and post-qualification of bids, and recommendation of contract award, shall not be disclosed to bidders or any other persons not officially concerned with such process until information detailing the best evaluated Bidder is communicated to all Bidders.
- 26.2 Any effort by a Bidder to influence the Employer 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 Employer on any matter related to the bidding process, it should do so in writing.

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

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27.1 To assist in the examination, evaluation, comparison and post-qualification of the bids, the Employer may, at its discretion, ask any Bidder for a clarification of its Bid, including breakdowns of unit rates or prices. Any clarification submitted by a Bidder that is not in response to a request by the Employer shall not be considered. The Employer's request for clarification and the response shall be in writing. All requests for clarifications 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 Employer in the evaluation of the bids in accordance with ITB Sub-Clause 29.4.

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

28.1 The Employer'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 specifications of the Bidding Document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:

- (a) affects in any substantial way the scope, quality, or performance of the Works specified in the Contract; or
- (b) limits in any substantial way, inconsistent with the Bidding Document, the Employer's rights or the Bidder's obligations under the Contract; or
- (c) If rectified would unfairly affect the competitive position of other Bidders presenting substantially compliant and responsive bids.
- (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 Employer 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 Employer may waive any non-conformity or omissions in the bid that does not constitute a material deviation.

29.2 Provided that a bid is substantially compliant and responsive, the Employer 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

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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 Employer 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 Employer 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 Employer 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**

- 30.1 The Employer shall examine the legal documentation and other information submitted by Bidders to verify the eligibility of Bidders and any materials, equipment and services to be used in performance of the contract in accordance with ITB Clause 4.
- 30.2 If after the examination of eligibility, the Employer determines that the Bidder, or the materials, equipment and services to be used in performance of the contract are not eligible, it shall reject the bid.
- 30.3 The Employer shall examine the bids to confirm that all documents requested in ITB Clause 14 have been provided, and to determine the completeness of each document submitted.

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

- 31.1 The Employer 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 Employer determines that the bid is not substantially responsive in accordance with ITB Clause 28, it shall reject the bid.

### **32. Currency for Bid Evaluation**



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32.1 Bids will be evaluated as quoted in Uganda Shillings in accordance with ITB Sub-Clause 16.1, unless a Bidder has used different exchange rates than those prescribed in ITB Sub-Clause 16.2, in which case the bid will be first converted into the amounts payable in different currencies using the rates quoted in the bid and then reconverted to Uganda Shillings using the exchange rates prescribed in ITB Sub-Clause 16.2.

### **33. Financial Comparison of Bids**

33.1 The Employer will evaluate and compare only the bids determined to be substantially responsive following detailed evaluation in accordance with ITB Clause 31.

33.2 To financially evaluate a bid, the Employer 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.

33.3 To financially compare bids, the Employer 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 24.5;
- (d) make adjustments for any acceptable variations, deviations, 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 34;
- (g) determine the total evaluated price of each bid.

33.4 The Employer shall consider prices that appear to:

- (a) be unbalanced;
- (b) show a misunderstanding of the requirements; or
- (c) be intended to front load earnings.

33.5 The Employer reserves the right to accept or reject any variation, deviation, or alternative offer. Variations, deviations, and alternative offers and other factors which are in excess of the requirements of the bidding documents or otherwise result in unsolicited benefits for the Employer will not be taken into account in bid evaluation, unless otherwise specified in Section 3, Evaluation Methodology and Criteria.

33.6 The estimated effect of any price adjustment conditions under Clause 47 of the GCC, during the period of implementation of the Contract, will not be taken into account in bid evaluation, unless otherwise indicated in Section 3, Evaluation Methodology and Criteria.

### **34. Margin of Preference**

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- 34.1 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.
- 34.2 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 contractors incorporated or registered in Uganda with more than fifty percent of the bidder's capital owned by Ugandan citizens or by the Government or a procuring and disposing entity of Uganda;
  - (b) Group B: bids from joint ventures or associations registered in Uganda and including a contractor 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).
- 34.3 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 34.2 (a) or (b) above.

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

- 35.1 The Employer 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 evaluation**

- 36.1 The Employer 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 qualification.
- 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 Employer 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 shall be verified using the information submitted in accordance with ITB Sub-Clause 5.3.

## **F. Award of Contract**

### **37. Award Procedure**

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- 37.1 Following any post-qualification, the Employer shall issue a Notice of Best Evaluated Bidder within five days after the decision of the contracts committee to award a contract, place such 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 within a period of ten (10) working days after the date of display of the best evaluated bidder notice.
- 37.3 The Employer 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.
- 37.4 Negotiations shall only be held in exceptional circumstances as provided for under the PPDA Act.

### **38. Employer's Right to Accept any Bid and to Reject any or all Bids**

- 38.1 Notwithstanding ITB Clause 37, the Employer reserves the right to accept or reject any Bid, and to cancel the bidding process and reject all bids, at any time prior to contract signature and issue by the Employer, without thereby incurring any liability to the affected Bidder or Bidders or any obligation to inform the affected Bidder or Bidders of the grounds for the Employer's action.

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

- 39.1 On expiry of the ten (10) working day period after display of the best evaluated bidder and upon approval by the Attorney General, the Employer 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 and forfeiture of the Bid Security or execution of the bid securing declaration. In that event, the Employer may award the Contract to the next best evaluated Bidder.
- 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 of Bidders**

Where a bidder requests information on the reasons for the success or failure of their bid, the Employer shall promptly give the bidder a written debrief after the signing of the contract.

### **41. Performance Security**

- 41.1 Within twenty-one (21) days after signing of the contract, the successful Bidder shall where applicable, furnish to the Employer 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.
- 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

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where the successful Bidder fails to sign the contract in accordance with ITB Clause 42.1, the successful Bidder's Bid Security maybe 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 Advance Payment Guarantee shall be in the form as stipulated in Section 9 (contract forms). The Advance Payment Guarantee 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. Adjudicator**

- 43.1 The Employer proposes the person named in the BDS to be appointed as Adjudicator under the Contract, at an hourly fee specified in the BDS, plus reimbursable expenses. If the Bidder disagrees with this proposal, the Bidder should so state in the Bid. If the Employer has not agreed on the appointment of the Adjudicator, the Adjudicator shall be appointed by the Appointing Authority designated in the SCC at the request of either party.

### **44. Administrative Review**

Bidders may seek an Administrative Review in accordance with the Public Procurement and Disposal of Public Assets Act, 2003 if they are aggrieved with the decision of the Employer.

## Section 2: Bid Data Sheet

Instructions to Bidders Reference	Data relevant to the ITB
ITB 1.1	The Employer is: <b>Ministry of Education and Sports</b>
ITB 1.1	<b>CONSTRUCTION OF FACILITIES UNDER DEVELOPMENT OF SECONDARY EDUCATION PROGRAMME PHASE II (LOTS 1 - 12)</b>
ITB 1.1	The procurement reference number of the Contract is: <b>MoES/WRKS/20-21/00138</b>
ITB 1.1	The number and identification of lots comprising this Bidding Document is: <b>12 (Twelve)</b>  The Maximum number of Lots a Bidder may bid for is <b>4 (Four)</b> but can only be awarded a maximum of only <b>2 (Two)</b>
ITB 6	In the case of 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.
ITB 9.2	The Employer shall be holding pre-bid meeting via zoom and details will be availed by 20 <sup>th</sup> Jan 2021  Date: <b>21<sup>st</sup> Jan 2021</b>  Time: 11.00am
ITB 11.1	For clarification purposes only, the Employer's address is: Attention: Head, Procurement and Disposal Unit Ministry of Education and Sports Street Address: Plot 9/11, King George vi way Floor/Room number: 7 <sup>th</sup> Floor, Room 7.2 Town/City: Kampala Country: Uganda Email <a href="mailto:gkwaine@yahoo.com">gkwaine@yahoo.com</a> , <a href="mailto:mutebeliving@gmail.com">mutebeliving@gmail.com</a>
ITB 11.1	The Employer will respond to any request for clarification provided that such request is received no later than <b>7 days</b> prior to the date of bid opening.

## Part 1: Section 2 Bid Data Sheet

Instructions to Bidders Reference	Data relevant to the ITB
<b>ITB 13.1</b>	The medium of communication shall be in <b>writing</b> .
<b>ITB 13.2</b>	The bid shall be written in <b>English</b> .
<b>ITB 14.1(i)</b>	<p>The Bidder shall submit with its bid the following additional documents:</p> <ol style="list-style-type: none"> <li>i. Signed letters of confirmation of availability from each of the Key Personnel listed.</li> <li>ii. Evidence of academic qualification for each of the Key Personnel.</li> <li>iii. Current Tax clearance Certificate issued by URA for locally registered firms. In case of foreign bidders, an alternative document or a statement affirming that the document is not available in the country of the foreign provider.</li> <li>iv. Copies of signed agreements and completion certificates within the last three years as evidence of experience in construction works.</li> <li>v. Trading License for the year 2021 or its equivalent.</li> <li>vi. A copy of the bidder's tax registration certificate (e-tax format) or equivalent.</li> <li>vii. Certificate of Registration /incorporation or its equivalent.</li> <li>viii. Audited financial statements for the last three years.</li> <li>ix. NSSF Clearance issued in the past 2 months.</li> <li>x. Powers of Attorney Registered with URSB</li> </ol>
<b>ITB 15.3</b>	<p>The requirement on duties, taxes, and other levies is modified as follows: All taxes should be included in the contract price</p>
<b>ITB 16.1</b>	The lump sum or unit rates and prices quoted by the Bidder shall be in <b>Uganda Shillings</b> .
<b>ITB 16.2</b>	The authority for specifying rates of exchange shall be the Bank of Uganda. <b>N/A</b>
<b>ITB 16.3</b>	Foreign currency requirements shall be payable at the option of the Bidder in up to three foreign currencies. <b>N/A</b>
<b>ITB 17.1</b>	Bids must be valid up to <b>30<sup>th</sup> July, 2021</b> from the date of bid opening
<b>ITB 18.1</b>	A Bid Security shall be required.
<b>ITB 18.2</b>	<p>Where a Bid Security is required, the amount and currency of Bid Security shall be as indicated below.</p> <ul style="list-style-type: none"> <li>• <b>Lot 1: UGX 14,600,000/=</b></li> <li>• <b>Lot 2: UGX 16,500,000/=</b></li> <li>• <b>Lot 3: UGX 7,800,000/=</b></li> </ul>

## Part 1: Section 2 Bid Data Sheet

Instructions to Bidders Reference	Data relevant to the ITB
	<ul style="list-style-type: none"> <li>• Lot 4: UGX 12,800,000/=</li> <li>• Lot 5: UGX 11,900,000/=</li> <li>• Lot 6: UGX 11,300,000/=</li> <li>• Lot 7: UGX 14,400,000/=</li> <li>• Lot 8: UGX 12,400,000/=</li> <li>• Lot 9: UGX 16,900,000/=</li> <li>• Lot 10: UGX 19,300,000/=</li> <li>• Lot 11: UGX 8,200,000/=</li> <li>• Lot 12: UGX 9,000,000/=</li> </ul>
ITB 18.3	The Bid Security shall be valid up to <b>30<sup>th</sup> August, 2021</b> .
ITB 20.1	In addition to the original of the Bid, the number of copies required is: <b>3 Copies</b> .
ITB 20.2	<p>The written confirmation of authorization to sign on behalf of the Bidder shall be:</p> <p><b>Power of Attorney which if signed in Uganda shall be registered and specific to this procurement; or If signed outside Uganda shall be notarized.</b></p>
ITB 22.1	<p>For bid submission purposes only, the Employer's address is:</p> <p>Attention: Head, Procurement and Disposal Unit            Ministry of Education and Sports            Street Address: Plot 9/11, King George vi way            Floor/Room number: 3<sup>rd</sup> Floor, Room 7.,2            Town/City: Kampala            Country: Uganda</p> <p>The deadline for bid submission shall be <b>09<sup>th</sup> February 2021</b> at the above-mentioned address</p> <p>Time (local time): 11:00 AM</p>
6	<p><b>The bid opening shall be via zoom and the details shall be availed by 8<sup>th</sup> Feb 2021:</b></p> <p>Date: <b>09<sup>th</sup> February 2021</b></p> <p>Time (local time): 11:15 AM</p>

## Part 1: Section 2 Bid Data Sheet

Instructions to Bidders Reference	Data relevant to the ITB
<b>ITB 34.1</b>	A margin of preference 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 34.3</b>	<p>The Bidder shall submit with its bid the following documents to evidence that they qualify for a margin of preference:</p> <p>The Bidder shall submit with its bid the following documents to evidence that they qualify for a margin of preference:</p> <ul style="list-style-type: none"> <li>- Complete the declarations in the bid submission sheet and provide documentary evidence of their eligibility as indicated below.</li> <li>- Certification of Incorporation/registration</li> <li>- Evidence that more than fifty percent of the bidder's capital is owned by Ugandan citizens or by Government or a procuring and disposing entity of Uganda OR:</li> <li>- For bids from joint ventures or associations registered in Uganda and including a contractor qualifying under the conditions indicated above which holds more than fifty percent beneficiary interest in the joint venture or association as demonstrated in the profit &amp; Loss sharing provisions of the joint ventures or associations agreement.</li> </ul> <p>-A copy of the Memorandum &amp; Articles of Association or partnership deed</p> <ul style="list-style-type: none"> <li>- A copy of Form 7 for the Company Directors</li> </ul>
<b>ITB 42.1</b>	The Advance Payment shall be limited to 20% of the Contract Price.
<b>ITB 43.1</b>	<p>The Adjudicator proposed by the Employer is: UIPE</p> <p>The hourly fee for this proposed Adjudicator shall be: as per UIPE standards</p> <p>The biographical data of the proposed Adjudicator is: as per UIPE standards</p>



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

**Procurement Reference Number:** MoES/Wrks/19-20/000

### **A Evaluation Methodology**

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

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 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 in Uganda where applicable.

3.3 A Power of Attorney which if signed in Uganda shall be registered; or if signed outside Uganda shall be notarized authorising signature of the bid on behalf of the Bidder.

## **Part 1: Section 3 Evaluation Methodology and Criteria**

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- 3.4 For a Joint Venture, the documentation in Section 3.2 shall be required for each member of the Joint Venture and the following additional documentation shall be required:
- (a) a certified copy of the Joint Venture Agreement or letter of intent to enter into such an agreement, which is legally binding on all partners, showing that:
    - (i) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
    - (ii) one of the partners will be nominated as being in charge, and receive instructions for and on behalf of any and all partners of the joint venture; and
    - (iii) the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.
  - (b) 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. Administrative Compliance Criteria**

The evaluation of Administrative Compliance criteria shall be conducted in accordance with ITB Clause 30.3.

## **C Detailed Evaluation Criteria**

### **5. Commercial Criteria**

- 5.1 The commercial responsiveness of bids shall be evaluated in accordance with ITB Clause 31.
- 5.2 The assessment of responsiveness will consider the following criteria:
- (a) Acceptance of the conditions of the proposed contract;
  - (b) Acceptable completion schedule;
  - (c) Acceptability of the proposed program (work method and schedule), including relevant drawings and charts.

### **6. Technical Criteria**

#### **6.1 Adequacy of Technical Proposal**

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

##### **6.1.1 Personnel**

The Bidder must demonstrate that it will have the personnel for the key positions that meet the following requirements:

## Part 1: Section 3 Evaluation Methodology and Criteria

No.	Position	Academic Qualification	Total Work Similar Experience (years)	In Similar Works Experience (years)
1.	Project Manager (1 per lot)	BSc. Civil Engineering or Construction Management or equivalent	8	5
2.	Site Engineer (1 per site)	BSc. Civil Engineering or Higher Diploma in Building & Civil Engineering	5	3
3.	General Site Foreman (1 per site)	Ordinary Diploma in Building Civil Engineering	5	3
4.	Mechanical and Electrical Foreman (1 per site)	Ordinary Diploma in Electrical engineering	5	3

The Bidder shall provide details of the proposed personnel and their experience records in the relevant Forms included in Section IV, Bidding Forms.

### 6.1.2 Equipment

The Bidder must demonstrate that it will have access to the key equipment listed hereafter (either by ownership, lease, hire): Attach documentary evidence of ownership, 1

No.	Equipment Type and Characteristics	Minimum Number required per site
1.	7 ton Lorry Truck	1
2.	Porker Vibrator	1
3.	Concrete Mixer(1.5cu)	1
4.	Plate compactor	1
5.	Welding set	1
6.	Carpentry set	1
7.	Metal Scaffolding Set	1

Lease, hire such as registration books, agreements or memoranda or purchase order).

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

## 6.2. Post Qualification

Factor	1. Historical Contract Non-Performance					
Sub-Factor	Criteria					Documentation Required
	Requirement	Bidder				
		Single Entity	Joint Venture, Consortium or Association			
All partners combined			Each partner	At least one partner		
6.2.1 <i>History of non-performing contracts</i>	Non-performance of a contract did not occur within the last <b>3 years</b> prior to the deadline for application submission, based on all information on fully settled disputes or litigation.	Must meet requirement by itself or as partner to past or existing JV	N / A	Must meet requirement by itself or as partner to past or existing JV	N / A	Form 5
6.2.2 <i>Pending Litigation</i>	All pending litigation shall in total not represent more than <b>5%</b> of the Bidder's net worth and shall be treated as resolved against the Bidder.	Must meet requirement by itself or as partner to past or existing JV	N / A	Must meet requirement by itself or as partner to past or existing JV	N / A	Form 5A

Factor	6.3 Financial Situation																							
Sub-Factor	Criteria					Documentation Required																		
	Requirement	Bidder																						
		Single Entity	Joint Venture, Consortium or Association																					
All partners combined			Each partner	At least one partner																				
6.2.3 <i>Historical Financial Performance</i>	Submission of audited accounts or other financial statements acceptable to the Employer, for the <b>last 3 years</b> to demonstrate the current soundness of the bidders' financial position and its prospective long-term profitability.	Must meet requirement	N / A	Must meet requirement	N / A	Form 6 with attachments																		
6.2.4 <i>Average Annual Turnover</i>	Minimum average annual turnover of UGX calculated as total certified payments received for contracts in progress (70%) or completed, within the last <b>3years</b> as per table: <table border="1" data-bbox="478 1052 831 1369"> <thead> <tr> <th data-bbox="478 1052 600 1089">Lot No.</th> <th data-bbox="600 1052 831 1089">AAT (UGX)</th> </tr> </thead> <tbody> <tr> <td data-bbox="478 1089 600 1127">1</td> <td data-bbox="600 1089 831 1127">900,000,000/=</td> </tr> <tr> <td data-bbox="478 1127 600 1164">2</td> <td data-bbox="600 1127 831 1164">900,000,000/=</td> </tr> <tr> <td data-bbox="478 1164 600 1201">3</td> <td data-bbox="600 1164 831 1201">500,000,000/=</td> </tr> <tr> <td data-bbox="478 1201 600 1239">4</td> <td data-bbox="600 1201 831 1239">700,000,000/=</td> </tr> <tr> <td data-bbox="478 1239 600 1276">5</td> <td data-bbox="600 1239 831 1276">700,000,000/=</td> </tr> <tr> <td data-bbox="478 1276 600 1313">6</td> <td data-bbox="600 1276 831 1313">700,000,000/=</td> </tr> <tr> <td data-bbox="478 1313 600 1351">7</td> <td data-bbox="600 1313 831 1351">700,000,000/=</td> </tr> <tr> <td data-bbox="478 1351 600 1369">8</td> <td data-bbox="600 1351 831 1369">700,000,000/=</td> </tr> </tbody> </table>	Lot No.	AAT (UGX)	1	900,000,000/=	2	900,000,000/=	3	500,000,000/=	4	700,000,000/=	5	700,000,000/=	6	700,000,000/=	7	700,000,000/=	8	700,000,000/=	Must meet requirement	Must meet requirement	Must meet _____ percent (____%) of the requirement	Must meet _____ percent (____%) of the requirement	Form 7
Lot No.	AAT (UGX)																							
1	900,000,000/=																							
2	900,000,000/=																							
3	500,000,000/=																							
4	700,000,000/=																							
5	700,000,000/=																							
6	700,000,000/=																							
7	700,000,000/=																							
8	700,000,000/=																							

Factor	6.3 Financial Situation																										
Sub-Factor	Criteria					Documentation Required																					
	Requirement	Bidder																									
		Single Entity	Joint Venture, Consortium or Association																								
				All partners combined	Each partner	At least one partner																					
	9	1,000,000,000/=																									
	10	1,000,000,000/=																									
	11	500,000,000/=																									
	12	500,000,000/=																									
6.2.5 <i>Financial Resources</i>	<p>The Bidder must demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other financial means, other than any contractual advance payments to meet: (i) the following cash-flow requirement:</p> <table border="1" data-bbox="478 1015 829 1365"> <thead> <tr> <th>Lot No.</th> <th>CFR (UGX)</th> </tr> </thead> <tbody> <tr><td>1</td><td>500,000,000</td></tr> <tr><td>2</td><td>500,000,000</td></tr> <tr><td>3</td><td>500,000,000</td></tr> <tr><td>4</td><td>500,000,000</td></tr> <tr><td>5</td><td>500,000,000</td></tr> <tr><td>6</td><td>500,000,000</td></tr> <tr><td>7</td><td>500,000,000</td></tr> <tr><td>8</td><td>500,000,000</td></tr> <tr><td>9</td><td>500,000,000</td></tr> </tbody> </table>		Lot No.	CFR (UGX)	1	500,000,000	2	500,000,000	3	500,000,000	4	500,000,000	5	500,000,000	6	500,000,000	7	500,000,000	8	500,000,000	9	500,000,000	Must meet requirement	N/A	Must meet _____ percent (____%) of the requirement	N/A	Form 8
Lot No.	CFR (UGX)																										
1	500,000,000																										
2	500,000,000																										
3	500,000,000																										
4	500,000,000																										
5	500,000,000																										
6	500,000,000																										
7	500,000,000																										
8	500,000,000																										
9	500,000,000																										

Factor	6.3 Financial Situation						
Sub-Factor	Criteria					Documentation Required	
	Requirement	Bidder					
		Single Entity	Joint Venture, Consortium or Association				
	10		500,000,000			All partners combined	Each partner

<b>Factor</b>	<b>6.4 Experience</b>					
<b>Sub-Factor</b>	<b>Criteria</b>					<b>Documentation Required</b>
	<b>Requirement</b>	<b>Bidder</b>				
		<b>Single Entity</b>	<b>Joint Venture, Consortium or Association</b>			
	<b>All partners combined</b>		<b>Each partner</b>	<b>At least one partner</b>		
6.2.6 General Experience	Experience under contracts in the role of contractor, subcontractor, or management contractor for at least the last 5 years prior to the bid submission deadline.	Must meet requirement	N / A	Must meet requirement	N / A	Form 9
6.2.7 Specific Experience	(a)Participation as contractor, management contractor, or subcontractor, in at least 3 contracts within the last 5 years each with a value of at least UGX. 700,000,000= that have been successfully and substantially completed (at least 70 percent complete) and that are similar to the proposed Works. The similarity shall be based on the physical size, complexity, methods/technology or other characteristics as described in Section VI, Employer's Requirements.	Must meet requirement	Must meet requirements for all characteristics	N / A	Must meet requirement for one characteristic	Form 10



<b>Factor</b>	<b>6.4 Experience</b>					
<b>Sub-Factor</b>	<b>Criteria</b>					<b>Documentation Required</b>
	<b>Requirement</b>	<b>Bidder</b>				
		<b>Single Entity</b>	<b>Joint Venture, Consortium or Association</b>			
<b>All partners combined</b>			<b>Each partner</b>	<b>At least one partner</b>		
6.2.8 Specific Experience	b) For the above or other contracts executed during the period stipulated in 6.2.7(a) above, a minimum experience in the following key activities: <ul style="list-style-type: none"> <li>• Construction of school buildings (Classrooms, Staff Houses and Sanitation Facilities etc.)</li> <li>• External works including walk ways, water distribution and drainage systems</li> </ul>	Must meet requirements	Must meet requirements	N / A	Must meet requirements	Form 10

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Bidder's shall also provide information and documentation of: -

- a) **authority to seek references from the Bidder's bankers; and past clients**
  
- b) Proposals for subcontracting components of the Works amounting to more than 10 percent of the Contract Price.

**NOTE:**

Subcontractors' experience and resources will not be taken into account in determining the Bidder's compliance with the evaluation criteria.

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## **D Financial Comparison Criteria**

### **7. Costs to be included in the Bid Price**

7.1 The financial comparison shall be conducted in accordance with ITB Clause 33. The following costs shall be included in the bid price:

- (a) the total price given in the Activity Schedule/Bills of Quantities;
- (b) Daywork.

7.2 The following costs shall be excluded from the bid price:

- (a) provisional sums;
- (b) the provision for contingencies in the Activity Schedule/ Bills of Quantities.

### **8. Margin of Preference**

8.1 For margin of preference for the purpose of bid comparison, the following procedures will apply:

8.2 The Employer 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.

8.3 The Employer will then add the following margins to the evaluated bid price, as determined in accordance with paragraph 7.1 above, for the purpose of further comparison only:

- (a) seven (7) percent of the bid price to all bids in Group A;
- (b) four (4) percent of the bid price to all bids in Group B.

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

### **9. Determination of Best Evaluated Bid or Bids**

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

9.2 If this Bidding Document includes more than one lot, the best evaluated bid shall be determined separately for each lot.

9.3 Notwithstanding paragraph 8.1, if this Bidding Document allows Bidders to quote different prices for single lots and for the award to a single Bidder of multiple lots, the Employer shall conduct a further financial comparison to apply any conditional discounts. The bid or bids offering the lowest priced combination of all the lots shall be the best evaluated bid or bids.

# **Section 4: Bidding Forms**

## **Table of Forms**

<b>Bid Submission Sheet</b>	<b>43</b>
<b>Activity Schedule</b>	<b>48</b>
<b>Bill of Quantities</b>	<b>51</b>
<b>Bid Security</b>	<b>50</b>
<b>Bid-Securing Declaration</b>	<b>51</b>
<b>Technical Bid Forms</b>	<b>52</b>

## Part 1: Section 4 Bidding Forms

*[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]*

### 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 Employer]*

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Document, including Addenda No.: *[insert the number and issue date of each Addenda]*;
- (b) We offer to execute in conformity with the Bidding Document and in accordance with the completion schedule specified in the Statement of Requirements and the terms and conditions of the Bidding Document, the following Works *[insert a brief description of the Works]*;
- (c) The total price of our Bid, excluding any discounts offered in item (e) below, is: *[insert the total bid price in words and figures, indicating the various amounts and the respective currencies]*; payable in the following currencies:

Currency	Percentage payable in currency	Rate of exchange: one foreign equals <i>[insert local]</i>	Inputs for which foreign currency is required

- (d) The advance payment (which shall be payable in the same currencies and percentages as the Contract Price) required is:

Amount	Currency

- (e) The discounts offered and the methodologies for their application are:
 

Unconditional discounts. If our bid is accepted, the following discounts shall apply. *[Specify in detail each discount offered (eg amount/percentage) and the specific item of the Statement of Requirements to which it applies.]*

Methodology of application of the unconditional discounts. The unconditional discounts shall be applied using the following method: *[Specify precisely the method that shall be used to apply the discounts]*;

Conditional discounts. If our bids for more than one lot are accepted, the following discounts shall apply. *[Specify precisely each discount offered (eg amount/percentage) and the conditions for its application.]*

## Part 1: Section 4 Bidding Forms

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Methodology of application of the conditional discounts. The conditional discounts shall be applied using the following method: *[Specify in detail the method that shall be used to apply the discounts];*

- (f) Our bid shall be valid until the date specified in ITB Sub-Clause 17.1 and it shall remain binding upon us and may be accepted at any time before that date;
- (g) If our bid is accepted, we commit to obtain a Performance Security in accordance with the Bidding Document in the amount of *[insert amount and currency in words and figures of the Performance Security]* for the due performance of the Contract;
- (h) 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;
- (i) We, including any subcontractors or providers for any part of the contract resulting from this procurement process are registered with the Authority under registration number - \_\_\_\_\_(insert registration number of contractor and any subcontractor(s) where applicable). *[Bidders who are not registered or whose subcontractors are not registered should amend the statement to reflect their status];*
- (j) We, including any subcontractors or Providers for any part of the contract, have nationals from eligible countries *[insert the nationality of the Bidder, including that of all parties that comprise the Bidder, if the Bidder is a joint venture, consortium or association, and the nationality of each subcontractor];*
- (k) We are eligible for a Margin of Preference in accordance with ITB Clause 34 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 34;

- (l) 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;
- (m) We accept the appointment of *[name proposed in Bid Data Sheet]* as the Adjudicator.

*[or]*

We do not accept the appointment of *[name proposed in Bidding Data]* as the Adjudicator, and propose instead that *[name]* be appointed as Adjudicator, whose daily fees and biographical data are attached.

- (n) We are not participating, as Bidders, in more than one bid in this bidding process, other than alternative bids in accordance with the Bidding Document;
- (o) We, including any subcontractors, do not have any conflict of interest and are not associated, nor have been associated in the past, directly or indirectly, with the consultant or any other entity that has prepared the design, specifications, and other documents for the Project or that is being proposed as Project Manager for the Contract;
- (p) We, our affiliates or subsidiaries, including any subcontractors 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;
- (q) 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, their full address, the reason for which each commission or gratuity was paid and the*

**Part 1: Section 4 Bidding Forms**

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*amount and currency of each such commission or gratuity. If none has been paid or is to be paid, indicate "none".]*

<b>Name of Recipient</b>	<b>Address</b>	<b>Purpose/Reason</b>	<b>Amount &amp; currency</b>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

- (r) We understand that you are not bound to accept the lowest bid or any other bid that you may receive.

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]*

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

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;
- (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;



**Part 1: Section 4 Bidding Forms**

---

(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 4 Bidding Forms

---

*[This blank form is included for guidance purposes only. The Bidder should price the Activity Schedule or Bill of Quantities included in Section 6, Statement of Requirements. The priced Activity Schedule or Bill of Quantities should be signed by a person with the proper authority to sign documents for the Bidder and included by the Bidder in its bid. The Bidder may reproduce this in landscape format but is responsible for its accurate reproduction. If necessary these may be bound in a separate volume].*

### Activity 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]*

Item number	Activity Description	Amount in Ug. Sh

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]*

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

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

## Bill of Quantities

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]*

Item number	Description of Works	Unit	Quantity	Rate	Amount
		<b>Grand Total:</b>			

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]*

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

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

## Part 1: Section 4 Bidding Forms

---

*[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, if so indicated in the BDS]*

### **Form of Bid Security (Bank Guarantee)**

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

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

To: *[insert complete name of Employer]*

Whereas, *[insert complete name of Bidder]* (hereinafter called “the Bidder”) has submitted its bid dated *[insert date (as day, month and year) of bid submission]* for Procurement Reference number *[insert Procurement Reference number]* for the construction of *[insert brief description of the Works]* (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 called “the Guarantor”) are bound unto *[insert complete name of Employer]* (hereinafter called “the Employer”) in the sum of *[specify in words and figures the amount and currency of the Bid Security]* for which payment well and truly to be made to the said Employer, the Guarantor binds itself, its successors or assignees by these presents.

Sealed with the Common Seal of the said Guarantor this *[insert day in numbers]* day of *[insert month]*, *[insert year]*.

THE CONDITIONS of this obligation are:

- (1) If the Bidder withdraws its bid during the period of bid validity specified in the bid submission sheet; except as provided in ITB Sub-Clause 17.2; or
- (2) If the Bidder having been notified of the acceptance of its bid by the Employer during the period of bid validity fails or refuses to:
  - (a) sign the Contract in accordance with the ITB Clause 39, if required; or
  - (b) furnish the Performance Security, in accordance with the ITB Clause 41; or
  - (c) accept the correction of its bid price pursuant to ITB Clause 29.5,

we undertake to pay to the Employer up to the above amount upon receipt of its first written demand, without the Employer’s having to substantiate its demand, provided that in its demand the Employer 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, month and year in accordance with ITB Clause 18.3]* 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]*

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

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

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

**Part 1: Section 4 Bidding Forms**

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

*Technical Forms*

**Personnel**

**Equipment**

**Site Organization**

**Method Statement**

**Mobilization Schedule**

**Construction Schedule**

**Others**

## Part 1: Section 4 Bidding Forms

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### Forms for Personnel

#### Form – 1: Proposed Personnel

Bidders should provide the names of suitably qualified personnel to meet the specified requirements for each of the positions listed in Section III (Evaluation and Qualification Criteria). The data on their experience should be supplied using the Form below for each candidate.

1.	Title of position
	Name
2.	Title of position
	Name
3.	Title of position
	Name
4.	Title of position
	Name
5.	Title of position
	Name
6.	Title of position
	Name
etc.	Title of position
	Name





**Part 1: Section 4 Bidding Forms**

**Forms for Equipment**

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

**FORM 3**

Type of Equipment*		
Equipment Information	Name of manufacturer	Model and power rating
	Capacity*	Year of manufacture*
Current Status	Current location	
	Details of current commitments	
Source	Indicate source of the equipment <input type="checkbox"/> Owned <input type="checkbox"/> Rented <input type="checkbox"/> Leased <input type="checkbox"/> Specially manufactured (Attach evidence of ownership, lease or hire in the form of registration books, agreements or memoranda or purchaser order)	

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

**FORM 3A**

Owner	Name of owner	
	Address of owner	
	Telephone	Contact name and title
	Fax	Telex
Agreements	Details of rental / lease / manufacture agreements specific to the project. (Attach evidence of lease or hire in the form of registration books, agreements or memoranda or purchaser order)	

## **Qualification Forms**

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

**Form 4**

**Bidder Information Sheet**

Date: \_\_\_\_\_

Bidding No.: \_\_\_\_\_

Invitation for Bid No.: \_\_\_\_\_

Page \_\_\_\_\_ of \_\_\_\_\_ pages

1. Bidder's Legal Name:
2. In case of JV, legal name of each party:
3. Bidder's actual or intended Country of Registration:
4. Bidder's Year of Registration:
5. Bidder's Legal Address in Country of Registration:
6. Bidder's Authorized Representative Information Name: Address: Telephone/Fax numbers: Email Address:
7. Attached are copies of original documents of: <input type="checkbox"/> Certificate of Incorporation or Registration of firm named in 1, above. <input type="checkbox"/> In case of JV, letter of intent to form JV including a draft agreement, or JV agreement <input type="checkbox"/> In case of government owned entity from the Employer's country, documents establishing legal and financial autonomy and compliance with the principles of commercial law.

**Form 4 A**

**Party to JV Information Sheet**

Date: \_\_\_\_\_  
Bidding No.: \_\_\_\_\_  
Invitation for Bid No.: \_\_\_\_\_  
Page \_\_\_\_\_ of \_\_\_\_\_ pages

1. Bidder's Legal Name:
2. JV's Party legal name:
3. JV's Party Country of Registration:
4. JV's Party Year of Registration:
5. JV's Party Legal Address in Country of Registration:
6. JV's Party Authorized Representative Information Name: Address: Telephone/Fax numbers: Email Address:
7. Attached are copies of original documents of: <input type="checkbox"/> Certificate of Incorporation or Registration of firm named in 1, above. <input type="checkbox"/> In case of government owned entity from the Purchaser's country, documents establishing legal and financial autonomy and compliance with the principles of commercial law.

**Form 5**

**Historical Contract Non-Performance**

Bidder's Legal Name: \_\_\_\_\_  
 JV Partner Legal Name: \_\_\_\_\_

Date: \_\_\_\_\_

Bidding No.: \_\_\_\_\_  
 Page \_\_\_\_\_ of \_\_\_\_\_ pages

Non-Performing Contracts in accordance with the Technical Criteria			
<input type="checkbox"/> Contract non-performance did not occur during the stipulated period, in accordance with Sub-Factor 6.2.1 of Section III.			
<input type="checkbox"/> Contract non-performance during the stipulated period, in accordance with Sub-Factor 6.2.1 of Section III.			
Year	Outcome as Percent of Total Assets	Contract Identification	Total Contract Amount
_____	_____	Contract Identification: Name of Employer: Address of Employer: Matter in dispute:	_____

**Form 5A**

**Pending Litigation**

Pending Litigation, in accordance with Section III			
<input type="checkbox"/> No pending litigation in accordance with Sub-Factor 6.2.2 of Section III			
<input type="checkbox"/> Pending litigation in accordance with Sub-Factor 6.2.2 of Section III, as indicated below			
Year	Outcome as Percent of Total Assets	Contract Identification	Total Contract Amount
_____	_____	Contract Identification: Name of Employer: Address of Employer: Matter in dispute:	_____
_____	_____	Contract Identification: Name of Employer: Address of Employer: Matter in dispute:	_____
_____	_____	Contract Identification: Name of Employer: Address of Employer: Matter in dispute:	_____

**Form 6**

**Current Contract Commitments / Works in Progress**

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

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

**FORM 6 - Financial Situation**

**Historical Financial Performance**

Bidder's Legal Name: \_\_\_\_\_ Date: \_\_\_\_\_  
 JV Partner Legal Name: \_\_\_\_\_ Bidding No.: \_\_\_\_\_  
 Page \_\_\_\_\_ of \_\_\_\_\_ pages

To be completed by the Bidder and, if JV, by each partner

Financial information in UGX equivalent	Historic information for previous _____ (____) years (UGX equivalent in 000s)						
	Year 1	Year 2	Year 3	Year ...	Year n	Avg.	Avg. Ratio
<b>Information from Balance Sheet</b>							
Total Assets (TA)							
Total Liabilities (TL)							
Net Worth (NW)							
Current Assets (CA)							
Current Liabilities (CL)							
<b>Information from Income Statement</b>							
Total Revenue (TR)							
Profits Before Taxes (PBT)							



## **Part 1: Section 4 Bidding Forms**

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- Attached are copies of financial statements (balance sheets, including all related notes, and income statements) for the years required above complying with the following conditions:
  - Must reflect the financial situation of the Bidder or partner to a JV, and not sister or parent companies
  - Historic financial statements must be audited by a certified accountant
  - Historic financial statements must be complete, including all notes to the financial statements
  - Historic financial statements must correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted)

**Form 7**

**Average Annual Turnover**

Bidder's Legal Name: \_\_\_\_\_ Date: \_\_\_\_\_  
JV Partner Legal Name: \_\_\_\_\_ Bidding No.: \_\_\_\_\_  
Page \_\_\_\_\_ of \_\_\_\_\_ pages

Annual turnover data (construction only)		
Year	Amount and Currency	UGX equivalent
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
*Average Annual Construction Turnover	_____	_____

\*Average annual turnover calculated as total certified payments received for work in progress or completed over the number of years specified in Section III, Sub-Factor 6.3.2, divided by that same number of years.

**Form 8**  
**Financial Resources**

Specify proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total construction cash flow demands of the subject contract or contracts as indicated in Section III (Evaluation and Qualification Criteria)

Source of financing	Amount (UGX equivalent)
1.	
2.	
3.	
4.	

**Part 1: Section 4 Bidding Forms**

**FORM 9  
Experience  
General Experience**

Bidder's Legal Name: \_\_\_\_\_ Date: \_\_\_\_\_  
 JV Partner Legal Name: \_\_\_\_\_ Bidding No.: \_\_\_\_\_  
 Page \_\_\_\_\_ of \_\_\_\_\_ pages

Starting Month / Year	Ending Month / Year	Years*	Contract Identification	Role of Bidder
_____	_____		Contract name: Brief Description of the Works performed by the Bidder: Name of Employer: Address:	_____
_____	_____		Contract name: Brief Description of the Works performed by the Bidder: Name of Employer: Address:	_____
_____	_____		Contract name: Brief Description of the Works performed by the Bidder: Name of Employer: Address:	_____
_____	_____		Contract name: Brief Description of the Works performed by the Bidder: Name of Employer: Address:	_____
_____	_____		Contract name: Brief Description of the Works performed by the Bidder: Name of Employer: Address:	_____
_____	_____		Contract name: Brief Description of the Works performed by the Bidder: Name of Employer: Address:	_____

\*List calendar year for years with contracts with at least nine (9) months activity per year starting with the earliest year

**Part 1: Section 4 Bidding Forms**

**Form 10**

**Specific Experience**

Bidder's Legal Name: \_\_\_\_\_ Date: \_\_\_\_\_

JV Partner Legal Name: \_\_\_\_\_ Bidding No.: \_\_\_\_\_

Page \_\_\_\_\_ of \_\_\_\_\_ pages

<b>Similar Contract Number: ___ [insert specific number] of ___ [insert total number of contracts required].</b>	<b>Information</b>		
Contract Identification	_____		
Award date	_____		
Completion date	_____		
Role in Contract	<input type="checkbox"/> Contractor	<input type="checkbox"/> Management Contractor	<input type="checkbox"/> Subcontractor
Total contract amount	_____		UGX _____
If partner in a JV or subcontractor, specify participation of total contract amount	_____ %	_____	UGX _____
Employer's Name:	_____		
Address:	_____ _____ _____		
Telephone/fax number:	_____ _____		
E-mail:	_____		

**Part 1: Section 4 Bidding Forms**

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**Form 10 A (cont.)  
Specific Experience (cont.)**

Bidder's Legal Name: \_\_\_\_\_ Page \_\_\_\_\_ of \_\_\_\_\_ pages  
 JV Partner Legal Name: \_\_\_\_\_

<b>Similar Contract No. <i>[insert specific number]</i> of <i>[insert total number of contracts]</i> required</b>	<b>Information</b>
Description of the similarity in accordance with Sub-Factor 2.4.2a) of Section III (Evaluation and Qualification Criteria):	
Amount	_____
Physical size	_____
Complexity	_____
Methods/Technology	_____
Physical Production Rate	_____

**Part 1: Section 4 Bidding Forms**

**Form 10 A (b)**

**Specific Experience in Key Activities**

Bidder's Legal Name: \_\_\_\_\_ Date: \_\_\_\_\_  
 JV Partner Legal Name: \_\_\_\_\_ Bidding No.: \_\_\_\_\_  
 Subcontractor's Legal Name: \_\_\_\_\_ Page \_\_\_\_\_ of \_\_\_\_\_ pages

	Information		
Contract Identification	_____		
Award date	_____		
Completion date	_____		
Role in Contract	<input type="checkbox"/> Contractor	<input type="checkbox"/> Management Contractor	<input type="checkbox"/> Subcontractor
Total contract amount	_____		_____
If partner in a JV or subcontractor, specify participation of total contract amount	_____%	_____	_____
Employer's Name:	_____		
Address:	_____ _____		
Telephone/fax number:	_____		
E-mail:	_____		

**Part 1: Section 4 Bidding Forms**

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**Form 10 (b)(cont.)  
Specific Experience in Key Activities (cont.)**

Bidder's Legal Name: \_\_\_\_\_ Page \_\_\_\_\_ of \_\_\_\_\_ pages  
JV Partner Legal Name: \_\_\_\_\_  
Subcontractor's Legal Name: \_\_\_\_\_

	Information
Description of the key activities in accordance with Sub-Factor 6.4.2b) of Section III:	



## Part 1: Section 4 Bidding Forms

---

We, the undersigned, declare that

(a) the information contained in and attached to these forms 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/Member of Joint Venture]*

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

## **Section 5: Eligible Countries**

**Procurement Reference Number: MoES/WORKS/20-21/00138**

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 supplies or related 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 Supplies from that country or any payments to persons or entities in that country.

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

### **Section 6: Statement of Requirements**

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**1. Scope of Works**

**I.2. Technical Specifications**

(see attached)

**3. Drawings**

(See attached)

**4. Activity Schedule/ Bills of Quantities**

(see attached)

## **5. Completion Schedule**

Works are to be done within **twelve** calendar months. The bidder is required to submit an acceptable detailed programme of works together with its bid.



## PART 3 - Contract

### Section 7: General Conditions of Contract for the Procurement of Works

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**A. General**

**1. Definitions**

- 1.1 The following words and expressions shall have the meanings hereby assigned to them:
- (a) “Activity Schedule” means the priced and completed Activity Schedule, forming part of the Bid, which provides a breakdown of the Contract Price by work elements for a Lump Sum Contract.
  - (b) The “Adjudicator” is the person appointed jointly by the Employer and the Contractor to resolve disputes in the first instance.
  - (c) “Admeasurement Contract” means a Contract under which the Works are executed on the basis of agreed rates and prices in a Bill of Quantities and payment is made for the quantity of work actually executed.
  - (d) “Bill of Quantities” means the priced and completed Bill of Quantities forming part of the Bid, which provides the agreed rates and prices for payment for an Admeasurement Contract.
  - (e) “Compensation Events” are those defined in Clause 44 hereunder.
  - (f) The “Completion Date” is the date of completion of the Works as certified by the Project Manager.
  - (g) The “Contract” is the agreement between the Employer and the Contractor to execute, complete, and maintain the Works.
  - (h) The “Contractor” is a person or corporate body whose Bid to carry out the Works has been accepted by the Employer and is named as such in the Agreement, and means Provider as defined in the Public Procurement and Disposal of Public Assets Act, 2003.
  - (i) The “Contractor’s Bid” is the completed bidding document submitted by the Contractor to the Employer.
  - (j) The “Contract Price” is the price stated in the Agreement and thereafter as adjusted in accordance with the provisions of the Contract.
  - (k) “Days” are working days; “months” are calendar months.
  - (l) “Dayworks” are varied work inputs subject to payment on a time basis for the Contractor’s employees and Equipment, in addition to payments for associated Materials and Plant.
  - (m) A “Defect” is any part of the Works not completed in accordance with the Contract.
  - (n) The “Defects Liability Certificate” is the certificate issued by the Project Manager upon correction of defects by the Contractor.
  - (o) The “Defects Liability Period” is the period calculated from the Completion Date, during which the Contractor must rectify defects.
  - (p) “Drawings” include calculations and other information provided or approved by the Project Manager for the execution of the Contract.

### **Part 3: Section 7. General Conditions of Contract**

---

- (q) The “Employer” is the party named in the Agreement, who employs the Contractor to carry out the Works and means Procuring and Disposing Entity as defined in the Public Procurement and Disposal of Public Assets Act, 2003.
- (r) “Equipment” is the Contractor’s machinery and vehicles brought temporarily to the Site to construct the Works.
- (s) “GCC” means the General Conditions of Contract.
- (t) The “Initial Contract Price” is the Contract Price listed in the Agreement.
- (u) The “Intended Completion Date” is the date on which it is intended that the Contractor shall complete the Works.
- (v) “Lump Sum Contract” means a Contract under which the Works are executed for an all-inclusive fixed total amount, as defined in the Activity Schedule.
- (w) “Materials” are all supplies, including consumables, used by the Contractor for incorporation in the Works.
- (x) “Plant” is any integral part of the Works that shall have a mechanical, electrical, chemical, or biological function.
- (y) The “Project Manager” is the person named in the SCC (or any other competent person appointed by the Employer and notified to the Contractor, to act as a representative of the Contract Manager) who is responsible for supervising the execution of the Works and administering the Contract. The
- (z) The “Contract Manager” is the person appointed by the Accounting Officer from the user department or another Procuring and Disposing Entity to manage the contract.
- (za) “Provisional Sum” means a sum included in the Contract and so designated in the Bill of Quantities or Activity Schedule for the provision of supplies, works or services or for contingencies to be expended for the execution of the Works in whole or part at the direction of the Project Manager.
- (aa) “SCC” means the Special Conditions of Contract.
- (bb) The “Site” is the area defined as such in the SCC.
- (cc) “Site Investigation Reports” are those that were included in the bidding documents and are factual and interpretative reports about the surface and subsurface conditions at the Site.
- (dd) “Specification” means the Specification of the Works included in the Contract and any modification or addition made or approved by the Project Manager.
- (ee) The “Start Date” is the latest date by when the Contractor shall commence execution of the Works and is specified in the SCC.
- (ff) A “Subcontractor” is a person or corporate body who has a Contract with the Contractor to carry out a part of the work in the Contract, which includes work on the Site.
- (gg) “Temporary Works” are works designed, constructed, installed, and removed by the Contractor that are needed for construction or installation of the Works.

## **Part 3: Section 7. General Conditions of Contract**

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- (hh) A “Variation” is an instruction given by the Project Manager which varies the Works.
- (ii) The “Works” are what the Contract requires the Contractor to construct, install, and turn over to the Employer, as defined in the SCC.

### **2. Interpretation**

- 2.1 In interpreting these Conditions of Contract, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Project Manager will provide instructions clarifying queries about these Conditions of Contract.
- 2.2 These General Conditions of Contract shall apply in their entirety, except where alternative options are specified for different types of contract. Where alternative options are specified:
  - (a) Option 1 shall apply to Admeasurement Contracts; and
  - (b) Option 2 shall apply to Lump Sum Contracts.
- 2.3 For purposes of interpreting these Conditions of Contract, the type of contract is as specified in the SCC.
- 2.4 If sectional completion is specified in the SCC, references in the Conditions of Contract to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).
- 2.5 The documents forming the Contract shall be interpreted in the following order of priority:
  - (1) Agreement,
  - (2) Contractor’s Bid,
  - (3) Special Conditions of Contract,
  - (4) General Conditions of Contract,
  - (5) Scope of Works,
  - (6) Drawings,
  - (7) Bill of Quantities or Activity Schedule, as appropriate, and
  - (8) any other document listed in the SCC as forming part of the Contract.

### **3. Language and Law**

- 3.1 The language of the Contract is English and the law governing the Contract is that of the Republic of Uganda, unless otherwise specified in the SCC.

### **4. Project Manager’s Decisions**

- 4.1 Except where otherwise specifically stated, the Project Manager will decide contractual matters between the Employer and the Contractor in the role representing the Employer.

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4.2 The Project Manager will obtain the Employer's approval for any of the decisions specified in the SCC.

### **5. Delegation**

5.1 The Project Manager may delegate any of his duties and responsibilities to other people, except to the Adjudicator, after notifying the Contractor in writing, and may cancel any delegation after notifying the Contractor.

### **6. Notices**

6.1 Any notice given by one party to the other pursuant to the Contract shall be in writing to the address specified in the SCC. The term "in writing" means communicated in written form with proof of receipt.

6.2 A notice shall be effective when delivered or on the notice's effective date, whichever is later.

### **7. Subcontracting**

7.1 Unless otherwise specified in the SCC, the Contractor may subcontract with the approval of the Project Manager, but may not assign the Contract without the approval of the Employer in writing. Subcontracting shall not alter the Contractor's obligations.

7.2 Any further conditions relating to subcontracting shall be as specified in the SCC.

### **8. Other Contractors**

8.1 The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the Employer between the dates given in the Schedule of Other Contractors, if such Schedule is specified in the SCC. The Contractor shall also provide facilities and services for them as described in the Schedule. The Employer may modify the Schedule of Other Contractors, and shall notify the Contractor of any such modification.

### **9. Personnel**

9.1 If the Schedule of Key Personnel is specified in the SCC, the Contractor shall employ the key personnel named in the Schedule, or other personnel approved by the Project Manager, to carry out the functions stated in the Schedule. The Project Manager will approve any proposed replacement of key personnel only if their relevant qualifications and abilities are substantially equal to or better than those of the personnel listed in the Schedule.

9.2 If the Project Manager asks the Contractor to remove a person who is a member of the Contractor's staff or work force, stating the reasons, the Contractor shall ensure that the person leaves the Site within seven days and has no further connection with the work in the Contract.

### **10. Employer's and Contractor's Risks**

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

### **11. Employer's Risks**

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- 11.1 From the Start Date until the Defects Correction Certificate has been issued, the following are Employer's risks:
- (a) The risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to:
    - (i) use or occupation of the Site by the Works or for the purpose of the Works, which is the unavoidable result of the Works; or
    - (ii) negligence, breach of statutory duty, or interference with any legal right by the Employer or by any person employed by or contracted to him except the Contractor.
  - (b) The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the Employer or in the Employer's design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.
- 11.2 From the Completion Date until the Defects Correction Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is an Employer's risk except loss or damage due to:
- (a) a Defect which existed on the Completion Date;
  - (b) an event occurring before the Completion Date, which was not itself an Employer's risk; or
  - (c) the activities of the Contractor on the Site after the Completion Date.

### **12. Contractor's Risks**

- 12.1 From the Starting Date until the Defects Correction Certificate has been issued, the risks of personal injury, death, and loss of or damage to property (including, without limitation, the Works, Plant, Materials, and Equipment) which are not the Employer's risks are the Contractor's risks.

### **13. Insurance**

- 13.1 The Contractor shall provide, in the joint names of the Employer and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles stated in the SCC for the following events which are due to the Contractor's risks:
- (a) loss of or damage to the Works, Plant, and Materials;
  - (b) loss of or damage to Equipment;
  - (c) loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract; and
  - (d) personal injury or death.
- 13.2 Policies and certificates for insurance shall be delivered by the Contractor to the Project Manager for the Project Manager's approval before the Start Date. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.
- 13.3 If the Contractor does not provide any of the policies and certificates required, the Employer may effect the insurance which the Contractor should have provided and

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recover the premiums the Employer has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.

13.4 Alterations to the terms of an insurance shall not be made without the approval of the Project Manager.

13.5 Both parties shall comply with any conditions of the insurance policies.

### **14. Site Investigation Reports**

14.1 The Contractor, in preparing the Bid, shall rely on any Site Investigation Reports referred to in the SCC, supplemented by any information available to the Bidder.

### **15. Queries About the Special Conditions of Contract**

15.1 The Project Manager will clarify queries on the SCC.

### **16. Contractor to Construct the Works**

16.1 The Contractor shall construct and install the Works in accordance with the Specifications and Drawings.

### **17. Works to be Completed by the Intended Completion Date**

17.1 The Contractor may commence execution of the Works on the Start Date and shall carry out the Works in accordance with the Program submitted by the Contractor, as updated with the approval of the Project Manager, and complete them by the Intended Completion Date specified in the SCC.

### **18. Approval by the Project Manager**

18.5 All Drawings prepared by the Contractor for the execution of the temporary or permanent Works, are subject to prior approval by the Project Manager before use.

18.1 The Contractor shall be responsible for design of Temporary Works and shall submit Specifications and Drawings showing the proposed Temporary Works to the Project Manager. The Project Manager shall approve such Specification and Drawing if they comply with the Specifications and Drawings in the Statement of Requirements.

18.3 The Project Manager's approval shall not alter the Contractor's responsibility for design of the Temporary Works.

18.4 The Contractor shall obtain approval of third parties to the design of the Temporary Works, where required.

### **19. Safety**

19.1 The Contractor shall be responsible for the safety of all activities on the Site.

### **20. Discoveries**

20.1 Anything of historical or other interest or of significant value unexpectedly discovered on the Site shall be the property of the Employer. The Contractor shall notify the Project Manager of such discoveries and carry out the Project Manager's instructions for dealing with them.

### **21. Possession of the Site**

21.1 The Employer shall give possession of all parts of the Site to the Contractor. If possession of a part is not given by the date stated in the SCC, the Employer will be



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deemed to have delayed the start of the relevant activities, and this will be a Compensation Event.

### **22. Access to the Site**

- 22.1 The Contractor shall allow the Project Manager and any person authorised by the Project Manager access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out.

### **23. Instructions, Inspection and Audits**

- 23.1 The Contractor shall carry out all instructions of the Project Manager which comply with the applicable laws where the Site is located.
- 23.2 The Contractor shall permit the Government of Uganda to inspect the Contractor's accounts and records relating to the performance of the Contract and to have them audited by auditors appointed by the Government, if so required by the Government.

### **24. Disputes**

- 24.1 If the Contractor believes that a decision taken by the Project Manager was either outside the authority given to the Project Manager by the Contract or that the decision was wrongly taken, the decision shall be referred to any Adjudicator appointed under the contract within 14 days of the notification of the Project Manager's decision.

### **25. Procedure for Disputes**

- 25.1 Unless otherwise specified in the SCC, the procedure for disputes shall be as specified in GCC 25.2 to 25.4.
- 25.2 Any Adjudicator appointed under the contract shall give a decision in writing within 28 days of receipt of a notification of a dispute, providing that he is in receipt of all the information required to give a decision.
- 25.3 Any Adjudicator appointed under the contract shall be paid by the hour at the rate specified in the SCC, together with reimbursable expenses of the types specified in the SCC, and the cost shall be divided equally between the Employer and the Contractor, whatever decision is reached by the Adjudicator. Either party may refer a decision of the Adjudicator to an Arbitrator within 28 days of the Adjudicator's written decision. If neither party refers the dispute to arbitration within the above 28 days, the Adjudicator's decision will be final and binding.
- 25.4 Any arbitration shall be conducted in accordance with the Arbitration and Conciliation Act 2000 or such other formal mechanism specified in the SCC, and in the place shown in the SCC.

### **26. Replacement of Adjudicator**

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

## **B. Time Control**

### **27. Program**

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- 27.1 Within the time stated in the SCC, the Contractor shall submit to the Project Manager for approval a Program showing the general methods, arrangements, order, and timing for all the activities in the Works.
- 27.2 An update of the Program shall be a program showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining work, including any changes to the sequence of the activities.
- 27.3 The Contractor shall submit to the Project Manager for approval an updated Program at intervals no longer than the period stated in the SCC. If the Contractor does not submit an updated Program within this period, the Project Manager may withhold the amount stated in the SCC from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Program has been submitted.
- 27.4 The Project Manager's approval of the Program shall not alter the Contractor's obligations. The Contractor may revise the Program and submit it to the Project Manager again at any time. A revised Program shall show the effect of Variations and Compensation Events.

### **28. Extension of the Intended Completion Date**

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

### **29. Acceleration**

- 29.1 When the Employer wants the Contractor to finish before the Intended Completion Date, the Project Manager will obtain priced proposals for achieving the necessary acceleration from the Contractor. If the Employer accepts these proposals, the Intended Completion Date will be adjusted accordingly and confirmed by both the Employer and the Contractor.
- 29.2 If the Contractor's priced proposals for an acceleration are accepted by the Employer, they are incorporated in the Contract Price and treated as a Variation.

### **30. Delays Ordered by the Project Manager**

- 30.1 The Project Manager may instruct the Contractor to delay the start or progress of any activity within the Works.

### **31. Management Meetings**

- 31.1 Either the Project Manager or the Contractor may require the other to attend a management meeting. The business of a management meeting shall be to review the

## **Part 3: Section 7. General Conditions of Contract**

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plans for remaining work and to deal with matters raised in accordance with the early warning procedure detailed in GCC 32.

- 31.2 The Project Manager shall record the business of management meetings and provide copies of the record to those attending the meeting and to the Employer. The responsibility of the parties for actions to be taken shall be decided by the Project Manager either at the management meeting or after the management meeting and stated in writing to all who attended the meeting.

### **32. Early Warning**

- 32.1 The Contractor shall warn the Project Manager at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work, increase the Contract Price or delay the execution of the Works. The Project Manager may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate shall be provided by the Contractor as soon as reasonably possible.
- 32.2 The Contractor shall cooperate with the Project Manager in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instruction of the Project Manager.

## **C. Quality Control**

### **33. Identifying Defects**

- 33.1 The Project Manager shall check the Contractor's work and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractor's responsibilities. The Project Manager may instruct the Contractor to search for a Defect and to uncover and test any work that the Project Manager considers may have a Defect.

### **34. Tests**

- 34.1 If the Project Manager instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect, the test shall be a Compensation Event.

### **35. Correction of Defects**

- 35.1 The Project Manager shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, specified in the SCC. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.
- 35.2 Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Project Manager's notice.

### **36. Uncorrected Defects**

- 36.1 If the Contractor has not corrected a Defect within the time specified in the Project Manager's notice, the Project Manager will assess the cost of having the Defect corrected, and the Contractor will pay this amount.

## **D. Cost Control**

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### **37. Bill of Quantities or Activity Schedule**

#### **Option 1: Admeasurement Contracts - Bill of Quantities**

- 37.1 The Bill of Quantities shall contain items for the construction, installation, testing, and commissioning work to be done by the Contractor.
- 37.2 The Bill of Quantities is used to calculate the Contract Price. The Contractor is paid for the quantity of the work done at the rate in the Bill of Quantities for each item.

#### **Option 2: Lump Sum Contracts – Activity Schedule**

- 37.1 The Contractor shall provide updated Activity Schedules within 14 days of being instructed to by the Project Manager. The activities on the Activity Schedule shall be coordinated with the activities on the Program.
- 37.2 The Contractor shall show delivery of Materials to the Site separately on the Activity Schedule if payment for Materials on Site shall be made separately.

### **38. Changes in the Bill of Quantities or Activity Schedule**

#### **Option 1: Admeasurement Contracts – Changes in the Bill of Quantities**

- 38.1 If the final quantity of the work done differs from the quantity in the Bill of Quantities for the particular item by more than 25 percent, provided the change exceeds one percent (1%) of the Initial Contract Price, the Project Manager shall adjust the rate to allow for the change.
- 38.2 The Project Manager shall not adjust rates from changes in quantities if thereby the Initial Contract Price is exceeded by more than 15 percent, except with the prior approval of the Employer.
- 38.3 If requested by the Project Manager, the Contractor shall provide the Project Manager with a detailed cost breakdown of any rate in the Bill of Quantities.

#### **Option 2: Lump Sum Contracts – Changes in the Activity Schedule**

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

### **39. Variations**

#### **Option 1: Admeasurement Contracts – Variations**

- 39.1 All Variations shall be included in updated Programs produced by the Contractor.

#### **Option 2: Lump Sum Contracts - Variations**

- 39.1 All Variations shall be included in updated Programs and Activity Schedules produced by the Contractor.

### **40. Payments for Variations**

#### **Option 1: Admeasurement Contracts – Payment for Variations**

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- 40.1 The Contractor shall provide the Project Manager with a quotation for carrying out the Variation when requested to do so by the Project Manager. The Project Manager shall assess the quotation, which shall be given within seven days of the request or within any longer period stated by the Project Manager and before the Variation is ordered.
- 40.2 If the work in the Variation corresponds with an item description in the Bill of Quantities and if, in the opinion of the Project Manager, the quantity of work above the limit stated in Sub-Clause 38.1 or the timing of its execution do not cause the cost per unit of quantity to change, the rate in the Bill of Quantities shall be used to calculate the value of the Variation. If the cost per unit of quantity changes, or if the nature or timing of the work in the Variation does not correspond with items in the Bill of Quantities, the quotation by the Contractor shall be in the form of new rates for the relevant items of work.
- 40.3 If the Contractor's quotation is unreasonable, the Project Manager may order the Variation and make a change to the Contract Price, which shall be based on the Project Manager's own forecast of the effects of the Variation on the Contractor's costs.
- 40.4 If the Project Manager decides that the urgency of varying the work would prevent a quotation being given and considered without delaying the work, no quotation shall be given and the Variation shall be treated as a Compensation Event.
- 40.5 The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning.

### **Option 2: Lump Sum Contracts – Payment for Variations**

- 40.1 The Contractor shall provide the Project Manager with a quotation for carrying out the Variation when requested to do so by the Project Manager. The Project Manager shall assess the quotation, which shall be given within seven days of the request or within any longer period stated by the Project Manager and before the Variation is ordered.
- 40.2 If the Contractor's quotation is unreasonable, the Project Manager may order the Variation and make a change to the Contract Price, which shall be based on the Project Manager's own forecast of the effects of the Variation on the Contractor's costs.
- 40.3 If the Project Manager decides that the urgency of varying the work would prevent a quotation being given and considered without delaying the work, no quotation shall be given and the Variation shall be treated as a Compensation Event.
- 40.4 The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning.

### **42. Payment Certificates**

- 42.1 The Contractor shall submit to the Project Manager statements of the estimated value of the work executed less the cumulative amount certified previously. Unless otherwise specified in the SCC, such statements shall be submitted monthly.
- 42.2 The Project Manager shall check the Contractor's statement and certify the amount to be paid to the Contractor.
- 42.3 The value of work executed shall be determined by the Project Manager.

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- 42.4 The value of work executed shall comprise the value of:
- (a) the quantities of the items in the Bill of Quantities completed for Admeasurement Contracts; or
  - (b) completed (fully or partially) activities in the Activity Schedule for Lump Sum contract activities.
- 42.5 The value of work executed shall include the valuation of Variations and Compensation Events.
- 42.6 The Project Manager may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information.

### **43. Payments**

- 43.1 Payments shall be adjusted for deductions for advance payments and retention. The Employer shall pay the Contractor the amounts certified by the Project Manager within 30 days of the date of each certificate. If the Employer makes a late payment, the Contractor shall be paid interest on the late payment in the next payment. Interest shall be calculated from the date by which the payment should have been made up to the date when the late payment is made at the prevailing rate of interest for commercial borrowing for each of the currencies in which payments are made.
- 43.2 If an amount certified is increased in a later certificate or as a result of an award by the Adjudicator or an Arbitrator, the Contractor shall be paid interest upon the delayed payment as set out in this clause. Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute.
- 43.3 Unless otherwise stated, all payments and deductions will be paid or charged in the proportions of currencies comprising the Contract Price.
- 43.4 Items of the Works for which no rate or price has been entered in will not be paid for by the Employer and shall be deemed covered by other rates and prices in the Contract.

### **44. Compensation Events**

- 44.1 The following shall be Compensation Events:
- (a) The Employer does not give access to a part of the Site by the Site Possession Date stated in the SCC.
  - (b) The Employer modifies the Schedule of Other Contractors in a way that affects the work of the Contractor under the Contract.
  - (c) The Project Manager orders a delay or does not issue Drawings, Specifications, or instructions required for execution of the Works on time.
  - (d) The Project Manager instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects.
  - (e) The Project Manager unreasonably does not approve a subcontract to be let.
  - (f) Ground conditions are substantially more adverse than could reasonably have been assumed before signing of the Agreement from the information issued to bidders (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site.

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- (g) The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the Employer, or additional work required for safety or other reasons.
  - (h) Other contractors, public authorities, utilities, or the Employer does not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor.
  - (i) The advance payment is delayed.
  - (j) The effects on the Contractor of any of the Employer's Risks.
  - (k) The Project Manager unreasonably delays issuing a Certificate of Completion.
  - (l) Other Compensation Events described in the SCC or determined by the Project Manager shall apply.
- 44.2 If a Compensation Event would cause additional cost or would prevent the work being completed before the Intended Completion Date, the Contract Price shall be increased and/or the Intended Completion Date shall be extended. The Project Manager shall decide whether and by how much the Contract Price shall be increased and whether and by how much the Intended Completion Date shall be extended.
- 44.3 As soon as information demonstrating the effect of each Compensation Event upon the Contractor's forecast cost has been provided by the Contractor, it shall be assessed by the Project Manager, and the Contract Price shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable, the Project Manager shall adjust the Contract Price based on the Project Manager's own forecast. The Project Manager will assume that the Contractor will react competently and promptly to the event.
- 44.4 The Contractor shall not be entitled to compensation to the extent that the Employer's interests are adversely affected by the Contractor's not having given early warning or not having cooperated with the Project Manager.

### 45. Tax

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

### 46. Currencies

- 46.1 Where payments are made in currencies other than Uganda Shillings, the exchange rates used for calculating the amounts to be paid shall be the exchange rates stated in the Contractor's Bid.

### 47. Price Adjustment

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

$$\Delta P = P_0 \left( a + b \frac{L_1}{L_0} + c \frac{M_1}{M_0} \right) - P_0$$

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in which:

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

The coefficients a, b, and c shall be specified by the procuring and disposing entity in the bidding documents. The sum of the three coefficients should be one (1) in every application of the formula.

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

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

Date of adjustment = \_\_\_\_\_ weeks prior to date of shipment (representing the mid-point of the period of manufacture).

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

- (a) Price adjustment will be applied only if the resulting increase or decrease is more than \_\_\_\_ percent of the Contract Price.  
*[Two (2) percent would be an acceptable percentage.]*
- (b) No price adjustment shall be allowed beyond the original delivery dates unless specifically stated in the extension letter. As a rule, no price adjustment shall be allowed for periods of delay for which the Provider is entirely responsible. The procuring and disposing entity will however be entitled to any decrease in the prices of the supplies and services subject to adjustment.
- (c) The total adjustment under this clause shall be subject to a ceiling of plus or minus \_\_\_\_ percent of the Contract Price.  
*[Ten (10) percent would be an acceptable percentage.]*
- (d) If the currency in which the Contract Price  $P_0$  is expressed is different from the currency of origin of the labour and material indices, a correction factor will be applied to avoid incorrect adjustments of the Contract Price. The correction factor shall correspond to the ratio of exchange rates between the two currencies on the base date and the date for adjustment as defined above.

47.2 No price adjustment shall be payable on the portion of the Contract Price paid to the Provider as advance payment.

47.3 If the value of the index is changed after it has been used in a calculation, the calculation shall be corrected and an adjustment made in the next payment certificate.



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The index value shall be deemed to take account of all changes in cost due to fluctuations in costs.

### **48. Retention**

- 48.1 If so stated in the SCC, the Employer shall retain from each payment due to the Contractor the proportion stated in the SCC until Completion of the whole of the Works.
- 48.2 On completion of the whole of the Works, half the total amount retained shall be repaid to the Contractor and half when the Defects Liability Period has passed and the Project Manager has certified that all Defects notified by the Project Manager to the Contractor before the end of this period have been corrected.
- 48.3 On completion of the whole Works, the Contractor may substitute retention money with an “on demand” Bank guarantee.

### **49. Liquidated Damages**

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

### **50. Bonus**

- 50.1 If so stated in the SCC, the Contractor shall be paid a Bonus calculated at the rate per working day stated in the SCC for each day (less any days for which the Contractor is paid for acceleration) that the Completion is earlier than the Intended Completion Date. The Completion Date shall be certified in accordance with GCC 55.1.

### **51. Advance Payment**

- 51.1 If so stated in the SCC, the Employer shall make advance payment to the Contractor of the amounts stated in the SCC within the period stated in the SCC, against provision by the Contractor of an on demand Bank Security in a form and by a bank acceptable to the Employer in amounts and currencies equal to the advance payment. The Guarantee shall remain effective until the advance payment has been repaid, but the amount of the Guarantee shall be progressively reduced by the amounts repaid by the Contractor. Interest will not be charged on the advance payment.
- 51.2 The Contractor is to use the advance payment only to pay for Equipment, Plant, Materials, and mobilisation expenses required specifically for execution of the Contract. The Contractor shall demonstrate that advance payment has been used in this way by supplying copies of invoices or other documents to the Project Manager.
- 51.3 The advance payment shall be repaid by deducting proportionate amounts from payments otherwise due to the Contractor, as specified in the SCC, following the schedule of completed percentages of the Works on a payment basis. No account

## **Part 3: Section 7. General Conditions of Contract**

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shall be taken of the advance payment or its repayment in assessing valuations of work done, Variations, price adjustments, Compensation Events, Bonuses, or Liquidated Damages.

### **52. Performance Security**

- 52.1 If so stated in the SCC, the Contractor shall, within twenty-one (21) days of signing the contract, provide a Performance Security for the due performance of the Contract. The Performance Security shall be in the amount specified in the SCC and shall be denominated in the types and proportions of the currencies in which the Contract Price is payable.
- 52.2 The proceeds of the Performance Security shall be payable to the Employer as compensation for any loss resulting from the Contractor's failure to complete its obligations under the Contract.
- 52.3 The Performance Security shall be in one of the forms stipulated by the Employer in the SCC, or in another form acceptable to the Employer and shall be issued by a bank or surety acceptable to the Employer.
- 52.4 The Performance Security shall be valid until a date 28 days from the date of issue of the Certificate of Completion in the case of a Bank Guarantee.

### **53. Dayworks**

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

### **54. Cost of Repairs**

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

## **E. Finishing the Contract**

### **55. Completion**

- 55.1 The Contractor shall request the Project Manager to issue a certificate of Completion of the Works, and the Project Manager will do so upon deciding that the work is completed.

### **56. Taking Over**

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

### **57. Final Account**

## **Part 3: Section 7. General Conditions of Contract**

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

### **58. Operating and Maintenance Manuals**

58.1 If "as built" Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates stated in the SCC.

58.2 If the Contractor does not supply the Drawings and/or manuals by the dates stated in the SCC, or they do not receive the Project Manager's approval, the Project Manager shall withhold the amount stated in the SCC from payments due to the Contractor.

### **59. Termination**

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

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

- (a) the Contractor stops work for 28 days when no stoppage of work is shown on the current Program and the stoppage has not been authorised by the Project Manager;
- (b) the Project Manager instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within 28 days;
- (c) the Employer or the Contractor is made bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
- (d) a payment certified by the Project Manager is not paid by the Employer to the Contractor within 84 days of the date of the Project Manager's certificate;
- (e) the Project Manager gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Project Manager;
- (f) the Contractor does not maintain a Security, which is required; and
- (g) the rate of progress of the Works at any time during the period of the Contract is such that the completion of the Works will, as measured against the current Program, be delayed by the number of days for which the maximum amount of liquidated damages can be imposed.
- (h) if the Contractor in the judgement of the Employer has engaged in corrupt, fraudulent, collusive or coercive practices in competing for or in the executing the contract.

For the purposes of this paragraph:

## **Part 3: Section 7. General Conditions of Contract**

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- (a) “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
- (b) “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;
- (c) “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;
- (d) “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;

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

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

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

### **60. Payment upon Termination**

60.1 If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Project Manager shall issue a certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as indicated in the SCC. Additional Liquidated Damages shall not apply. If the total amount due to the Employer exceeds any payment due to the Contractor, the difference shall be a debt payable to the Employer.

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

### **61. Property**

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

### **62. Release from Performance**

62.1 If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the Employer or the Contractor, the Project Manager shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be

### **Part 3: Section 7. General Conditions of Contract**

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paid for all work carried out before receiving it and for any work carried out afterwards to which a commitment was made.

## Section 8: Special Conditions of Contract

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

GCC Clause Reference	Special Conditions
	Procurement Reference No: <b>MoES/WRKS/19-20/00138</b>
<b>GCC 1.1(y)</b>	The Project Manager is: <b>Assistant Commissioner Construction Management Unit</b>
<b>GCC 1.1(bb)</b>	The Site is located various locations and is defined in Drawings attached
<b>GCC 1.1(ee)</b>	The Start Date shall be: <b>14 days</b> after site handover.
<b>GCC 1.1(ii)</b>	Construction of Facilities under Development of Secondary Education Programme Phase II (Lots 1- 12) as per attached Bills of Quantities
<b>GCC 2.3</b>	This Contract is an <b>Admeasurement</b> Contract.
<b>GCC 2.4</b>	Sectional completion shall not be permitted.
<b>GCC2.5</b>	The following documents also form part of the Contract: a) Corrected bills of quantities b) Ministry Contracts Committee Approval c) Solicitor General’s clearance d) Drawings and Specifications
<b>GCC 3.1</b>	The language of the Contract is <b>English</b> and the law governing the Contract is that of the Republic of Uganda.
<b>GCC 4.2</b>	The Employer’s specific approval is required for: a) Changes in scope of works b) Changes in specifications c) Subcontracting
<b>GCC 6.1</b>	For <b>notices</b> , the Employer’s address shall be: Attention: Permanent Secretary Ministry of Education and Sports Embassy House Street Address: Plot 9/11,king George vi way /Room number: 8 <sup>th</sup> Floor Town/City: Kampala P. O. Box: 7063 Country: Uganda Telephone: _____ Facsimile number: _____

## Part 3: Section 8 Special Conditions of Contract

GCC Clause Reference	Special Conditions
	Electronic mail address: _____  For <b>notices</b> , the Contractor's address shall be: Attention: _____ Street Address: _____ Floor/Room number: _____ Town/City: _____ P. O. Box: _____ Country: _____ Telephone: _____ Facsimile number: _____ Electronic mail address: _____
<b>GCC 7.1</b>	GCC Clause 7.1 on sub-contracting is modified as follows: N/A
<b>GCC 7.2</b>	The following conditions shall apply to subcontracting: N/A
<b>GCC 8.1</b>	The Schedule of Other Contractors are not part of the Contract. N/A
<b>GCC 9.1</b>	The Schedule of Key Personnel shall be part of the Contract.
<b>GCC 13.1</b>	The minimum cover for personnel injury or death insurance shall be; UGX 5,000,000
<b>GCC 14.1</b>	Site Investigation Report(s) shall be part of the contract.
<b>GCC 17.1</b>	The Intended Completion Date for the whole of the Works shall be: <b>12 Months from start date</b>
<b>GCC 21.1</b>	The Site Possession Date shall be: Within 14 days after Contract signing.
<b>GCC 25.1</b>	The procedure for disputes shall be as specified in GCC 25.2 to 25.4.
<b>GCC 25.3</b>	Fees and types of reimbursable expenses to be paid to the Adjudicator: Fees, out of pocket expenses and reimbursements.
<b>GCC 25.4</b>	The arbitration shall be conducted in accordance with the CAP 4 Arbitration and Conciliation Act 2000 of laws of Uganda. Arbitration shall take place at: Agreed place.
<b>GCC 26.1</b>	The Appointing Authority for the Adjudicator is: Centre for Arbitration and Dispute Resolution (CADER) PO Box 25585 KAMPALA.
<b>GCC 27.1</b>	The Contractor shall submit the Program for the Works within <b>14 days</b> of Contract signature.
<b>GCC 27.3</b>	The period between Program updates is <b>28 days</b> . The amount to be withheld for late submission of an updated Program is: <b>Ugx 5,000,000</b>

## Part 3: Section 8 Special Conditions of Contract

GCC Clause Reference	Special Conditions
GCC 35.1	The Defects Liability Period is <b>6 months</b> .
GCC 42.1	Statements of estimated value of works executed shall be on a <b>monthly</b> basis.
GCC 44.1(i)	The following events shall also be Compensation Events: a) Progress of works is delayed by the project Manager beyond 45 days period.
GCC 47.1	The Contract <b>is not</b> subject to price adjustment in accordance with Clause 47 of the General Conditions of Contract.
GCC 47.1	The Index I for local currency will be: NA The Index I for the specified international currency will be: NA The Index I for currencies other than the local currency and the specified international currency will be: NA
GCC 48.1	The proportion of payments retained is <b>10% percent</b> .
GCC 49.1	The liquidated damages for the whole of the Works are 0.1per day. The maximum amount of liquidated damages for the whole of the Works is five (5) percent of the final Contract Price.
GCC 50.1	The Bonus for the whole of the Works is NIL per day. The maximum amount of Bonus for the whole of the Works is <i>NIL</i> percent of the final Contract Price. <i>N/A</i>
GCC 51.1	The Advance Payment will be equivalent to <b>20%</b> and will be paid in the same currencies and proportions as the Contract Price. It will be paid to the Contractor within 28 days after submission of acceptable bank guarantee.
GCC 51.3	The Advance Payment will be repaid by deducting equal amounts from payments due to the Contractor each month during the period starting <b>After 20% of value of works executed and ending before 80% of the work is executed.</b>
GCC 52.1	A Performance Security <b>shall be required</b> . The Performance Security shall be <b>10%</b> of the Contract Price:
GCC 52.3	The standard form of Performance Security acceptable to the Employer shall be an Unconditional Bank Guarantee in the format presented in Section 9 of the Bidding Documents.
GCC 58.1	The date by which “as built” drawings are required is: <b>2 weeks</b> to practical completion The date by which operating and maintenance manuals are required is: <b>2 weeks</b> to practical completion.



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

<b>GCC Clause Reference</b>	<b>Special Conditions</b>
<b>GCC 58.2</b>	The amount to be withheld for failing to produce “as built” drawings and/or operating and maintenance manuals by the date required is <b>Ugx 5,000,000</b> Uganda Shillings.
<b>GCC 60.1</b>	The percentage to apply to the value of the work not completed, representing the Employer’s additional cost for completing the Works, is: <b>Twenty Percent (20%)</b> .

## **Section 9: Contract Forms**

### **Table of Forms**

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**Part 3. Section 9. Contract Forms**

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**Agreement**

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

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,  
between \_\_\_\_\_ of \_\_\_\_\_  
(hereinafter “the Employer”), of the one part, and \_\_\_\_\_ of  
\_\_\_\_\_ (hereinafter “the Contractor”), of the other part.

Whereas the Employer is desirous that the Contractor executes \_\_\_\_\_  
(hereinafter called “the Works”) and the Employer has accepted the Bid by the Contractor for  
the execution and completion of such Works and the remedying of any defects therein for the  
Contract Price of Uganda Shillings \_\_\_\_\_.

NOW THIS AGREEMENT WITNESSETH 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. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.
  - (a) the Bid;
  - (b) the Special Conditions of Contract;
  - (c) the General Conditions of Contracts;
  - (e) the Scope of works;
  - (f) the Drawings; and
  - (g) the completed Schedules.
3. In consideration of the payments to be made by the Employer to the Contractor as indicated in this Contract, the Contractor hereby covenants with the Employer to execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract.
4. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein the Contract Price 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.
- 4 The Contract Price or such other sum as may be payable shall be paid \_\_\_\_\_ in Uganda Shillings, \_\_\_\_\_ in \_\_\_\_\_ and \_\_\_\_\_ in \_\_\_\_\_.

IN WITNESS whereof the parties thereto have caused this Contract to be executed in accordance with the law specified in the Special Conditions of Contract on the day, month and year indicated above.

Signed by \_\_\_\_\_ (for the Employer)  
Name: \_\_\_\_\_ Position: \_\_\_\_\_

In the presence of:

### Part 3. Section 9. Contract Forms

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

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

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

In the presence of:

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

## Part 3. Section 9. Contract Forms

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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. The draft is for an unconditional Security. The amount of the guarantee must represent the percentage of the Contract Price specified in the Contract, and should be denominated either in the currency(ies) of the Contract or in a freely convertible currency acceptable to the Employer].*

### Performance Security

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

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

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

WHEREAS *[insert name and address of Contractor]* (hereinafter called “the Contractor”) has undertaken, pursuant to the Contract referenced above, dated *[insert date (as day, month and year) of contract]* to execute *[insert brief description of Works]* (hereinafter called “the Contract”);

AND WHEREAS it has been stipulated by you in the said Contract that the Contractor shall furnish you with a security issued by a reputable guarantor for the sum specified therein as security for compliance with the Contractor’s 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 Contractor a security;

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the Contractor, up to a total of *[insert currency and amount of Guarantee in words and figures]*, such sum being payable in the types and proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your first written demand declaring the Contractor 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.

We hereby waive the necessity of your demanding the said debt from the Contractor before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the Contract or of the Works to be performed thereunder or of any of the Contract documents which may be made between you and the Contractor shall in any way release us from any liability under this Guarantee, and we hereby waive notice of any such change, addition, or modification.

This Guarantee shall be valid until a date 28 days from the date of issue of the Certificate of Completion.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 758, except that subparagraph (ii) of Sub-article 20(a) is hereby excluded.

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]*

### **Part 3. Section 9. Contract Forms**

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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]*

## Part 3. Section 9. Contract Forms

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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. The amount of the security is to be inserted by the Financial Institution and must represent the amount of the Advance Payment and be denominated either in the currency(ies) of the Advance Payment as specified in the Contract, or in a freely convertible currency acceptable to the Employer].*

# Advance Payment Security

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

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

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

In accordance with the payment provision included in the Contract referenced above, in relation to advance payments, *[insert complete name and address of Contractor]* (hereinafter called “the Contractor”) shall deposit with the Employer a Bank Guarantee to guarantee its proper and faithful performance of the obligations imposed by said Clause of the Contract, in the amount of *[insert currency and amount of guarantee in words and figures]*.

We, the undersigned *[insert complete name of Guarantor]*, legally domiciled in *[insert full address of Guarantor]* (hereinafter “the Guarantor”), as instructed by the Contractor, agree unconditionally and irrevocably to guarantee as primary obligator and not as surety merely, the payment to the Employer on its first demand without whatsoever right of objection on our part and without its first claim to the Contractor, in the amount not exceeding *[insert currency and amount of guarantee in words and figures]*.

We further agree that no change or addition to or other modification of the terms of the Contract or of the Works to be performed there under or of any of the Contract documents which may be made between the Employer and the Contractor, shall in any way release us from any liability under this Guarantee, and we hereby waive notice of any such change, addition, or modification.

This Guarantee shall remain valid and in full effect from the date of the advance payment under the Contract until the Employer receives full repayment of the same amount from the Contractor.

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

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

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

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

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

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