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**Kurdistan Regional Government**

**Ministry of Planning**

**Standard Bidding Documents**

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| **Procurement of Works****Smaller Contracts** |

 **December 2019**

**BIDDING DOCUMENTS**

**Issued on: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**for**

**Procurement of**

*[insert identification of the Works]*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**NCB No:** *[insert ICB number]*

**Project:** *[insert name of Project]*

**Contracting Authority:** *[insert name of Contracting Authority]*

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**Introduction**

Projects financed by the Kurdistan Regional Government shall be implemented in accordance with the policies and procedures stipulated in the Instructions for the Implementation of Government Contracts No. (2) of 2016. To assist contracting authorities to contract for the execution of contracts of small works which do not exceed (3) billion Iraqi dinars, The Kurdistan Regional Government has designed these bidding documents for use.

These Standard Bidding Documents are intended as a model for admeasurement (unit prices or unit rates in a bill of quantities) and lump sum types of Contract, which are the most common in Works contracting. Lump sum contracts are used in particular for buildings and other forms of construction where the Works are well defined and are unlikely to change in quantity or specification, and where encountering difficult or unforeseen site conditions (for example, hidden foundation problems) is unlikely. The main text refers to admeasurement contracts. **Alternative clauses or texts are supplied for use with lump sum contracts**.[[1]](#footnote-1)

Care should be taken to check the relevance of the provisions of the standard documents against the requirements of the specific Works to be procured. The following directions should be observed when using the documents:

1. All the documents listed in the Table of Contents are normally required for the procurement of Works. However, they should be adapted as necessary to the circumstances of the particular Project.
2. Details to be provided by the Contracting Authority prior to release of the bidding documents are limited to the Invitation for Bids, Bidding Data (Section II), and Special Conditions of Contract (Section VII), in addition to Section V, which deal with Specifications, Drawings, and Bill of Quantities, respectively. **Specific details** should be furnished in the spaces indicated by italicized notes inside brackets. Those details not filled in by the Contracting Authority are the responsibility of the Bidder.
3. This bidding document is intended to serve on a repetitive basis in the Kurdistan Region. Modifications for specific Project or Contract needs should be provided only in the Special Conditions of Contract as amendments to Conditions of Contract. If modifications must be made to bidding procedures, they can be presented in the Bidding Data.
4. The notes inside boxes with single borders are not part of the text, but rather contain instructions for the user, as do this Introduction section. **They should not be incorporated in the bidding documents**. The cover should be modified as required to identify the bidding documents as to the names of the Project, Contract, and Contracting Authority, in addition to date of issue.
5. The notes inside boxes with double borders should be retained in the issued bidding documents, since these notes provide important guidance to bidders.
6. The standard documents have been prepared for bidding where postqualification applies. The amendments to Paragraph 4 of the Instructions to Bidders and Bidding Data Sheet are prepared.

**Summary Description**

**PART I – BIDDING PROCEDURES**

**Section I. Instructions to Bidders (ITB)**

This Section provides relevant information to help Bidders prepare their bids. Information is also provided on the submission, opening, and evaluation of bids and on the award of Contracts. Section I contains provisions that are to be used without modification.

**Section II. Bid Data Sheet (BDS)**

This Section includes provisions that are specific to each procurement and that supplement Section I, Instructions to Bidders.

**Section III. Evaluation and Qualification Criteria**

This Section includes the criteria to determine the lowest evaluated bid, extent of its compliance to the specifications and substantial responsiveness to the conditions, as well as the qualification requirements that the Bidder should have to perform the contract.

**Section IV. Bidding Forms**

This Section includes the forms, Priced Bills of Quantities (BOQs) and the bid security which is to be submitted by the Bidder as part of his Bid.

**PART II – WORKS REQUIREMENTS**

**Section V. Works Requirements**

This Section contains the Specification, the Drawings, THE Bills of Quantities and supplementary information that describe the Works to be procured.

**PART III – CONDITIONS OF CONTRACT AND CONTRACT FORMS**

**Section VI. General Conditions of Contract (GCC)**

This Section contains the general clauses to be applied in every contract. The text of the clauses in this Section shall not be modified.

**Section VII. Special Conditions of Contract (SCC)**

This Section consists of Contract and Specific Provisions which contains clauses specific to each contract. The contents of this Section modify or supplement the General Conditions – Section VI, and shall be prepared by the Contracting Authority.

**Section VIII Contract Forms**

This Section contains forms which, once completed, will contain corrections and amendments, as allowed for by the ITB, GCC and SCC, to the accepted bid.

The forms for **Performance Security** and **Advance Payment Security**, when required, shall only be completed by the successful Bidder after contract award.

**Attachment: Form of Invitation for Bids**

**PART I – BIDDING PROCEDURES**

**Section I. Instructions to Bidders**

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**Section I.** **Instructions to Bidders**

# A. General

1.

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| 1. Scope of Bid

1.1 The Contracting Authority as defined in the **Bidding Data Sheet**, invites bids for the construction of Works, as described in Section V. Works requirements. The name and identification number of the Contract is provided in the **Bidding Data Sheet**.1.2 The successful Bidder will be expected to complete the Works by the Intended Completion Date specified in the **Bidding Data Sheet**.1.3 The following definitions shall prevail throughout this Bidding Document:(a) the term “in writing” means any written or digital expression that can be read or re-copied and communicated later, and may cover the information transmitted or stored electronically.(b) The words indicating the singular also include the plural and words indicating the plural also include the singular.(c) "Day", meaning the day in the Gregorian calendar, "Year" means 365 days in the Gregorian calendar.1. Source of Funding

2.1 The source of the funding for the contract (contracts) to be awarded is the budget allocated to the Contracting Authority or any other source as **specified in the BDS.**2.2 The Public Procurement Regulations No. (2) for 2016 and any related government instructions, and the laws in force in the Region relating to this bidding document will be adopted.1. Corrupt and Fraudulent Practices

3.1 The Contracting Authority requires bidders and awarded contractors to upload the ethical criteria during competition and implementation of the contract. In this respect and to achieve this policy: 1. The Contracting Authority adopts the definitions in paragraphs (16) to (20) of Article (1) of the Public Procurement Regulation 2 of 2016.
2. The Contracting Authority has the right to reject the recommendation for award if the bidder is proved to be involved directly or through an intermediary in any of the corruption practices during completion for the specific contract.
3. The Contracting Authority has the right to sanction (individuals or companies) including debarment in accordance with the Procedures for Debarment in the case of their proven involvement directly or through an intermediary in any of the corruption practices during competition or implementation of a public-financed contract.
4. The Contracting Authority has the right to include, in the bidding documents and contracts, a condition that binds the bidders to permit the Contracting Authority or its assigned auditors to inspect or audit their accounts and records or any documents relating to submission of bids and implementation of contracts.

3.2 Additionally, the bidders should be aware of the obligations listed in Sub-Clauses 1.7 and 2.6.1 of the General Conditions of Contract to this effect.1. Eligibility Requirements of Bidders

4.1 Bidder shall meet the eligibility requirements stated in article (8) of the Public Procurement Regulation Number (2) of (2016).4.2 All Bidders must submit in Section IV – Bidding Forms, indicating that the bidder (including all Joint Venture members and subcontractors) is not associated and, in the past, directly or indirectly associated with the consultant. Or any other entity that has prepared the design, specifications and other documents of the project or proposal as project manager for the contract. A company contracted by the Contracting Authority to provide consultancy services to prepare or supervise the works and any of its subsidiaries may not be eligible to bid.4.3 Bidders should prove their continuous eligibility in accordance with the with the Contracting Authority requirements.4.4 The Directorate of Public Contracts at the Ministry of Planning shall publish a list of bidders debarred from participation in public procurements, on the single-portal procurement website **specified in the BDS**.4.5 This tender is open to bidders classified as specialized and the classification grade **specified in the BDS**1. Qualification of the Bidder

5.1 All bidders shall provide in Section IV, Bidding Forms, a preliminary description of the proposed work method and schedule, including drawings and charts, as necessary.5.2 All bidders must include the following information and documents with their bids in Section IV - Tender Forms, unless otherwise stated in the tender data sheet:1. copies of original documents defining the constitution or legal status, place of registration, and principal place of business; written power of attorney of the signatory of the Bid to commit the Bidder;
2. total monetary value of Works performed;
3. experience in Works of a similar nature and size, details of current or contractually committed Works; and the names and addresses of former Contracting Authorities who can be contacted for more information on such contracts;
4. list of major items of equipment proposed to carry out the Contract;
5. qualifications and experience of key site management and technical personnel proposed for the Contract;

 1. reports on the financial standing of the Bidder, such as profit and loss statements and auditor’s reports;

 1. evidence of adequacy of working capital for this Contract (access to line(s) of credit and availability of other financial resources) to execute the contract;

 1. authority to the Contracting Authority to seek references from the Bidder’s bankers;
2. information regarding any litigation, current or during the last five years, in which the Bidder is involved, the parties concerned, and disputed amount; and
3. proposals for subcontracting components of the Works.

5.3 Bids submitted by a joint venture 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 ITB Sub-Clause 5.2 above for each joint venture partner;(b) the Bid shall be signed so as to be legally binding on all partners;(c) the Bid shall include a copy of the agreement entered into by the joint venture partners defining the division of assignments to each partner and establishing that all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms; alternatively, a Letter of Intent to execute a joint venture agreement in the event of a successful bid shall be signed by all partners and submitted with the bid, together with a copy of the proposed agreement;(d) one of the partners shall be nominated as being in charge, authorized to incur liabilities, and receive instructions for and on behalf of any and all partners of the joint venture; and1. the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.

5.4 To qualify for award of the Contract, bidders shall meet the following minimum evaluation and qualification criteria set out in Section III, **Evaluation and Qualification Criteria:**(a) experience as prime contractor in the provision Works contracts of a nature and complexity equivalent to the Works subject to this Bid;(b) proposals for the timely acquisition (own, lease, hire, etc.) of the essential equipment;(d) a Contract Manager with experience in Works of an equivalent nature and volume; and(e) liquid assets and/or credit facilities, net of other contractual commitments and exclusive of any advance payments which may be made under the Contract.The Bidder must provide all the information required to evaluate its Bid in section IV- Bidding Forms of Bidding Documents.5.5 The figures for each of the partners of a joint venture shall be added together to determine the Bidder’s compliance with the minimum qualifying criteria set out in Section III, **Evaluation and Qualification Criteria**, however, in order for a joint venture company to qualify, the joint venture partners must meet the minimum evaluation and qualification requirements in proportions stated for the authorized partner and each partner in it. Failure to meet this requirement will result in the joint venture's Bid being rejected. The experience and resources of Subcontractors will not be taken into account when determining that the Bidder meets the evaluation and qualification criteria, unless otherwise **stated in the BDS**.1. One Bid per Bidder

6.1 Each Bidder shall submit only one Bid, either individually or as a partner in a joint venture. 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 proposals with the Bidder’s participation to be disqualified.1. Cost of Bidding

7.1 The Bidder shall bear all costs associated with the preparation and submission of his Bid, and the Contracting Authority will in no case be responsible or liable for those costs.1. Visit the site and attending the Pre-Bid conference

8.1 The Bidder, and at the Bidder's own responsibility, is supposed to visit and examine the location of the requested Works and their surroundings and to obtain all information that may be necessary to prepare the Bid and enter into a Works Contract. The cost of visiting the site is at the expense of the Bidder.8.2 Unless otherwise **specified in the BDS**, the Bidder's representative is invited to attend the Pre-Bid Conference, which aims to clarify the inquiries raised by the Bidders and to answer any questions raised at this stage.8.3 The Contracting Authority will send the minutes of the Pre-Bid Conference, if any, to all Bidders who have purchased the Bidding Documents, as quickly as possible, including the text of the Bidders' questions, without revealing their source, and answering them during the session or what comes after them. The Contracting Authority will issue any amendments to the Bidding Documents resulting from the Pre-Bid Conference under a special amendment supplement according to Clause (11) and not through the minutes of the Pre-Bid Conference. The failure of any of the Bidders to attend the Pre-Bid Conference shall not result in the Bidder being disqualified.B. Contents of Bidding Document1. Content of Bidding Documents

9.1 The set of Bidding Documents comprises the documents listed in the table below and addenda issued in accordance with ITB Clause 11:**Part I – Bidding Procedures**Section I. Instructions to BiddersSection II. Bidding Data SheetSection III. Evaluation and Qualification CriteriaSection IV. Bidding Forms**Part II – Works Requirements**Section V. Works Requirements**Part III – Conditions of Contract and Contract Forms**Section VI. General Conditions of Contract (GCC)Section VI. Special Conditions of Contract (SCC)Section VIII. Contract Forms9.2 The Invitation for Bids issued by the Contracting Authority is not part of the Bidding Documents.9.3 The Bid must be submitted by the same Bidder who obtained the documents directly from the Contracting Authority.* 1. The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Documents. Failure to furnish all information required by the Bidding Documents or to submit a Bid not substantially responsive to the Bidding Documents in every respect will be at the Bidder’s risk and may result in the rejection of its Bid. Sections IV and Section VIII should be completed and returned with the Bid in the number of copies **specified in the BDS.**
1. Clarification of Bidding Documents

10.1 A prospective Bidder requiring any clarification of the Bidding Documents may notify the Contracting Authority in writing at the Contracting Authority’s address indicated in the Invitation for Bid. The Contracting Authority will respond to any request for clarification received earlier than the period **specificed in the BDS** prior to the deadline for submission of bids. Copies of the Contracting Authority’s response will be forwarded to all purchasers of the Bidding Documents, including a description of the inquiry, but without identifying its source.1. Amendment of Bidding Documents

11.1 Before the deadline for submission of bids, the Contracting Authority may modify the Bidding Documents by issuing addenda.11.2 Any addendum thus issued shall be part of the Bidding Documents and shall be communicated in writing to all who purchased[[2]](#footnote-2) of the Bidding Documents. Prospective Bidders shall acknowledge receipt of each addendum in writing to the Contracting Authority.11.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their bids, the Contracting Authority shall extend, as necessary, the deadline for submission of bids, in accordance with ITB Sub-Clause 21.2 below.C. Preparation of Bids1. Language of Bid

12.1 The bid prepared by the Bidder, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Contracting Authority shall be written in the language **specified in the BDS**. 1. Documents Comprising the Bid

13.1 The Bid submitted by the Bidder shall comprise the following:(a) Letter of Bid (as described in Section IV);1. Bid Security;
2. Priced Bills of Quantitie[[3]](#footnote-3)s;

(d) Qualification Information Form and Documents;(e) Alternative completion period when requested;(f) any other materials required to be completed and submitted by Bidders, as **specified in the BDS**.1. Bid Prices

14.1 The Contract shall be for the Works, as described in ITB Sub-Clause 1.1 based on priced Bills of Quantities submitted by the Bidder.14.2 The Bidder must fill the prices for all elements of the Works provided in the Bills of Quantities[[4]](#footnote-4). The Contracting Authority will not pay for items for which the Bidder did not enter a price when executed and will be considered to be included in the prices of other items in the Bills of Quantities.14.3 All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 14 days prior to the deadline for submission of bids, shall be included in the total Bid Price submitted by the Bidder.1. Currencies of Bid and Payment

15.1 The unit prices and the bid amount are determined by the bidder in full in Iraqi dinars or any specific currency **in the BDS**.1. Bid Validity

16.1 Bids shall remain valid for the period **specified in the** **BDS**.16.2 In exceptional circumstances, the Contracting Authority may request that Bidders extend the period of validity for a specified additional period. The request and the Bidders’ responses shall be made in writing. A Bidder may refuse the request without forfeiting the Bid Security. A Bidder agreeing to the request will not be required or permitted to otherwise modify the Bid, but will be required to extend the validity of Bid Security for the period of the extension, and in compliance with ITB Clause 17 in all respects.1. Bid Security

17.1 The Bidder shall furnish, as part of the Bid, Bid Security as **specified in the BDS**.17.2 Bid-Securing Declaration in accordance with the model in Section IV - Bidding Forms.17.3 The guarantee of the bid must be the amount **specified in the BDS**, as must:1. comply with one of the security forms in Section IV - Bidding Forms, or any other form adopted by the Contracting Authority;
2. In the event of a guarantee of a bank guarantee, it shall be issued by a reputable licensed bank located in the Kurdistan Region chosen by the bidder;
3. Be unconditional, irrevocable and payable immediately upon issuance of a written request from the Contracting Authority in cases contained in ITB Sub-Clause 17.7;
4. Submitted in the original version, and photocopies will not be accepted;
5. It is valid for 28 days after the expiry of the bid and extension period if requested in accordance with ITB Sub-Clause 16.2.

17.4 Any bid not accompanied by an acceptable Bid Security shall be rejected by the Contracting Authority. The Bid Security 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 “\_\_\_\_\_\_”.17.5 The Bid Security of unsuccessful bidders will be returned within 28 days of the end of the Bid validity period specified in ITB Sub-Clause 16.1.17.6 The Bid Security of the successful Bidder will be discharged when the Bidder has signed the Agreement and furnished the required Performance Security.17.7 The Bid Security shall be forfeited, or debarment applied in accordance with the Bid-Securing Declaration, preventing the Bidder from participating in public procurement for the period **specified in the** **BDS:**1. if the Bidder withdraws its Bid after the opening of the Bids and during the bid validity period specified by the Bidder in the bid submission form, except as stipulated in ITB Sub-Clause 16.2, or
2. If the bidder does not accept a correction in the bid price, pursuant to ITB Sub-Clause 27;
3. If the successful Bidder fails to:

1. Sign the contract in accordance with ITB Clause 32;2. Provide "Performance Security" in accordance with Clause 33.1. Alternative Bids

18.1 When an alternative completion period is explicitly permitted in the **BDS**, a statement to this effect will be included in Section III, **Evaluation and Qualification Criteria**, as well as the method of evaluating the alternative completion period.1. Format and Signing of Bid

19.1 The Bidder shall prepare one original of the documents comprising the bid as described in Sub-Clause 13.1 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 them “COPY.” In the event of any discrepancy between the original and the copies, the original shall prevail.19.2 The original and all copies of the Bid shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the Bidder, pursuant to Sub-Clauses 5.3(a) or 5.4(b), as the case may be. All pages of the Bid where entries or amendments have been made shall be initialed by the person or persons signing the Bid.19.3 The Bid shall contain no alterations or additions, except those to comply with instructions issued by the Contracting Authority, 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.D. Submission of Bids1. Sealing and Marking of Bids

20.1 The Bidder shall seal the original and all copies of the Bid in two inner envelopes and one outer envelope, duly marking the inner envelopes as “Original” and “Copies”.20.2 The inner and outer envelopes shall:(a) be addressed to the Contracting Authority at the address **provided in the BDS;**1. bear the name and identification number of the Contract as **defined in the BDS** and Special Conditions of Contract; and
2. provide a warning not to open before the specified time and date for Bid opening as **defined in the BDS.**

20.3 In addition to the identification required in ITB Sub-Clause 20.2, the inner envelopes shall indicate the name and address of the Bidder to enable the Bid to be returned unopened in case it is declared late, pursuant to ITB Clause 22.20.4 The Contracting Authority will assume no responsibility for the misplacement or premature opening of the outer envelope if the outer envelope is not sealed and marked as mentioned above.1. Deadline for Submission of Bids

21.1 Bids shall be delivered to the Contracting Authority at the address specified in ITB Sub-Clause 20.2 above no later than the time and date **specified in the BDS.**21.2 The Contracting Authority may extend the deadline for submission of bids by issuing an amendment in accordance with ITB Clause 11, in which case all rights and obligations of the Contracting Authority and the bidders previously subject to the original deadline will then be subject to the new deadline.1. Late Bids

22.1 Any Bid received by the Contracting Authority after the deadline prescribed in ITB Clause 21 will be returned unopened to the Bidder.1. Modification and Withdrawal of Bids

23.1 Bidders may modify or withdraw their bids by giving notice in writing before the deadline prescribed in ITB Clause 21.23.2 Each Bidder’s modification or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with ITB Clauses 19 and 20, with the outer and inner envelopes additionally marked “MODIFICATION” or “WITHDRAWAL,” as appropriate.23.3 No Bid may be modified after the deadline for submission of Bids.23.4 Withdrawal of a Bid between the deadline for submission of bids and the expiration of the period of Bid validity specified in the BDS or as extended pursuant to ITB Sub-Clause 16.2 may result in the forfeiture of the Bid Security pursuant to ITB Clause 17.23.5 Bidders may only offer discounts to, or otherwise modify the prices of their bids by submitting Bid modifications in accordance with this clause, or included in the original Bid submission.E. Bid Opening and Evaluation1. Bid Opening

24.1 The Bid Opening Committee will open the bids, including modifications made pursuant to ITB Clause 23, in the presence of the bidders’ representatives who choose to attend at the time and in the place **specified in the BDS**.24.2 Envelopes marked “WITHDRAWAL” are initially opened and read publicly, while the withdrawn bid is returned unopened to the owner. The withdrawal letter is valid only if it is accompanied by a formal authorization, and must be read publicly at the bid opening session. Envelopes marked “MODIFICATION” are then opened and read publicly, and the amendment is only approved if it has a letter and has official authorization. Only envelopes opened and read during the bid opening session are considered for competition and evaluated.24.3 The Bid Opening Committee will read the names of the bidders, the bid prices, the total amount of each bid and any alternative completion periods (if permitted), and any discounts, the presence or absence of the bid security and other details that the contracting authority deems appropriate, publicly at the bid opening session .24.4 The Bid Opening Committee will prepare the minutes of the Bid Opening session, including information disclosed to those present in accordance with Sub-Clause 24.3. The chairman and members of the opening ommittee shall sign the minutes of the Bid Opening session and submit it to the head of the Contracting Authority. A copy of the signed record should also be placed on the Contracting Authority's bulletin board. Bidders can be provided with a copy of the signed Bid opening session minutes upon request.1. Confidentiality

25.1 Information relating to the examination, clarification, evaluation, and comparison of bids and recommendations for the award of a contract shall not be disclosed to bidders or any other persons not officially concerned with such process until the results are officially announced in the letter of award. Any effort made by the bidder to influence the Bid Analysis and Evaluation Committee will result in his bid being rejected.1. Clarification of Bids

26.1 To assist in the examination, evaluation, and comparison of bids, the Bid Analysis and Evaluation Committee may, at the Committee’s discretion, ask any Bidder for clarification of the Bidder’s Bid, including breakdowns of the prices of the units[[5]](#footnote-5). The request for clarification and the response shall be in writing, but no change in the price or substance of the Bid shall be sought, offered, or permitted except as required to confirm the correction of arithmetic errors discovered by the Bid Analysis and Evaluation Committee in the evaluation of the bids in accordance with ITB Clause 28.1. Examination of Bids and Determination of Responsiveness

27.1 Prior to the detailed evaluation of bids, the Bid Analysis and Evaluation Committee will determine whether each Bid: (a) meets the eligibility criteria defined in ITB Clause 4; (b) has been properly signed; (c) is accompanied by the required securities; and (d) is substantially responsive to the requirements of the Bidding Documents.27.2 A substantially responsive Bid is one which conforms to all the terms, conditions, and specifications of the Bidding Documents, without material deviation or reservation. A material deviation or reservation is one: (a) which affects in any substantial way the scope, quality, or performance of the Works; (b) which limits in any substantial way, inconsistent with the bidding documents, the Contracting Authority’s rights or the Bidder’s obligations under the Contract; or 1. whose rectification would affect unfairly the competitive position of other bidders presenting substantially responsive bids.

27.3 If a Bid is not substantially responsive, it will be rejected by the Contracting Authority, and may not subsequently be made responsive by correction or withdrawal of the nonconforming deviation or reservation.1. Correction of Arithmatic Errors

28.1 Bids determined to be substantially responsive will be checked by the Contracting Authority for any arithmetic errors. Arithmetical errors will be rectified by the Bid Analysis and Evaluation Committee on the following basis:1. if there is a discrepancy between the amounts in figures and in words, the amount in words will prevail;
2. When there is a discrepancy between the unit price and the sum resulting from multiplying the unit price by the quantity, the unit price will be adopted and the total and the total price are corrected, unless in the opinion of the Bid Analysis and Evaluation Committee there is a fatal error in the placement of the decimal point in the unit price, in which case the total price is approved and the unit price is corrected.
3. The amount stated in the tender will be adjusted by the Bid Analysis and Evaluation Committee according to the procedure described above to correct Arithmetical errors, and it is binding on the bidder. If the bidder does not accept the corrected amount, the bid will be rejected, and the bid security will be forfeited according to ITB Sub-Clause 17.7 (b).
4. Evaluation and Comparison of Bids

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| 29.1 The Bid Analysis and Evaluation Committee will evaluate and compare only the bids determined to be substantially responsive in accordance with ITB Clause 27.29.2 In evaluating the bids, the Bid Analysis and Evaluation Committee will determine for each Bid the evaluated Bid price by adjusting the Bid price as follows:(a) making any correction for arithmetic errors pursuant to ITB Clause 28;(b) making an appropriate adjustment for any other acceptable variations, deviations, or alternative offers submitted in accordance with Clause 18; and(d) making appropriate adjustments to reflect discounts or other price modifications offered in accordance with Sub-Clause 23.5.29.3 The Bid Analysis and Evaluation Committee reserves the right to accept or reject any difference or deviation or alternative bid. When evaluating the bids, differences, deviations, alternative completion periods and other factors that exceed the requirements of the bidding documents or that lead to undesirable advantages to the Contracting Authority will not be taken into consideration.F. Award of Bid1. Award Criteria

30.1 Subject to Clause 32, the Contracting Authority will award the Contract to the Bidder whose Bid has been determined to be substantially responsive to the bidding documents and who has offered the lowest evaluated Bid price, provided that such Bidder has been determined to be (a) eligible in accordance with the provisions of Clause 4, and (b) qualified in accordance with the provisions of Clause 5.1. Contracting Authority’s Right to Accept any Bid and to Reject any or all Bids

31.1 Notwithstanding ITB Clause 32, the Contracting Authority reserves the right to accept or reject any Bid, and to cancel the bidding process and reject all bids, at any time prior to the award of bid, 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 Contracting Authority’s action[[6]](#footnote-6).1. Notification of intention to Award and Signing of Contract

32.1The Contracting Authority must provide the successful bidder with a notice of intention to award as soon as possible before the expiry of the bid validity period by a registered letter from the Contracting Authority. At the same time, inform the remaining bidders of the name of the bidder nominated for the award and the bid price.32.2 No action may be taken to sign the contract until after the seven-day suspension period has expired from the date of the notice of intention to award.32.3 After seven days of the notice of intention to award, and before the expiry of the Bid validity period, the Contracting Authority must send the successful Bidder the Letter of Award, which must stipulate the amount that the Contracting Authority will pay to the Contractor for the implementation, completion, and maintenance of the Works in accordance with what the contract specifies (referred to below and in the contract called "Contract Amount").32.4 A letter of award constitutes a contract binding on both parties until the final contract is prepared and signed.32.5 The contract will cover all agreements between the Contracting Authority and the successful Bidder. The Bidder must, within a period not exceeding (28) days from the date of the letter of award and being notified, sign the contract. The Contracting Authority will sign the contract after ensuring that the performance security is in accordance with ITB Sub-Clause 47.1 to the general conditions of contract. The Contracting Authority will provide the bidder with a signed copy of the contract.32.6 When the successful Bidder submits the performance security to the Contracting Authority and signs the contract, the Contracting Authority will return the bid security to other bidders as soon as possible.32.7 If, after notification of the award intent, a Bidder wishes to ascertain the grounds on which its bid was not selected, it should address its request to the Contracting Authority. The Contracting Authority will promptly respond in writing to the unsuccessful Bidder.1. Performance Security

33.1 Within 28 days of receiving the letter of award, the successful Bidder must provide performance security to the Contracting Authority with the amount stipulated in the special conditions of contract and in the form (bank guarantee) stipulated in the **BDS**, and in accordance with the conditions contract. It is issued by a bank in the Region accredited by the Contracting Authority.33.2 Failure of the successful Bidder to comply with the requirements of ITB Sub-Clause 33.1 shall constitute sufficient grounds for cancellation of the award and forfeiture of the Bid Security and consider him as abstained.1. Advance Payment

34.1 If it is **stipulated in the BDS**, the Contracting Authority will provide an advance payment on the contract amount as stipulated in the conditions of contract.1. Adjudicator

35.1 The Contracting Authority proposes the person named in the **BDS**to be appointed as Adjudicator under the Contract, at an hourly fee specified in the Bidding Data, plus reimbursable expenses. If the Bidder disagrees with this proposal, the Bidder should so state in the Letter of Bid. If, in the Letter of Acceptance, the Contracting Authority has not agreed on the alternate candidate named in the Letter of Bid, the Adjudicator shall be appointed by the Appointing Authority designated in the Special Conditions of Contract. |

 |

**Section II. Bidding Data Sheet**

This section must be completed by the Contracting Authority before issuing bidding documents. The entries must match the information provided in the invitation to bid.

[Instructions for completing the data are written in parentheses and in italics; they must be deleted after entering the required information and should not appear in the document being issued]**.**

|  |  |
| --- | --- |
| **ITB Clause Reference** | **A. General** |
| **1.1** |  Name of the Contracting Authority: *[Insert the same information as in Sub-Clause 1.1 in Section VII, Special Conditions of Contract] \_\_\_\_\_\_\_\_\_\_\_\_* |
| **1.1** | The name and identification number of the Bid: *[Insert the same information as in Sub-Clause 1.1 in Section VII, Special Conditions of Contract]* |
| **2.1** | Source of funding for this contract [*Specify source of funding*] |
| **4.4** | A list of contractors subject to decisions of debarment in government contracts is available at the following web site: *[Insert Electronic Address]* |
| **4.5** | This tender is open to classified bidders [*Insert classification grade*] |
| **5.2** | Qualification information and bidding forms to be submitted are as follows: [*Insert any additions or deletions to the list listed in sub-paragraph 5.2, otherwise enter “not applicable”*] |
| **5.3** | The information required for the bids submitted by the joint venture companies is as follows: [*Insert any additions or deletions to the list listed in sub-paragraph 5.2, otherwise enter "not applicable"*] |
| **5.5** | Subcontractors’ experience *[Insert “will” or “will not”]* be taken into account. |
| **8.2** | A Pre-Bid Conference *[Insert “will” or “will not”]* take place. If a Pre-Bid Conference will take place:Place of the Pre-Bid Conference: *[Insert place]* Date of the Pre-Bid Conference: *[Insert date]* Time of the Pre-Bid Conference: *[Insert time]*  |
| **B. Contents of Bidding Document** |
| **9.4 and****19.1** | In addition to the original bid, the number of copies of the Bid to be completed and returned shall be *[Insert the number of copies, usually two versions: more possible, when necessary]* |
| **10.1** | The Contracting Authority will respond to any request for clarification received *[Insert number, normally seven]* days before the deadline for submission of bids. |
| **C. Preparation of Bids** |
| **12.1** | Language of the bid: *[insert English]*For the purposes of translating supporting documents and printed materials, the language adopted is: *[insert English]* |
| **13.1** | The Bidder must submit the following additional documents as part of his bid: [*insert a list of the additional documents required, otherwise enter "not applicable"*]. |
| **15.1**  | Bid currency is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [*insert currency*] |
| **16.1** | The period of Bid validity shall be *[insert number the period should be a realistic time, usually no more than 90 days allowing for bid evaluation, clarifications, and necessary approvals from the Contracting Authority’s authorized official] [The time should be the same as that specified in the Invitation for Bids]* days after the deadline for Bid submission specified in the BDS. |
| **17.1** | [Enter one of the following options:a. Bid security is not required;b. The bid must include a certified check or (bank guarantee) using the form in Section IV, the Bidding Forms or any form acceptable to the Contracting Authority; orc. The bid must include Bid-Securing Declaration, using the form provided in Section IV - Bidding Forms]. |
| **17.3** | The bid security amount must be [*insert the amount in Iraqi dinars, as stipulated in the invitation to bid. A lump sum equivalent to (1 to 3%) of the estimated cost of the works must be specified, taking into account the nature and importance of the contract*]. |
| **17.7** | [This paragraph is only filled in if Bid-Securing Declaration is required under paragraph (17.1)]In the event that the Bidder fails to perform any of the actions mentioned in items (a), (b) or (c) of this paragraph, he is subject to decisions of debarment in government contracts for a period of [*inserting the period of deprivation*] in general.[*Ensure that the entries in this paragraph match the entries in the written pledge guarantee form in section IV of the tender document*]. |
| **18.1** | \_\_\_\_\_\_\_\_\_\_\_\_\_ [insert "allowed" or "not allow",] with proposals for alternative completion periods |
| **D. Submission of Bids** |
| **20.2 (a)** | The Contracting Authority’s address for the purpose of Bid submission is:[*Insert address for bid submission as stipulated in the invitation for bids. The address for bid submission must be an office operated during normal working hours by authorized employees to receive bids, certifying the time and date of receipt and making sure that the bid is kept safe until the time of opening of the bids. It is not preferable to include the post office address*]Attention to: *[Insert name of responsible official, project manager]*Street Address: *[Insert street address]*Department Name: *[Insert department name]*Floor/Room number: *[Insert room/floor number]* City: *[Insert name of the city]*Country: *[Insert name of country]*Postal Code: *[Insert postal code]* |
| **20.2 (b)** | To determine the bid, the envelopes must refer to:Bid name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [insert Bid name]Bid Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [insert Bid number] |
| **21.1** | The deadline for submission of bids shall be *[insert time and date; the date should be the same and the time, in no event, earlier than that given in the Invitation for Bids, unless subsequently amended pursuant to Sub-Clause 21.2]*.Date: *[Insert date]*Time: *[Insert time]* |
| **E. Bid Opening and Evaluation** |
| **24.1** | Bids will be opened at *[ insert time ]* of the day *[ insert date ]* at the following address *[ insert address]*  Street Address: *[Insert name and number of the street]*Department Name: *[Insert name of department]*Floor/Room number: *[Insert room/floor number]* City: *[Insert name of the city]*Country: *[Insert name of country]* |
| **F. Award of Contract** |
| **33.1** | The Performance Security accepted by the Contracting Authority must be in the standard form for [*insert "unconditional bank guarantee*"] or any other form acceptable to the Contracting Authority |
| **34.1** | If special contract conditions permit, the advance payment value [*insert the percentage value, usually not exceeding 10 percent*] of the contract price. [The amount must be sufficient to reduce the contractor’s needs to borrow for the contract.] |
| **35.1** | The Adjudicator proposed by the Contracting Authority is *[insert name and address]*. The hourly fee for this proposed Adjudicator shall be *[insert amount and currency]*. The biographical data of the proposed Adjudicator is as follows: *[provide relevant information, such as education, experience, age, nationality, and present position; attach additional pages as necessary, attach the CV of the Adjudicator]*.**The agreed upon Adjudicator must be of good conduct, and has the qualities of integrity, honesty, and experienced in the scope of the contract.** |

**Section III. Evaluation and Qualification Criteria**

This section contains all the criteria to be applied by the Contracting Authority to evaluate bids and bidders qualifications, in accordance with Sub-Clauses 5.4 and 18.1 of the Instructions to Bidders. No other factors, methods or criteria will be used. The Bidder must provide all the required information in the forms in Section IV, Bidding Forms. **This section is prepared by the Contracting Authority**

**Contents**

1. Alternative Completion Period in accordance with Sub-Clause 18.1 of the Instructions to Bidders;
2. Evaluation and Qualification Criteria in accordance with Sub-Clause 5.4 of the Instructions to Bidders;
3. **Alternative Completion Period in accordance with Sub-Clause 18.2 of the Instructions to Bidders;**

The Contractor must complete the Works included for in Section V of the Work Requirements within the completion period specified in the Section II of the Bidding Data Sheet (i.e. after the earliest completion date and before the deadline for completion). Works completed before the earliest date will not be given preference, and Bids offering completion of Works after the deadline will be treated as unresponsive. For evaluation purposes only, the prices of Bids offering completion of Works after the "earliest completion date", specified in the Bidding Data Sheet, if provided for in the Bidding Data Sheet, may be adjusted for evaluation purposes.

[Note: An adjustment factor must be specified to evaluate the differences submitted by the Bidders as a percentage of the Bids or a lump sum for each week of delay for the earliest date for the duration of the works, which represents the loss of benefits for the Contracting Authority from the works. The adjustment factor must not exceed the amount mentioned in the special conditions of contract for the maximum delay damages]

Adjustment factor to evaluate alternative period, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [*insert a percentage of the bid, or a lump sum*] for each week a delay from the earliest date for the duration of the works.

**See Practical Example**

**Practical Example:**

Services Completion Period (12) months, earliest completion date (12) months, deadline for completion (14) months.

Price adjustment coefecient 5% of Bid price for each week of delay after earliest completion date to be added to the Bid price for comparison purposes only.

Bid price of Bidder (A) IQ100,000,000, completion period one week after the earliest completion date, therefore, the Bid price will be IQ105,000,000.

Bid price of Bidder (B) IQ94,000,000, completion period two week after the earliest completion date, the Bid price will be IQ103,000,000.

Therefore, the tender will be awarded to Bidder (B) at IQ94,000,000, completion period (12 months and two weeks)

**2. Evaluation and Qualification Criteria in accordance with Sub-Clause 5.4 of Instructions to Bidders**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Eligibility and Qualification Criteria** | **Compliance Requirements** | **Documentation** |
| **No.** | **Subject** | **Requirement** | **Single Entity** | **Joint Venture (existing or intended)** | **Submission Requirements** |
| **All Parties Combined** | **Each Member** | **One Member** |
| **1. Eligibility** |
| 1.1 | Inclusion on the list of debarment from participation | not inclused on the list of debarment from participation | Must meet requirement | Must meet requirement | Must meet requirement | N/A | Section IV- Bidding FormsService Provider letter of Bid |
|  | **4. Experience** |
| 4.1 | Specific Experience | Participation as a major contractor in [*insert the number of contracts*] to implement contracts similar to the work of this contract have been completed with complete substantial success as a principal contractor or member of a Joint Venture, administrative contractor or subcontractor[[7]](#footnote-7).Similarity means the analogy to physical size, nature, complexity, or other characteristics shown and referred to in Section Five - Requirements for Works, provided that the value of each contract is not less than [*insert amount and currency in numbers*] [*insert amount and currency in words*] during [*insert number in figures*] [*insert number in words*] years. | Must meet requirement | Must meet requirement[[8]](#footnote-8) |  | N/A | Section IV- Bidding Forms |
| **Note:** The required number of contracts must be no more than three, depending on the size and complexity of the contract in question, the circumstances of the country and the contracting authority runs the risk of default of the contractor. The amount of each contract must be at least 70% of the estimated cost of the contract that is the subject of the bid. Adding the number of contracts with a small value (less than the value determined by the requirements) will not be accepted to meet the total requirements. In order to be considered in the bid evaluation, the said work contracts must be complete at least 80 percent. |

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## Section IV. Bidding Forms

**Contents**

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Standard Form: Qualification Information …………………... 30

Standard Form: Bills of Quantities ……………………………….. 34

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Form of Bid-Securing Declaration ………………………………… 37

[The Bidder must prepare this section, provide the information and attach the required documents to assist the Contracting Authority in evaluating the extent to which the Bis is responsive to the Evaluation and Qualification requirements provided for in Section III - Evaluation and Qualification Criteria]

[Note: The Bidder can add other pages to describe the proposed program (How the service works and the time program)]

# Standard Form: Contractor’s Letter of Bid

|  |
| --- |
| **Notes on the contractor's Letter of Bid form**The Bidder must prepare this section, provide the information, and attach the required documents to assist the Contracting Authority in evaluating the extent to which its bid is responsive to the evaluation and qualification Criteria setforth in Section III - Evaluation and Qualification Criteria. |

*[The Bidder must prepare the Letter of Bid in accordance with the instructions below. Any amendment to this letter shall not be permitted and any replacement shall be rejected. This form shall be prepared on the Letterhead of the Bidder].*

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

Tender No.: **[*insert number of the tender*]**

To: **[*insert complete name of the Contracting Authority*]**

We the undersigned confirm that:

1. We *[Insert “accept” or “do not accept”] [Insert the name of the adjudicator proposed by the Contracting Authority]* , we propose *[insert name of adjudicator]*
2. We have examined the Bidding Documents and have accepted all conditions and requirements contained therein, including the annexes: *[insert reference and date of each annex]*
3. We pledge to execute the following Services in conformity with the Bidding Documents within the completion period indicated in Part 2, Services Requirements:
*[insert a brief description of the Works, including the lot or combination of lots covered by the bid]*;
4. The total price of our Bid, excluding any discounts offered in item (e) below is:
 [*insert the total price of the bid in words and figures. In case of one lot or combination of lots, the price shall be detailed for each lot in the currencies indicated for each lot*];
5. The discounts offered and the methodology for their application are:

 **Discounts:** If our bid is accepted, the following discounts shall be applied:

 *[Specify in detail each discount offered to which lot or combination of lots in Works requirements to be specifically applied]*

 **Methodology of application**: Discounts shall be applied using the method shown below*:*

*[Specify in detail the method that shall be used to apply the discounts];*

 Our net price after applying discounts: [*Insert net price in figures and in letters*]

Our bid shall be valid for the period specified in ITB Sub-Clause (16.1) from the date specified for the bid submission deadline in accordance with ITB Sub-Clause (21.1), and it shall remain binding upon us and may be accepted at any time before the expiration of that period;

1. We pledge, if our bid is accepted, to provide Performance Security in accordance with ITB Sub-Clause (33.1), and ITB Sub-Clause 47.1 of the General Conditions of Contract, also sign the contract in accordance with ITB Sub-Clause (32.5) and according to the time limits specified in the BDS. Otherwise, we are liable to all legal proceedings taken against us, including the forfiteing of our Bid Security submitted by us, which deprives us of participation in government contracts for the period specified in ITB Sub-Clause 17.7 and we bear the difference of the two bids resulting from the award of the tender to another candidate.
2. We, along with any of our subcontractors, hold nationalities of eligible countries [*insert Bidder nationality and the nationalities of all parties entered in the Bid if the Bidder is a JV and the nationality of every sub-contractor*].
3. We have no conflict of interest in accordance with ITB Sub-Clause (4.1).
4. Our company or any branch thereof or any of its affiliates including sub-contractors has not been previously declared ineligible for any part of this work in accordance with the prevailing laws in KRG in accordance with ITB Sub-Clause (4.1).
5. We understand that the Bid and Letter of Award comprise a binding contract between us until the formal signature of contract; and
6. We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive.

For and on behalf of the Bidder.

Signature of the person duly authorized to sign the Bid \_\_\_\_\_\_\_\_\_\_\_\_\_

Name and capacity of the signatory [*Insert name and capacity of the signatory*]

Note:

[If the Contractor is a joint venture, all members of the joint venture must sign the Contractor's Letter of Bid jointly and severally.

**The Contracting Authority should not accept that the named joint venture authorized partner sign the Letter of Bid of the Contracdtor individually on behalf of each member of the Contractor joint venture Company**]

We, the members of the joint venture company, jointly and severally sign the Letter of Bid of the Contractor:

[Name of authorized member] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[The position of authorized member] \_\_\_\_\_\_\_\_\_\_\_\_\_

[Signature] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Name of authorized member] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[The position of authorized member] \_\_\_\_\_\_\_\_\_\_\_\_\_

[Signature] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# Standard Form: Qualification Information

**Notes on Form of Qualification Information**

The information to be filled by Bidders in the following pages will be used for purposes of post-qualification or for verification of prequalification as provided for in Clause 5 of the Instructions for Bidders. This information will not be incorporated in the contract. Attach additional pages as necessary. Pertinent sections of the attached documents must be translated into the bidding language. If used for prequalification verification, the Bidder should fill in updated information only

|  |  |
| --- | --- |
| 1. **Single entity Bidders or members in joint venture company**
 | Constitution or legal status of Bidder: *[attach copy]*Place of registration: *[insert]*Principal place of business: *[insert]*Power of attorney of signatory of Bid: *[attach]* |
| 1. **Eligibility**
 |  |
| Inclusion on the list of debarment from participation | Our company [Enter "was"or " was not” included on the list of debarment from participation- Public Procurement Regulation No. (2) of 2016 and in accordance with ITB Sub-Clause (2)].[*If it was, enter the details*] |
| 1. **Experience**
 |  |
| Specific Experience | [*Insert list of contracts in the table below*] |
| Name of project and Country | Type of Works/year of completion | Name of Contracting Authority and responsible person | Contract Value |
| 1. |  |  |  |
| 2. |  |  |  |
| 1. **Joint Venture Company**
 | * 1. The information in 1 above must be provided to each partner of the Joint Venture.
 |
| 4.2 The information in 2 above must be provided for the Joint Venture company. |
| 4.3 Attach the power of attorney of the signatory(ies) of the Bid authorizing signature of the Bid on behalf of the joint venture. |
| 4.4 Attach the Agreement among all partners of the joint venture (and which is legally binding on all partners), which shows that:(a) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;(b) one of the partners will be nominated as being in charge, authorized to incur liabilities, and receive instructions for and on behalf of any and all partners of the joint venture; and(c) the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge. |

|  |
| --- |
| 1. **Key Personnel**
 |
| The qualifications and expertise of the proposed key staff to manage and implement the contract. Attach CV data.[Refer to ITB Sub-Clause 5.2 (e) of the instructions for bidders and GCC Sub-Clause 9.1] |
| Position | Name | Years of Experience | Years of Experience in proposed position |
| 1. Project Manager
 |  |  |  |
| 2. |  |  |  |
|  |
| 1. **Equipment**
 |
| Major items of Contractor's Equipment proposed for carrying out the Works. List all information requested below. [Refer also to ITB Sub-Clause 5.2 (d)]. |
| Item of equipment | Description, make, and age (years) | Condition (new, good, poor) and number available | Owned, leased (from whom?), or to be purchased (from whom?) |
| 1. |  |  |  |
| 2. |  |  |  |

# Standard Form: Bills of Quantities

**Notes on the Bills of Quantities**

The bidder must fill the prices in this table under Sub-Clause 14.1 of the instructions for bidders and submit within his bid under Sub-Claue 13.1 of the instructions for bidders.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Total Price** | **Unit Price** | **Quantity** | **Unit** | **Item Description** | **No.** |
|  | **Words** | **Number** |
|  |  |  |  |  |  | 1. |
|  |  |  |  |  |  | 2. |
|  |  |  |  |  |  | 3. |

[The Contracting Authority will provide interested Bidders with a CD containing the Bills of Quantities to facilitate the pricing process of the Works and to avoid deletion or error. The Bidder must, after filling the prices in this table, print the priced table and mark and sign the priced table in accordance with ITB Clause 19].

# Form of Bid Security (Bank Guarantee)

 *[The Bank fills out the Bank Security Form in accordance with the instructions fixed within brackets]*

*[insert Bank’s name and address or the issuing source]*

**Beneficiary: *[****Insert name and address of the* Contracting Authority*]*

**Invitation for Bids No:** *[Insert reference number for the Invitation for Bids]*

**Date:** [*Insert date of issue]*

**BID SECURITY No.:** *[Insert guarantee reference number]*

Furthermore, we understand that, according to your conditions, bids must be supported by a bid security.

At the request of the Applicant, we *[insert Bank’s name]*, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of *[insert amount in letters]* (*insert amount in numbers*) Iraqi Dinars immediately upon receipt by us a written request at first instant of the Beneficiary supported by the Beneficiary’s statement, stating that the Applicant has violated its (commitments) under the bid conditions, because the Applicant:

(a) has withdrawn its Bid during the period of bid validity specified by the Applicant in the Letter of Bid, or

(b) having been notified of the acceptance of its Bid by the Beneficiary during the period of bid validity,

(i) fails or declines to execute the Contract Agreement, if applicable, or

(ii) fails or declines to furnish the performance security, in accordance with the Instructions to Bidders (“ITB”).

This guarantee will expire:

(a) if the Applicant is the successful Bidder, upon our receipt of copies of the contract agreement signed by the Applicant and the performance security issued to the Beneficiary, or

(b) if the Applicant is not the successful Bidder, upon the earlier of:

(i) our receipt of a copy of the Beneficiary’s notification to the Applicant that the tender was not awarded to him; or

(ii) twenty-eight days after the Validity Period of the bid.

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

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 458.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

*[signature(s) of authorized representative(s)]*

# Form of Bid-Securing Declaration

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

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

Tender No.: *[insert identification number of tender]*

To: *[insert complete name of Contracting Authority]*

We, the undersigned, declare that:

We know that the bid should be supported by a Bid Security Declaration in accordance with your conditions.

We accept that we will be debarred from participation in government contracts in the Region for a period of [*insert period*] [[9]](#footnote-9)starting with [*the issuance of the debarrment order from the Ministry of Planning*], if we breach our obligations to the terms of the tender, because we:

After having been notified of the acceptance of our bid by the Contracting Authority within the period of bid validity,

1. we failed or refused to furnish a Performance Security in accordance with the ITB; or
2. we failed or refused to sign the Contract.

We know that this Bid-Securing Declaration will expire, if contract is not awarded to us, upon:

1. our receipt of your notification to us of the name of the successful Bidder; or
2. twenty-eight days after the expiration of our Bid or any extension to it.

We know if we are a JV, the Bid- Securing Declaration should be in the name of the JV submitting the bid. If the JV is not legally constituted at the time of bidding, the Bid-Securing Declaration will be in the name of all partners named in the JV agreement.

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

In the capacity of *[insert legal capacity of person signing the Bid-Securing Declaration Form]*

Name: *[insert complete name of person signing the Bid-Securing Declaration Form]*

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

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

Note:

[If the Contractor is a joint venture, all members of the joint venture must sign the Contractor's Letter of Bid jointly and severally.

**The Contracting Authority should not accept that the named joint venture authorized partner sign the Letter of Bid of the Contracdtor individually on behalf of each member of the Contractor joint venture Company**]

We, the members of the joint venture company, jointly and severally sign the Bid-Securing Declarion:

[Name of authorized member] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[The position of authorized member] \_\_\_\_\_\_\_\_\_\_\_\_\_

[Signature] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Name of authorized member] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[The position of authorized member] \_\_\_\_\_\_\_\_\_\_\_\_\_

[Signature] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

#### Part II. Works Requirements

**Section V. Works Requirements**

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# Specifications

*These Notes for Preparing Specifications are intended only as information for the Contracting Authority or the person drafting the bidding documents. They should not be included in the final documents*

**Notes on Specifications**

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

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

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

Care must be taken in drafting specifications to ensure that they are not restrictive. In the specification of standards for goods, materials, and workmanship, recognized international standards should be used as much as possible. Where other particular standards are used, whether national standards of the Contracting Authority’s country or other standards, the specifications should state that goods, materials, and workmanship that meet other authoritative standards, and which ensure substantially equal or higher quality than the standards mentioned, will also be acceptable. The following clause may be inserted in the Special Conditions or Specifications.

**Sample Clause: Equivalency of Standards and Codes**

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

# Drawings

**Notes on the Drawings**

Here is added a list of drawings. Actual graphics, including site plans, should be attached to this section or attached in a separate folder. When the Contracting Authority receives the design from the consultant, it must check the design to ensure that there are no inconsistencies between the bill of quantities, drawings and specifications and to ensure that the design is complete and that there are no deficiencies in any part of the design. In the event of inconsistencies or deficiencies in the design, the Contracting Authority must address the Consultant in writing and ask him to amend the design, taking into account the inconsistencies and deficiencies, and to submit a new modified version.

|  |
| --- |
| **List of Drawings** |
| **Purpose** | **Title of the drawing** | **No. of the drawing** |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

Bill of Quantities[[10]](#footnote-10)

**Notes on the Bill of Quantities**

The purpose of these notes to prepare the bill of quantities is only information for the Contracting Authority or the person who is drafting the Bidding Documents. It should not be included in the final documents**.**

**Objectives**

The objectives of the Bill of Quantities are

(a) to provide sufficient information on the quantities of Works to be performed to enable bids to be prepared efficiently and accurately; and

(b) priced Bill of Quantities is use to determine the value of executed works during contract implementation; and

(c) to make payments to the Contractor

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

**Provisional Sums**

A general provision for physical contingencies (quantity overruns) may be made by including a provisional sum in the Summary Bill of Quantities. Similarly, a contingency allowance for possible price increases should be provided as a provisional sum in the Summary Bill of Quantities. The inclusion of such provisional sums often facilitates budgetary approval by avoiding the need to request periodic supplementary approvals as the future need arises. Where such provisional sums or contingency allowances are used, the Contract Data should state the manner in which they will be used, and under whose authority (usually the Engineer’s).

The estimated cost of specialized work to be carried out, or of special goods to be supplied, by other contractors (refer to Clause 8 of the Conditions of Contract) should be indicated in the relevant part of the Bill of Quantities as a particular provisional sum with an appropriate brief description. A separate procurement procedure is normally carried out by the Contracting Authority to select such specialized contractors. To provide an element of competition among the bidders in respect of any facilities, amenities, attendance, etc., to be provided by the successful Bidder as prime Contractor for the use and convenience of the specialist contractors, each related provisional sum should be followed by an item in the Bill of Quantities inviting the Bidder to quote a sum for such amenities, facilities, attendance, etc.

**PART III – Conditions of Contract and Contract Forms**

**Section VI. General Conditions of Contract**

**Notes on general contract terms**

The General Conditions of Contract, which are read in conjunction with the Special contract and other documents included in it, must be a complete document expressing the rights and obligations of the parties.

The following "conditions of contract" form was developed on the basis of considerable international experience in contract drafting and management, taking into account the prevailing trend in the construction industry towards a simpler and clearer language.

This model can be used directly for small works contracts, admeasurement contracts (prices of units executed in the quantity table), and with the modifications mentioned in the footnotes, they can be adapted for lump sum contracts.

The use of standard conditions of contract for construction and civil works in any country will enhance the coverage, the general acceptability of its provisions, cost and time savings in the preparation and review of bids, and the development of a strong background to the history of legal cases**.**

**Section VI. General Conditions of Contract**

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**Section VI. General Conditions of Contract**

# General Provisions

## Definitions

1.1 Boldface type is used to identify defined terms.

1. The **Adjudicator** is the person appointed jointly by the Contracting Authority and the Contractor to resolve disputes in the first instance, as provided for in Clauses 24 and 25 hereunder.
2. **Bill of Quantities** means the priced and completed Bill of Quantities forming part of the Bid.
3. **Compensation Events** are those events, if they occur, they results in compensation to the Contractor, like the events specified in Clause 42 hereunder.
4. **Completion Date** is the date of completion of the Works as certified by the Engineer, in accordance with Sub-Clause 49.1.
5. **Preliminary Taking-over Certificate** is the Certificate issued by the Contracting Authority after completion of the Works;
6. **Final Taking-over Certificate** is the Certificate issued by the Contracting Authority after the expiry of the Maintenance Period;
7. The **Contract** is the Contract between the Contracting Authority and the Contractor to execute, complete, and maintain the Works. It consists of the documents listed in Clause 2.3 below and as the **Special Conditions of Contract** stipulates the name and number of the contract.
8. The **Contractor** is a person or corporate body who’s Bid to carry out the Works has been accepted by the Contracting Authority.
9. The **Contractor’s Bid** is the completed Bidding Document submitted by the Contractor to the Contracting Authority to carry out the Works.
10. The **Contract Price** is the price stated in the Letter of Award and in the agreement thereafter subject to adjustment, increase or decrease, in accordance with the provisions of the Contract.
11. **Days** are calendar days; **months** are calendar months.
12. A **Defect** is any part of the Works not completed in accordance with the Contract.
13. The **Maintenance Period** is the period named in the **Special Conditions of Contract** and calculated from the Completion Date**.**
14. **Drawings** include drawings and other information provided or approved by the Contracting Authority for the execution of the Contract.
15. The **Contracting Authority** is the party named in the **Special Conditions of Contract** and who employs the Contractor to carry out the Works.
16. **Equipment** is the Contractor’s machinery and vehicles brought temporarily to the Site to construct the Works.
17. The **Project Completion Period** is the period during which the contractor will complete the works. The completion period is specified in the **Special Conditions of Contract.**
18. **Materials** are all supplies, including consumables, used by the Contractor for incorporation in the Works.
19. **Plant** is any integral part of the Works that shall have a mechanical, electrical, chemical, or biological function.
20. The **Engineer** is the person named in the **Special Conditions of Contract** (or any other competent person appointed by the Contracting Authority and notified to the Contractor, to act in replacement of the Engineer) who is responsible for supervising the execution of the Works and administering the Contract.
21. **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.
22. **Specification** means the Specification of the Works included in the Contract and any modification or addition made or approved by the Engineer.
23. The **Start Date** is given in the **Special Conditions of Contract**. It is the latest date when the Contractor shall commence execution of the Works. It does not necessarily coincide with any of the Site Possession Dates.
24. 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, and with the prior written approval of the Contracting Authority.
25. **Temporary Works** are works designed, constructed, installed, and removed by the Contractor that are needed for construction or installation of the Works.
26. A **Variation** is an instruction given by the Contracting Authority which varies the Works.
27. The **Works** are what the Contract requires the Contractor to construct, install, and turn over to the Contracting Authority, as defined in the **Special Conditions of Contract**.

## 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 Engineer will provide instructions clarifying queries about these Conditions of Contract.

2.2 If sectional completion is specified in the **Special Conditions of Contract**, references in the Conditions of Contract to the Works, the Completion Date apply to any Section of the Works (other than references to the Completion Date for the whole of the Works).

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

(1) Agreement,

(2) Letter of Award,

(3) Contractor’s Bid,

(4) Special Conditions of Contract,

(5) General Conditions of Contract,

(6) Specifications,

(7) Drawings,

(8) Bill of Quantities,[[11]](#footnote-11) and

(9) any other document listed in the **Special Conditions of Contract** as forming part of the Contract.

## Language and Law

3.1 The language of the Contract and the law governing the Contract are stated in the **Special Conditions of Contract**.

## Engineer’s Decisions

4.1 Except where otherwise specifically stated, the Engineer will decide contractual matters between the Contracting Authority and the Contractor on behalf of the Contracting Authority.

## Delegation

5.1 The Engineer may delegate any of his duties and responsibilities to other persons except to the Adjudicator, after notifying the Contractor, and may cancel any delegation after notifying the Contractor.

## Communications

6.1 Communications between parties that are referred to in the Conditions shall be effective only when in writing. A notice shall be effective only when it is delivered.

## Subcontracting

7.1 The Contractor may subcontract with the approval of the Contracting Authority, but may not assign the Contract without the approval of the Contracting Authority in writing. Subcontracting shall not alter the Contractor’s obligations. The subcontracting percentage must not exceed 30% of the Contract amount.

## Other Contractors

8.1 The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the Contracting Authority between the dates given in the Schedule of Other Contractors, as referred to in the **Special Conditions of Contract**. The Contractor shall also provide facilities and services for them as described in the Schedule. The Contracting Authority may modify the Schedule of Other Contractors, and shall notify the Contractor of any such modification.

## Personnel

9.1 The Contractor shall employ the key personnel named in the Schedule of Key Personnel, as referred to in the **Special Conditions of Contract**, to carry out the functions stated in the Schedule or other personnel approved by the Engineer. The Engineer 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 Engineer 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.

## Contracting Authority’s and Contractor’s Risks

10.1 The Contracting Authority carries the risks which this Contract states are Contracting Authority’s risks, and the Contractor carries the risks which this Contract states are Contractor’s risks.

## Contracting Authority’s Risks

11.1 From the Start Date until the Final Taking-over Certificate has been issued, the following are Contracting Authority’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 Contracting Authority 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 Contracting Authority or in the Contracting Authority’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 Final Taking-over Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is a Contracting Authority’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 Contracting Authority’s risk, or

(c) the activities of the Contractor on the Site after the Completion Date.

## Contractor’s Risks

12.1 From the Start Date until the Final Taking-over 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 Contracting Authority’s risks are Contractor’s risks.

## Insurance

13.1 The Contractor shall provide, in the joint names of the Contracting Authority and the Contractor, insurance coverage from the Start Date to the end of the Maintenance Period, in the amounts and deductibles stated in the **Special Conditions of Contract** 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 Engineer for the Contracting Authority’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 Contracting Authority may affect the insurance which the Contractor should have provided and recover the premiums the Contracting Authority 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 insurance shall not be made without the approval of the Contracting Authority.

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

## Site Investigation Reports

14.1 The Contractor, in preparing the Bid, shall rely on any Site Investigation Reports referred to in the **Special Conditions of Contract**, supplemented by any information available to the Bidder.

## Queries about the Special Conditions of Contract

15.1 The Engineer will clarify queries on the **Special Conditions of Contract**.

## Contractor to Construct the Works

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

## The Works to Be Completed by the 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 Engineer, and complete them by the Completion Date.

## Approval by the Engineer

18.1 The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Engineer, who is to approve them if they comply with the Specifications and Drawings.

18.2 The Contractor shall be responsible for design of Temporary Works.

18.3 The Engineer’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.

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

## Safety

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

## Discoveries

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

## Possession of the Site

21.1 The Contracting Authority 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 **Special Conditions of Contract**, the Contracting Authority will be deemed to have delayed the start of the relevant activities, and this will be a Compensation Event.

## Access to the Site

22.1 The Contractor shall allow the Engineer and any person authorized by the Engineer 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.

## Instructions

23.1 The Contractor shall carry out all instructions of the Engineer which comply with the applicable laws where the Site is located.

## Disputes

24.1 If the Contractor believes that a decision taken by the Engineer was either outside the authority given to the Engineer by the Contract or that the decision was wrongly taken, the decision shall be referred to the Adjudicator within 14 days of the notification of the Engineer decision.

## Procedure for Disputes

25.1 The Adjudicator shall give a decision in writing within 28 days of receipt of a notification of a dispute.

25.2 The Adjudicator shall be paid by the hour at the rate specified in the **Bidding Data Sheet** and **Special Conditions of Contract**, together with reimbursable expenses of the types specified in the **Special Conditions of Contract**, and the cost shall be divided equally between the Contracting Authority 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.

25.3 The arbitration shall be conducted in accordance with the arbitration procedure applicable in the Region.

## Replacement of Adjudicator

26.1 Should the Adjudicator resign or die, or should the Contracting Authority 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 Contracting Authority and the Contractor. In case of disagreement between the Contracting Authority and the Contractor, within 30 days, the Adjudicator shall be designated by the Appointing Authority designated in the **Special Conditions of Contract** at the request of either party, within 14 days of receipt of such request.

# Time Control

## Program

27.1 Within the time stated in the **Special Conditions of Contract**, the Contractor shall submit to the Engineer 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 Engineer for approval an updated Program at intervals no longer than the period stated in the **Special Conditions of Contract**. If the Contractor does not submit an updated Program within this period, the Engineer may withhold the amount stated in the **Special Conditions of Contract** 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 Engineer’s approval of the Program shall not alter the Contractor’s obligations. The Contractor may revise the Program and submit it to the Engineer again at any time. A revised Program shall show the effect of Variations and Compensation Events.

## Extension of the Completion Date

28.1 The Contracting Authority shall extend the Completion Date if a Compensation Event occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Completion Date without the Contractor taking steps to accelerate the remaining work, which would cause the Contractor to incur additional cost.

28.2 The Contracting Authority shall decide whether and by how much to extend the Completion Date within 28 days of the Contractor asking the Engineer 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 within 28 days, the delay by this failure shall not be considered in assessing the new Completion Date.

## Delays Ordered by the Engineer

29.1 The Engineer may instruct the Contractor to delay the start or progress of any activity within the Works. In this case, this matter is dealt with in accordance with Clause 42 of the general Conditions of Contract.

## Early Warning

30.1 The Contractor shall warn the Engineer 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 Engineer 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.

30.2 The Contractor shall cooperate with the Engineer 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 Engineer.

# Quality Control

## Identifying Defects

31.1 The Engineer 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 Engineer may instruct the Contractor to search for a Defect and to uncover and test any work that the Engineer considers may have a Defect.

## Tests

32.1 If the Engineer 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.

## Correction of Defects

33.1 The Contracting Authority shall give notice to the Contractor of any Defects before the end of the Maintenance Period, which begins at Completion, and is defined in the Special Conditions of Contract. The Maintenance Period shall be extended for as long as Defects remain to be corrected.

33.2 Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Contracting Authority’s notice.

## Uncorrected Defects

34.1 If the Contractor has not corrected a Defect within the time specified in the Contracting Authority’s notice, the Contracting Authority will assess the cost of having the Defect corrected, and the Contractor will pay this amount.

# Cost Control

## Bill of Quantities[[12]](#footnote-12)

35.1 The Bill of Quantities shall contain items for the construction, installation, testing, and commissioning work to be done by the Contractor.

35.2 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.

## Changes in the Quantities[[13]](#footnote-13)

36.1 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 1 percent of the Initial Contract Price, the Engineer shall adjust the rate to allow for the change.

36.2 The Engineer 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 Contracting Authority.

36.3 If requested by the Engineer, the Contractor shall provide the Engineer with a detailed cost breakdown of any rate in the Bill of Quantities.

## Variations

37.1 All Variations shall be included in updated Programs[[14]](#footnote-14) produced by the Contractor.

## Payments for Variations

38.1 The Contractor shall provide the Engineer with a quotation for carrying out the Variation when requested to do so by the Engineer. The Engineer shall assess the quotation, which shall be given within seven days of the request or within any longer period stated by the Engineer and before the Variation is ordered.

38.2 If the work in the Variation corresponds with an item description in the Bill of Quantities and if, in the opinion of the Engineer, the quantity of work above the limit stated in Sub-Clause 36.1 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[[15]](#footnote-15).

38.3 If the Contractor’s quotation is unreasonable, the Engineer may order the Variation and make a change to the Contract Price, which shall be based on the Engineer’s own forecast of the effects of the Variation on the Contractor’s costs.

38.4 If the Engineer 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.

38.5 The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning.

## Cash Flow Forecasts

39.1 When the Program is updated, the Contractor shall provide the Engineer with an updated cash flow forecast.

## Payment Certificates

40.1 The Contractor shall submit to the Engineer monthly statements of the estimated value of the work executed less the cumulative amount certified previously.

40.2 The Engineer shall check the Contractor’s monthly statement and certify the amount to be paid to the Contractor.

40.3 The value of work executed shall be determined by the Engineer.

40.4 The value of work executed shall comprise the value of the quantities of the items in the Bill of Quantities completed.

40.5 The value of work executed shall include the valuation of Variations and Compensation Events.

40.6 The Engineer 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.

## Payments

41.1 Payments shall be adjusted for deductions for advance payments and retention. The Contracting Authority shall pay the Contractor the amounts certified by the Engineer within 28 days of the date of each certificate. If the Contracting Authority 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 on the Iraqi Dinar.

41.2 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.

41.3 Items of the Works for which no rate or price has been entered in will not be paid for by the Contracting Authority and shall be deemed covered by other rates and prices in the Contract.

## Compensation Events

42.1 The following shall be Compensation Events, when:

(a) The Contracting Authority does not give access to a part of the Site by the Site Possession Date stated in the **Special Conditions of Contract**.

(b) The Contracting Authority modifies the Schedule of Other Contractors in a way that affects the work of the Contractor under the Contract.

(c) The Engineer orders a delay or does not issue Drawings, Specifications, or instructions required for execution of the Works on time.

(d) The Engineer instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects.

(e) The Engineer unreasonably does not approve a subcontract to be let.

(f) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Letter of Award from the information issued to bidders (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site.

(g) The Engineer gives an instruction for dealing with an unforeseen condition, caused by the Contracting Authority, or additional work required for safety or other reasons.

(h) Other contractors, public authorities, utilities, or the Contracting Authority 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 Contracting Authority’s Risks.

(k) The Engineer unreasonably delays issuing a Taking-over Certificate.

(l) Other Compensation Events described in the Contract or determined by the Engineer shall apply.

42.2 If a Compensation Event would cause additional cost or would prevent the work being completed before the Completion Date, the Contract Price shall be increased and/or the Completion Date shall be extended. The Engineer shall decide whether and by how much the Contract Price shall be increased and whether and by how much the Completion Date shall be extended.

42.3 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 Engineer, and the Contract Price shall be adjusted accordingly. If the Contractor’s forecast is deemed unreasonable, the Engineer shall adjust the Contract Price based on the Engineer’s own forecast. The Engineer will assume that the Contractor will react competently and promptly to the event.

42.4 The Contractor shall not be entitled to compensation to the extent that the Contracting Authority’s interests are adversely affected by the Contractor’s not having given early warning or not having cooperated with the Engineer.

## Tax

43.1 The Contracting Authority 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 Final Taking-over Certificate. The adjustment shall be the change in the amount of tax payable by the Contractor.

## Retention

44.1 The contracting authority must deduct 10% of each interim payment due to the contractor, provided that the sum of the deduction does not exceed 5% of the contract value.

44.2 On completion of the whole of the Works, half the total amount retained shall be repaid to the Contractor and half when the Maintenance Period has passed and the Engineer has certified that all Defects notified by the Engineer to the Contractor before the end of this period have been corrected.

44.3 On completion of the whole Works, the Contractor may substitute retention money with an “on demand” Bank guarantee.

## Liquidated Damages

45.1 The Contractor shall pay liquidated damages to the Contracting Authority at the rate per day stated in the **Special Conditions of Contract** for each day that the Completion Date is later than the Completion Date. The total amount of liquidated damages shall not exceed the amount defined in the **Special Conditions of Contract**. The Contracting Authority may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor’s liabilities.

45.2 The amount of liquidated damages may be reduced according to the percentage of completion of the contractual obligations specified in the time program to implement the Contract. But the work performed must be in conformity with the specifications and conditions of the contract and ready for use according to these conditions.

45.3 If the Completion Date is extended after liquidated damages have been paid, the Engineer shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate.

## Advance Payment

46.1 If it is stipulated in the **Special Conditions of Contract,** the Contracting Authority shall make advance payment to the Contractor of the amounts stated in the **Special Conditions of Contract** by the date stated in the **Special Conditions of Contract**, against provision by the Contractor of a Bank Guarantee in amounts in Iraqi Dinar equal to the advance payment. The Guarantee shall be unconditional in a form and issued by a Bank accepted to the Contracting Authority. The Bank Guarantee must 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.

46.2 The Contractor is to use the advance payment only to pay for Equipment, Plant, Materials, and mobilization 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 Engineer.

46.3 The advance payment shall be repaid by deducting proportionate amounts from payments otherwise due to the Contractor, as specified in the **Special Conditions of Contract**. No account shall be taken of the advance payment or its repayment in assessing valuations of work done, Variations, price adjustments, Compensation Events or Liquidated Damages.

## Securities

47.1 The Contractor shall provide to the Contracting Authority Performance Security no later than the date specified in the Letter of Award. The Performance Security shall be issued in an amount and form and by a bank acceptable to the Contracting Authority, and in percentage specified in the **Special Conditions of Contract** and denominated in the currency in which the Contract Price is payable denominated in the currencies in which the Contract Price is payable. The Performance Security shall be valid until a date 28 days from the date of issue of the Final Taking-over Certificate of the Works.

## Cost of Repairs

48.1 Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Maintenance Period shall be remedied by the Contractor at the Contractor’s cost if the loss or damage arises from the Contractor’s acts or omissions.

# Finishing of the Contract

## Completion of the Works

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

## Taking Over

50.1 The Contracting Authority shall take over the Site and the Works within seven days of the Engineer’s issuing a certificate of Completion.

## Withdrawal of Works (entry of the Contracting Authority into the Works)

51.1 Withdrawing the work: The Contracting Authority may, after serving 14 days’ notice in writing to the Contractor enter into the Site, takeover the Works, confiscate the performance security and expel the Contractor therefrom in any of the following cases:

1. If the Contractor submits a request of declaration of its bankruptcy or insolvency.
2. If the Contractor goes bankrupt or announces its insolvency.
3. In case of issue of court order to have Contractor’s belongings subjected to bankruptcy or placed under trust.
4. If the Contractor is proven to have being involved in corruption and fraud indicated in GCC (73).
5. If the Contractor enters into agreement to settle or transfer its rights in favor of its creditors.
6. If the Contractor accepted to execute the Contract under the control of a supervision committee consisting of its creditors.
7. If the Contractor announces termination of its company except for merger or restructuring purposes.
8. In case of sequestration of the Contractor’s assets by a specialized court, which results in the Contractor’s inability to proceeding with its Contract obligations,
9. In case of Engineer’s written notice to Contracting Authority, contents of which includes:
10. The Contractor has abandoned the implementation of the Contract.
11. The Contractor has become unable to continue with the Works without any reasonable cause or has halted the progress of the Works for a term of thirty (30) days after having received written warning from the Engineer to continue with the Works.
12. The Contractor has failed to have materials removed from Site or Works dismantled and replaced properly, within thirty (30) days following receipt of a written notice from the Engineer, stating that it was decided that such materials or works have been rejected under the Contract.
13. The Contractor has failed to have the Works performed in accordance with the Contract or has, through negligence and willful misconduct failed to execute its obligations under the Contract.
14. The Contractor has failed to rectify any defects resulting from any work sublet to any Sub-contractor.
15. The Contractor has delayed completion of the Works for a period exceeding the permitted maximum limit for which lump sum compensation is to be paid under the delay damages clause).

The Contracting Authority's withdrawal of the Works, entry into the Site, taking over of the Works and the Contractor's expulsion therefrom under the aforesaid cases shall not be considered as termination of the Contract or the release of the Contractor from any of his obligations or liabilities under the Contract or considered as affecting the rights and powers of the Contracting Authority or the Engineer under the Contract. The Contracting Authority may itself complete the Works or may employ any other contractor to complete the Works and the Contracting Authority or such other contractor may use for such completion the Construction Equipment and Temporary Works and materials which have been deemed to be reserved exclusively for the construction and completion of the Works under the provisions of the Contract in the manner that the Contracting Authority and other contractors may consider proper. The Contracting Authority may at any time sell any of the said Construction Equipment and Temporary Works and surplus materials and apply the proceeds of such sale for or towards the fulfillment of any amounts due or which may become due to the Contracting Authority on account of the Contractor under the Contract.

51.2 Valuation at Date of Withdrawal of Works: The Engineer shall, as soon as may be practicable after entry into the Site and expulsion of the Contractor by the Contracting Authority and before starting to complete the Works, conduct such assessments and enquiries pursuant to Sub-Clause 51.3 below, determine in agreement with the Contractor, the amount that the Contractor reasonably is entitled to, at the time of such entry, in respect of Works actually performed by the Contractor and the value of any of the compliant unused or partially used materials on site and the Construction Equipment and Temporary Works. Such amount is to be taken into consideration in settlement of Contractor's account.

51.3 Settlement of Contract Account after Withdrawal of Works: If the Contracting Authority enters upon the Site and undertakes the Works and expels the Contractor pursuant to this Clause, the Contracting Authority shall not be liable to pay to the Contractor any amount on account of the Contract until the expiration of the Maintenance Period and Engineer shall:

1. determine the amounts paid to the Contractor prior to withdrawal of Works, and
2. add the costs of completion of Works and maintenance thereof, delay damages (if any) and all other expenses incurred by the Contracting Authority including, overhead charges indicated in Contract Special Conditions, and
3. then deduct the sum of the amounts in (a) and (b) above from the amounts that the Engineer certifies as would have been due to the Contractor if the Works have been performed in accordance with the Contract, then

51.4 If the Contractor’s account was found creditor, then such due amount difference shall be paid to him. However, if the sum of the amounts paid to the Contractor and disbursed on his account in (a) and (b) above exceed the sum which would have been payable to the Contractor on due completion, then the Contractor shall upon demand pay to the Contracting Authority the amount of such excess and it shall be deemed as a debt due on account of the Contractor to the Contracting Authority and shall be recoverable accordingly.

## Final Account

52.1 The Contractor shall supply the Engineer with a detailed account of the total amount that the Contractor considers payable under the Contract before the end of the Maintenance Period. The Engineer shall issue a Final Taking-over 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 Engineer 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 Engineer shall decide on the amount payable to the Contractor and issue a payment certificate.

## Operating and Maintenance Manuals

53.1 If “as built” Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates stated in the **Special Conditions of Contract**.

53.2 If the Contractor does not supply the Drawings and/or manuals by the dates stated in the Special Conditions of Contract, or they do not receive the Engineer’s approval, the Engineer shall withhold the amount stated in the **Special Conditions of Contract** from payments due to the Contractor.

## Termination of the Contract by the Contracting Authority

54.1 The Contracting Authority may terminate this Contract, by not less than 28 days of written notice of termination to the Contractor, which must be submitted after any of the events specified in paragraphs (a) to (c) below:

* 1. The Contractor has stopped working for 28 days when no stoppage of work appears in the current program and the suspension has not been authorized by the Engineer;
	2. If the Contractor becomes bankrupt, it means proclaim bankruptcy;
	3. When the Contractor does not maintain the Performance Security as effective, as required;
	4. If the Contractor has been unable to perform a material portion of the Works for a minimum of 56 days due to Force Majeure,
	5. If it is proven that the Contractor, at the discretion of the Contracting Authority, has been involved in corrupt or fraudulent practices in competing for the Contract or during the performance of the Contract.

54.2 Notwithstanding the foregoing, the Contracting Authority may terminate the contract for the public interest.

54.3 If the Contract is terminated, the Contractor must stop work immediately, leave the site safe, and leave the site as soon as possible.

## Termination of the contract by the contractor

55.1 The contractor may terminate this contract, by not less than 28 days of written notice submitted to the Contracting Authority. This notice must be provided after any of the events specified in paragraphs (a), (b) and (c) below:

* 1. If the Contracting Authority fails to pay any money due to the contractor in accordance with this contract, and within 42 days of receiving a written notice from the Contractor that this payment is overdue;
	2. If, as a result of Force Majeure, the Contractor becomes unable to perform a material portion of the work for a period of at least 56 days; and
	3. If the suspension of works by the Contracting Authority or the Engineer continues for a continuous period exceeding 90 days for reasons not attributable to the work of the Contractor, and the Contracting Authority and the Contractor have not been able to agree on a suitable solution to resume the work in full within a reasonable period.

## Payment upon Termination

56.1 If the contract was terminated due to a fundamental breach of Contract by the Contractor, the Engineer must issue a certificate for the value of the work performed and the required materials minus the amount of the advance payment up to the date of issuance of the certificate. The Contracting Authority has the right to complete the remaining works, either by direct execution with its own resources or through another Contractor at the expense of the Contractor. The cost of completing the remaining works will be deducted, plus the percentage stipulated in the **Special Conditions of Contract**, which represent the administrative expenses of the Contracting Authority. No additional delay penalties. If the total amount due to the Contracting Authority exceeds any payments due to the Contractor, the difference must be a debt owed to the Contracting Authority.

56.2 If the Contract is terminated for the Contracting Authority’s convenience or because of a fundamental breach of Contract by the Contracting Authority, the Engineer 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 payment amounts recovered up to the date of the certificate.

## The Force Majeure

57.1 The force majeure according to this paragraph means any exceptional event:

1. Beyond the control of any of the parties to the contract;
2. None of the parties can reserve it before the contract is signed;
3. If it happens, no party can avoid it or control it;
4. It can't be attributed to the other side.

Force Majeure may include, but is not limited to, exceptional events or circumstances of the type listed below, as long as the conditions from (a) to (d) above are met:

1. Hostile acts of declared or undeclared war, invasion or other acts of chaos and disorder in which the Contractor's employees, agents or subcontractors have no hand;

2. What results from contamination by ionic or nuclear radiation, explosions or by compressive currents resulting from means of transport that fly at sound or ultrasonic speed;

3. The result of natural disasters that the contractor cannot foresee or take precautionary measures to avoid or insure against them.

## Property

58.1 All Materials on the Site, Plant, Equipment, Temporary Works, and Works shall be deemed to be the property of the Contracting Authority if the Contract is terminated because of the Contractor’s default.

## Release from Performance

59.1 If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the Contracting Authority or the Contractor, the Engineer 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 paid for all work carried out before receiving it and for any work carried out afterwards to which a commitment was made.

## Corruption and Fraud

60.1 The Contracting Authority requires that Bidders and Contractors maintain ethical standards during the contract execution process. In order to achieve this policy:

1. The Contracting Authority adopts the definitions in paragraphs (16 to 20) of Article 1 of the Public Procurement Regulations No. 2, of 2016
2. The Contracting Authority has the right to punish (individuals or companies), including disqualification from participating in government Contracts in accordance with the procedures of debarment of participation, if they are found to be directly or through an intermediary in any corrupt practices during competition or during the implementation of a Contract funded by the Contracting Authority.
3. The Contracting Authority has the right to terminate the Contract if the Contractor is found to have been directly or through an intermediary in any corrupt practices during the execution of the contract.

The Contracting Authority has the right to include in the Bidding Documents and Contracts a condition obliging Bidders such as Suppliers, Contractors and Consultants to allow the Contracting Authority or its designated auditors to disclose or audit their accounts, records or any documents related to the bid submission and execution of the Contract.

**Section VII. Special Conditions of Contract**

Unless otherwise stated, the Contracting Authority must fill all the Special Conditions of Contract before issuing Bidding Documents. Schedules and reports to be submitted by the Contracting Authority must be attached. The information entered below must correspond to the information included in the Invitation for Bids.

| **Number of GC Clause**  | **Amendments of, and Supplements to, Clauses in the General Conditions of Contract** |
| --- | --- |
| **1.1** | Name and Identification of the Contract \_\_\_\_\_\_\_\_\_[*Insert name and identification of the contract*] |
| The Contracting Authority is:Name: \_\_\_\_\_\_\_\_\_\_\_ [*Insert name of contracting authority*]Address: \_\_\_\_\_\_\_\_\_\_ [*Insert address of contracting authority*]Name of Authorized person: [*Insert name of authorized person*] |
| Project Completion Period for the whole of the Works shall be *[insert period, number]* months. |
| The Engineer is:Name: \_\_\_\_\_\_\_\_\_\_\_ [*Insert name*]Address: \_\_\_\_\_\_\_\_\_ [*Insert address*] |
| The Site is located \_\_\_\_\_\_\_\_\_\_\_ [*Insert location*] as defined in the drawings no. [*Insert number of drawings*] |
| The Start Date of executing the Works *[insert number of days from the date of site possession of any other requirements such as completing the advance payment procedures]* |
| The Works consist of *[brief summary, including relationship to other contracts under the Project, if any]*. |
| **2.2** | If different dates are set for the completion of the works on sections ("Complete by sections"), [*Insert a table that describes the section, the Completion Date for each section*]. |
| **2.3** | The following documents also form part of the Contract: *[list documents]* |
| **3.1**  | The language is *\_\_\_\_\_\_\_\_\_\_\_\_\_\_* [*Specify Arabic / Kurdish*]The Applicable Law is the Law of Kurdistan Regional Government |
| **8.1**  | Schedule of other Contractors [*Insert Schedule*]The facilities and services required for them [enter the required facilities and services]. [*Examples:* 1. *Provide a suitable office.*
2. *Provide a plot of land for equipment and store building materials for use in works.*
3. *Help obtain any permits.*
4. *Assist in the customs clearance of any equipment, or materials imported from abroad for the purposes of the contract*].
 |
| **9.1** | Key Personnel [*Insert a table of names of Contractor’s Key Personnel and respective duties*]. |
| **13.1** | The minimum insurance covers shall be:(a) The maximum deductible for insurance of the Works and of Plant and Materials is *[amount]*.(b) The minimum cover for insurance of the Works and of Plant and Materials in respect of the Contractor’s faulty design is *[amount]*.(c) The maximum deductible for insurance of Equipment is *[amount]*.(d) The minimum cover for loss or damage to Equipment is *[amount]*.(e) The maximum deductible for insurance of other property is *[amount]*.(f) The minimum for insurance of other property is *[amount]*.(g) The minimum cover for personal injury or death insurance(i) for the Contractor’s employees is *[amount]*; and(ii) for other people is *[amount]*. |
| **14.1**  | On-site investigation reports are Soil Investigation Reports [*Insert, if any*]. |
| **21.1** | The Site Possession Date shall be is [*Insert the date*].If the works are divided into sections, the Site Possession Date shall be in sections [*Insert a table showing the Site Possession Date of each section*]. |
| **25.2**  | Adjudicator hourly fee [*Insert amount*]Types of reimbursable expenses to be paid to the Adjudicator: [*Insert types of reimbursable expenses*]. |
| **26.1** | Appointing Authority for the Adjudicator: [*Insert name of Authority*].It is preferable that the Appointment Authority be an independent professional institution or the responsible for this institution. |
| **27.1** | The Contractor must submit a program to the Engineer within a period of [*Insert the duration in days, usually within 28 hours of the Start Date of the works under Sub-Clause 1.1 above*] |
| **27.3** | The period between Program updates is *[Insert number usually 28]* days.The amount to be withheld for late submission of an updated Program is [*Insert amount, it is possible to withhold 12 million Iraqi dinars*] |
| **33.1/1.1** | Maintenance period is [*Insert number*] days[*The maintenance period is usually limited to 365 days and not more than two years in the event of extension, but may be less in very minor cases*]. |
| **45.1**  | Liquidated damages: The Contractor must pay the Contracting Authority [*Insert percentage of the final Contract price*] for each delay day. The amount of delay fines can be reduced according to the completion rates of contractual obligations specified in the contract execution time program. However, the work done must conform to the specifications and conditions of the contract and are ready for use under these terms. |
| **46.1** | Advance payment [*Insert "will" "or not"*] be made to the Contractor to mobilize sources, materials and supplies.If it is to be paid on the Commencement Date of the Works against provision by the Contractor of a Bank Guarantee for the advance payment provided according to the advance payment guarantee form in section VIII - Contract Forms, the amount of the advance payment is: [*Insert a percentage, usually ten (10) percent of the Contract amount*] |
| **46.3**  | The amortization of the Advance Payment mentioned above shall commence when the progress payments have reached 20% of the contract price and be completed when the progress payments have reached 80% of the contract price. |
| **47.1** | The Performance Security must be with the following minimum equivalent amounts as a percentage \_\_\_\_\_\_\_\_\_\_\_\_\_\_ [insert percentage] of the Contract amount.[*The Performance Security is usually set at an amount equivalent to between 5 to 10 percent of the Contract amount for the bank guarantee*] |
| **53.1** | The date by which “as built” drawings and/or operating and maintenance manuals are required is *[Insert date]*. |
| **53.2** | The amount that should be withheld for not submitting “as built” drawings and / or operation and maintenance manuals by the required date is [*Insert the amount in local currency, it is possible to withhold an amount of 12 million Iraqi dinars*] from payments due to the Contractor. |
| **56.1** | The percentage of the administrative expenses of the Contracting Authority to complete the remaining works \_\_\_\_\_\_\_\_\_ [*Insert the percentage, usually not exceeding 20% of the cost of the remaining works*]. |

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# Notice of Intention to Award

*[This notice of intention to award to be prepared on the*

*Letterhead of the Contracting Authority]*

**Notes on the standard form of Notice of Intention to Award**

According to Article 37 of the Public Procurement Regulations No. (2) of 2016, the Contracting Authority shall send a Notice of Intention to Award to the winning Bidder as soon as possible and before the Bid expires. At the same time, inform the rest of the Bidders of the name of the Bidder nominated for the award and the Bid price. No action shall be taken to sign the Contract except after the expiry of the specified period of seven days from the date of notice.

*]Date]*

To: [*Name and Address of the Contractor*]

**Subject: Notice of Intention to Award**

With reference to your Bid of number [*number*] and dated in [*date*] for the implementation of [*name and number of the Bid*], is acceptable to our organization.

Accordingly, we send you this notice with the intention to award the Bid [*insert the name and number of the Bid*] to you with the amount of your bid.

[*Amount in numbers and words*] as corrected and modified.

Our organization will not take any action to sign the Contract until after the expiry of the specified stopping period of seven (7) days from the date of this notice.

This notice does not constitute a letter of award of the Bid.

Name of Responsible Person:

Name of the Contracting Authority:

Title of Signatory:

Copy of to:

[*Insert name of winning Bidders*]

# Standard Form: Letter of Award

*[This Letter of award to be prepared on the Letterhead of the Contracting Authority]*

**Notes on the standard form of Letter of Awad**

The letter of award will constitute a Contract binding on the parties as described in Sub-Clause 32.4 of the Instructions for Bidders. This standard form of the letter of award must be filled out and sent to the winning Bidder only 7 days after the notice is issued with the intention to award.

[*Number*]

[*Date*]

To: [*Name and Address of the Contractor*]

This is to inform you that your Bid number [*Insert* *number Letter of Bid*] and dated on [*date*] for the implementation of [*name and number of the Bid*], is acceptable to our organization.

Accordingly, you must (a) attend within (not more than 28 days) a day after receiving this Letter of Award and according to the general conditions of contract Clause 5 for the purpose of signing the attached Contract, and (b) provide Performance Security in accordance with the Instructions for the Bidders Sub-Clause (33.1) and the attached form with the presentation of the stamp fee at (0.002) of the award amount, which is equivalent to [*write the number in writing and number*].

Therefore, you have to proceed with the implementation of the Services in accordance with the Contract document.

Name of Responsible Person:

Name of the Contracting Authority:

Title of Signatory:

Copy of to:

**Attachment:** The Contract

####

# Standard Form: Form of Contract

*[Letterhead of the Contracting Authority]*

**Notes on Standard Form of Contract**

The Contract should incorporate any corrections or modifications to the Bid resulting from corrections of errors (Instructions to Bidders, Clause 28), selection of an alternative completion period (Invitation for Bids Sub-Clause 18.1), or any other mutually-agreeable changes allowed for in the Conditions of Contract, such as changes in key personnel, subcontractors, scheduling, and the like.

**The Contract**

First party: [name and address of the contracting authority]

Second party: [name and address of the contractor]

[***Note****: In the text below text in brackets is optional; all notes should be deleted in final text*. *If the Contractor consist of more than one entity, the above should be partially amended to read as follows:* “…(hereinafter called the “Contracting Authority”) and, on the other hand, a joint venture consisting of the following entities, each of which will be jointly and severally liable to the Contracting Authority for all the Contractor’s obligations under this Contract, namely, *[name of Contractor]* and *[name of Contractor]* (hereinafter called the “Contractor”).]

Whereas, the Contracting Authority wishes that the Contractor executes [*the name and number of the contract*] (hereinafter referred to as “Works”) and the Contracting Authority accepted the Bid submitted by the Contractor to implement and complete these actions and remedy any defects therein.

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 Conditions of Contract hereinafter referred to, and they shall be deemed to form and be read and construed as part of this Agreement.
2. In consideration of the payments to be made by the Contracting Authority to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Contracting Authority to execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract.
3. The Contracting Authority hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects wherein the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.
4. The following documents will form the contract between the Contracting Authority and the contractor. The documents must be interpreted in the following order of priority:
5. Form of Contract
6. Letter of Award;
7. Contractor’s Bid
8. Special Conditions of Contract;
9. General Conditions of Contract;
10. Technical Specifications;
11. Drawings;
12. Bill of Quantities; and
13. Any other documents or annexes specified in the Special Conditions of Contract as part of the contract.

This form of Contract prevails over all other contract documents, and in the event of a conflict or inconsistency between the contract documents, the documents shall prevail in the order of priority above.

The two parties who signed this Contract undertake to implement it according to the laws in force in the Region on [*the day*] of the month [*of the month*], [*year*].

For and on behalf of the Contracting Authority:

Name of the Contracting Authority:

Name and title of Signatory:

For and on behalf of the Contractor:

Signature of the authorized person:

Name and title of Signatory:

Note:

[If the Contractor is a joint venture, all members of the joint venture must sign the Contract jointly and severally liable for the execution of the Contract.

**The Contracting Authority should not accept that the named joint venture authorized partner sign the Contract individually on behalf of each member of the Contractor joint venture Company**]

We, the members of the joint venture company, jointly and severally sign the Contract:

[Name of authorized member] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[The position of authorized member] \_\_\_\_\_\_\_\_\_\_\_\_\_

[Signature] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Name of authorized member] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[The position of authorized member] \_\_\_\_\_\_\_\_\_\_\_\_\_

[Signature] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# Performance Security

 **(Unconditional Bank Guarantee)**

To: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

Whereas *\_\_\_\_\_* (hereinafter called “the Copntractor”) has undertaken, in pursuance of Contract No. *\_\_\_\_\_\_\_\_* dated *\_\_\_\_\_\_\_\_* to execute *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* (hereinafter called “the Contract”);

And whereas it has been stipulated by you in the said Contract that the Contractor shall furnish you with a Bank Guarantee by an accredited bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract;

And whereas we have agreed to give the Contractor such a Bank Guarantee;

We hereby affirm that we are the Guarantor and responsible to you, on behalf of the Service Provider, up to a total of *\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_*, [[16]](#footnote-16)such sum being payable in Iraqi Dinar, and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of *\_\_\_\_\_\_\_\_\_\_\_\_\_\_* as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of claiming the said debt from the Contractor before submitting the application to us.

We further agree that no change or addition to or other modification of the Conditions of Contract or of the Works to be performed there under 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 Performance Security shall expire no later than the *[insert number*[[17]](#footnote-17)*]* day of *[insert month]* *[insert year]*, and any demand for payment under it must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 458, except that the supporting statement under Sub-Article (2) of Sub-Article 20 (a) is hereby excluded.

Signature and seal of the Guarantor

Name of Bank

Address

Date

[Note: All oblique texts (footnotes) are intended for preparing this form and must be deleted from the final version].

# Advance Payment Bank Guarantee

To: *\_\_\_\_\_\_*

Gentlemen:

In accordance with the provisions of the Conditions of Contract, Clause 46 (“Advance Payment””) of the above-mentioned Contract, [*Insert name and address of theContractor*] (hereinafter called “the Contractor”) shall deposit with [*Insert name of the Contracting Authority*] a Bank Guarantee to guarantee his proper and faithful performance under the said Clause of the Contract in an amount of [*amount of security in figures*] [*amount in words*].

We, the [*Insert name of the Bank/Financial Institution*], as instructed by the Service Provider, agree unconditionally and irrevocably to guarantee as primary obligator and not as Surety merely, the payment to [*Insert name of the Contracting Authority*] on its first demand without whatsoever right of objection on our part and without its first claim to the Service Provider, in the amount not exceeding [*amount of security in figures*] [*amount in words*].

We further agree that no change or addition to or other modification of the Conditions of Contract or of Works to be performed there under 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.

The claimed payment under this security shall be conditional that the Contractor has already received the advance payment and deposited in his account number *[insert number]* at *[insert name and address of the bank]*

This Guarantee shall remain valid and in full effect from the date of the advance payment under the Contract until [*Insert name of the Contracting Authority*]receives full repayment of the same amount from the Service Provider.

This guarantee is subject to the Unified Laws for Requesting Guarantees, International Chamber of Commerce Issues No. (458).

Yours truly,

Signature and seal:

Name of Bank/Financial Institution:

Address:

Date:

Attachment: Invitation for Bids (IFB)

Invitation for Bid is usually issued (see Public Procurement Regulation Article 22 - publication of advertisement) as follows:

The advertisement or the Invitation for the national competitive bidding is to be published in at least once in two daily national newspapers of wide circulation in the Region as well as on the official single-portal website established pursuant to article 70-Tenth and Eleventh.

The purpose of the advertisement is to provide information to potential Bidders to enable them to decide on their participation. Apart from the essential items listed in these Sample Bidding Documents, the Invitation for Bids should also indicate any important or unusual bid evaluation criteria (for example, the application of a margin of preference in bid evaluation).

The Invitation for Bids may be incorporated in the bidding documents merely for the record, or it may be omitted. In either case, the information contained in the Invitation for Bids should conform to the bidding documents, and in particular, to the relevant information in the Bidding Data Sheet and the Special Conditions of Contract.

The information contained in the Invitation for Bids (IFB) must match the corresponding information in the Bidding Data Sheet (BDS), for example, the name of the Contracting Authority, the validity of the Bid, the validity of the Bid Security, address for bid submission, the time and date of bid submission and bid opening, ... Etc.

**Annex: Advertisement Form Invitation for Bids**

Name of Contracting Authority: [*Insert name of Contracting Authority*]

Name of Tender: [*Insert name of Tender*]

Identification Number of tender: [*Insert Identification Number of Tender*]

1. The [*insert name of Contracting Authority*] now invites sealed bids from eligible and qualified bidders for the execution of [*insert brief description of required Works for execution*] *[Insert brief description for all the lots comprising the Bid*] *[[18]](#footnote-18)*. The duration of execution of Works / Lots is [*Insert number of days/months/years or dates*].
2. Bidding will be conducted through [*Insert National Competitve Bidding (NCB)*] procedures set forth in the Public Procurement Regulation No. (2) Year 2016, and is open to all eligible Bidders.
3. The winning Bidder must posses the required qualifications, these are*: [Enter a brief description of the qualifications specified in Section III, in the Bidding Documents].*
4. Interested eligible bidders may obtain further information from *[insert full legal name of the Contracting Authority; insert name and e-mail of officer in charge]* and inspect the Bidding Documents at the address given below from *[insert beginning of office hours]* to [*insert end of office hours*] Sunday through Thursday.
5. A complete set of Bidding Documents in *[insert name of language(s)]* may be purchased by interested Bidders upon the submission of a written Application to the address below and upon payment of a non refundable fee *[insert amount in local currency]*. The method of payment will be *[insert method of payment[[19]](#footnote-19)]*.
6. Bids shall be valid for a period [*insert number of days*] days beyond the deadline of bid submission. Bids should be accompanied by [*insert one of the options*] “Bid Security in the amount [*insert amount*][[20]](#footnote-20) in local currency valid for [*Insert number*] days beyond Bid validity” or “Bid-Securing Declaration” in accordance with the Form included in Bidding Documents.

1. Bids must be delivered to the address below *[Insert address]*[[21]](#footnote-21) at or before *[insert time and date]*. Electronic bidding [Insert “*will*” or “*will not”]* be permitted. Bids will be opened in the presence of the Bidders’ representatives who choose to attend. Late bids will be rejected.
2. The Contracting Authority is not obliged to accept the lowest priced bids at the expense of technical specifications and qualification requirements.
3. The winning Bidder shall bear the costs of advertisement of the invitation for bid.

Contracting Authority: [*Insert name of Contracting Authority]*

E-mail: *[insert electronic address]*

Attention: [*Insert name of person in charge*]

Telephone number: [*Insert telephone number*]

Department: [*Insert department name]*

Floor number: [*Insert floor number*]

Room number: [*Insert room number*]

Street address: [*Insert street address*]

City: [*Insert name of the city*]

Country: [*Insert name of country*]

Zip code: [*Insert zip code*]

1. Lump sum contracts should be used for Works that can be defined in their full physical and qualitative characteristics before bids are called, or where the risks of substantial design variations are minimal—usually construction of buildings, pipelaying, power transmission towers and series of small structures, such as bus shelters or school ablution units. In lump sum contracts, the concept of priced “activity schedules” has been introduced, to enable payments to be made as “activities” are completed. Payments can also be made on the basis of percentage completion of each activity. [↑](#footnote-ref-1)
2. It is therefore important that the Contracting Authority maintain a complete and accurate list of the names and addresses of the Bidders who purchased the Bidding Documents. [↑](#footnote-ref-2)
3. In total sum contracts, delete "Bill of Quantity” and replace it "Activity Schedule". [↑](#footnote-ref-3)
4. In lump sum contracts, delete the words "described in the quantity table" and replaced "described in the charts and specifications and included in the activity schedule." [↑](#footnote-ref-4)
5. In Lump Sumcontracts, delete "Unit Prices" and replace them with "Prices in Activity Schedule". [↑](#footnote-ref-5)
6. The Contracting Authorities may not reject bids or cancel contracting procedures, except as permitted in the Public Procurement Regulations. [↑](#footnote-ref-6)
7. For contracts under which the Applicant participated as a joint venture member or sub-contractor, only the Applicant’s share, by value, shall be considered to meet this requirement. [↑](#footnote-ref-7)
8. In the case of JV, the value of contracts completed by its members shall not be aggregated to determine whether the requirement of the minimum value of a single contract has been met. Instead, each contract performed by each member shall satisfy the minimum value of a single contract as required for single entity. In determining whether the JV meets the requirement of total number of contracts, only the number of contracts completed by all members each of value equal or more than the minimum value required shall be aggregated.

Guidance notes for the author of the document, should not appear in the final tender document: [↑](#footnote-ref-8)
9. The Contracting Authority fills the duration when preparing the Bidding Document. [↑](#footnote-ref-9)
10. In the Lump Sum contracts, delete the "Bill of Quantities" and replace it with "Activity Schedule" in this section. [↑](#footnote-ref-10)
11. In lump sum contracts, delete “Bill of Quantities” and replace with “Activity Schedule”. [↑](#footnote-ref-11)
12. In lump sum contracts, delete “Bill of Quantities” and replace with “Activity Schedule,” and replace Sub-Clauses 35.1 and 35.2, as follows:

35.1 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.

35.2 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. [↑](#footnote-ref-12)
13. In lump sum contracts, delete “Bill of Quantities” and replace with “Activity Schedule,” and replace entire Clause 36 with new Sub-Clause 36.1, as follows:

36.1 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. [↑](#footnote-ref-13)
14. In lump sum contracts, add “or Activity Schedule” after “Program”. [↑](#footnote-ref-14)
15. In lump sum contracts, delete this paragraph. [↑](#footnote-ref-15)
16. The guarantor must include an amount that represents the percentage of the contract price specified in the contract. [↑](#footnote-ref-16)
17. Insert 28 days from the date of the Services completion period. The Contracting Authority should note that in the event of an extension of the time to perform the Contract, the Contracting Authority would need to request an extension of this Performance Security from the Bank. Such request must be in writing and must be made prior to the expiration date established in the Performance Security.

In preparing this Performance Security, the Contracting Authority might consider adding the following text to the Form, at the end of the penultimate paragraph: “We agree to a one-time extension of this Performance Security for a period not to exceed [six months] [one year], in response to the Contracting Authority’s written request for such extension, such request to be presented to us before the expiry of the Performance Security.” [↑](#footnote-ref-17)
18. A brief description of the type (types) of Works, including the duration of work executions, quantities, location of project, and other information needed to enable potential Bidders to decide whether or not to respond to the invitation. [↑](#footnote-ref-18)
19. For example, cashier’s check, direct deposit to a specified account number. [↑](#footnote-ref-19)
20. A lump sum equivalent to (1 to 3%) of the estimated cost of services, taking into consideration the nature and importance of the contract. [↑](#footnote-ref-20)
21. Enter the detailed address (addresses), including the full legal name of the Contracting Authority, enter an electronic address if electronic bidding is permitted; enter different addresses if the addresses for the purchase of Bidding Documents, bid submission and bid opening are different. However, it is preferable that bids be submitted and opened at the same address (chamber) in order to avoid the transfer of bids. [↑](#footnote-ref-21)