

Republic of Maldives

Tender Evaluation Section

Ministry of Finance and Treasury

On behalf of

Ministry of Environment and Energy

Bidding Document for

**Provision of Water Supply Facilities in Ha. Hoarafushi and H.Dh. Hanimaadhoo**

*Jul 2016*

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# **PART I - VOLUME 1**

## **BIDDING PROCEDURES**

### **SECTION I – INSTRUCTION TO BIDDERS**

This Section specifies the procedures to be followed by Bidders in the preparation and submission of their Bids. Information is also provided on the submission, opening, evaluation of bids, and on the award of contract.

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| **Section I. Instructions to Bidders** |
|  | **A. General** |
| 1. **Scope of Bid**
 | 1.1 In connection with the Invitation for Bids **specified in the Bid Data Sheet (BDS)**, the Employer, as **specified in the BDS**, issues these Bidding Documents for the procurement of Works as specified in Section VII, Works Requirements. The name, identification, and number of lots (contracts) of this International Competitive Bidding (ICB) process are **provided in the BDS.** |
|  | 1.2 Throughout these Bidding Documents:* + 1. the term “in writing” means communicated in written form and delivered against receipt;
		2. except where the context requires otherwise, words indicating the singular also include the plural and words indicating the plural also include the singular; and
		3. “day” means calendar day.
 |
| 1. **Source of Funds**
 | 2.1 The Beneficiary or Recipient (hereinafter called “Beneficiary”) **specified in the BDS** has received or has applied for financing (hereinafter called “funds”) from the OPEC Funds for International Development(OFID) (hereinafter called “the Fund”) in an amount **specified in the BDS**,. The Beneficiary intends to apply a portion of the funds to eligible payments under the contract(s) for which these Bidding Documents are issued. |
|  | 2.2 Payment by the Fund will be made only at the request of the Beneficiary and upon approval by the Fund, and will be subject, in all respects, to the terms and conditions of the financing Agreement. The financing Agreement prohibits a withdrawal from the Financing/Loan/Grants (or other financing) account for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the Fund, is prohibited by a decision of the Organization. No party other than the Beneficiary shall derive any rights from the financing Agreement or have any claim to the proceeds of the financing (or other financing). |
| 1. **Corrupt and Fraudulent Practices**
 | 3.1 The Fund requires compliance with its policy in regard to corrupt and fraudulent practices as set forth in Section VI.3.2 In further pursuance of this policy, Bidders shall permit and cause its agents (whether declared or not), sub-contractors, sub-consultants, service providers, or suppliers and any personnel thereof, to permit the Fund to inspect all accounts, records and other documents relating to any prequalification process, bid submission, and contract performance (in the case of award), and to have them audited by auditors appointed by the Fund. |
| 1. **Eligible Bidders**
 | 4.1 A Bidder may be a firm that is a private entity, a government-owned entity—subject to ITB 4.5—or any combination of such entities in the form of a joint venture (JV) under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the bidding process and, in the event the JV is awarded the Contract, during contract execution. **Unless specified in the BDS**, there is no limit on the number of members in a JV. |
|  | 4.2 A Bidder shall not have a conflict of interest. Any Bidder found to have a conflict of interest shall be disqualified. A Bidder may be considered to have a conflict of interest for the purpose of this bidding process, if the Bidder: * + 1. directly or indirectly controls, is controlled by or is under common control with another Bidder; or
		2. receives or has received any direct or indirect subsidy from another Bidder; or
		3. has the same legal representative as another Bidder; or
		4. has a relationship with another Bidder, directly or through common third parties, that puts it in a position to influence the bid of another Bidder, or influence the decisions of the Employer regarding this bidding process; or
		5. participates in more than one bid in this bidding process. Participation by a Bidder in more than one Bid will result in the disqualification of all Bids in which such Bidder is involved. However, this does not limit the inclusion of the same subcontractor in more than one bid; or
		6. or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the bid; or
		7. or any of its affiliates has been hired (or is proposed to be hired) by the Employer or Beneficiary as Engineer for the Contract implementation;
		8. would be providing goods, works, or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of the project specified in the BDS ITB 2.1that it provided or were provided by any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm; or
		9. has a close business or family relationship with a professional staff of the Beneficiary (or of the project implementing agency, or of a recipient of a part of the financing) who: (i) are directly or indirectly involved in the preparation of the bidding documents or specifications of the contract, and/or the bid evaluation process of such contract; or (ii) would be involved in the implementation or supervision of such contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to the Fund throughout the procurement process and execution of the contract.
 |
|  | 4.3 A Bidder shall have the nationality of any country, subject to the restrictions pursuant to ITB 4.7 and in accordance with Section V. A Bidder shall be deemed to have the nationality of a country if the Bidder is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be. This criterion also shall apply to the determination of the nationality of proposed sub-contractors or sub-consultants for any part of the Contract including related Services. |
|  | 4.4 A Bidder that has been sanctioned by the Fund in accordance with the above ITB 3.1, including in accordance with the Fund’s Guidelines on Preventing and Combating Corruption in Projects Financed by OFID financing and Grants (“Anti-Corruption Guidelines”), shall be ineligible to be prequalified for, bid for, or be awarded a Fund-financed contract or benefit from a Fund-financed contract, financially or otherwise, during such period of time as the Fund shall have determined. The list of debarred firms and individuals is available at the electronic address **specified in the BDS**. |
|  | 4.5 Bidders that are Government-owned enterprises or institutions in the Employer’s Country may participate only if they can establish that they (i) are legally and financially autonomous (ii) operate under commercial law, and (iii) are not dependent agencies of the Employer. To be eligible, a government-owned enterprise or institution shall establish to the Fund’s satisfaction, through all relevant documents, including its Charter and other information the Fund may request, that it: (i) is a legal entity separate from the government (ii) does not currently receive substantial subsidies or budget support; (iii) operates like any commercial enterprise, and, inter alia, is not obliged to pass on its surplus to the government, can acquire rights and liabilities, borrow funds and be liable for repayment of its debts, and can be declared bankrupt; and (iv) is not bidding for a contract to be awarded by the department or agency of the government which under their applicable laws or regulations is the reporting or supervisory authority of the enterprise or has the ability to exercise influence or control over the enterprise or institution.4.6 A Bidder shall not be under suspension from bidding by the Employer as the result of the operation of a Bid–Securing Declaration.4.7 Firms and individuals may be ineligible if so indicated in Section V and (a) as a matter of law or official regulations, the Beneficiary’s country prohibits commercial relations with that country, provided that the Fund is satisfied that such exclusion does not preclude effective competition for the supply of goods or the contracting of works or services required; or (b) by the Boycott Regulations of OFID, the Beneficiary’s country prohibits any import of goods or contracting of works or services from that country, or any payments to any country, person, or entity in that country.4.8 This bidding is open only to prequalified Bidders unless **specified in the BDS**.4.9 A Bidder shall provide such evidence of eligibility satisfactory to the Employer, as the Employer shall reasonably request. |
| 1. **Eligible Materials, Equipment, and Services**
 | 5.1 The materials, equipment and services to be supplied under the Contract and financed by the Fund may have their origin in any country subject to the restrictions specified in Section V, Eligible Countries, and all expenditures under the Contract will not contravene such restrictions. At the Employer’s request, Bidders may be required to provide evidence of the origin of materials, equipment and services. |
|  | **B. Contents of Bidding Documents** |
| 1. **Sections of Bidding Documents**
 | 6.1 The Bidding Documents consist of Parts 1, 2, and 3, which include all the Sections specified below, and which should be read in conjunction with any Addenda issued in accordance with ITB 8.**PART 1 Bidding Procedures*** Section I. Instructions to Bidders (ITB)
* Section II. Bid Data Sheet (BDS)
* Section III. Evaluation and Qualification Criteria
* Section IV. Bidding Forms
* Section V. Eligible Countries
* Section VI. Fund Policy-Corrupt and Fraudulent Practices

**PART 2 Works Requirements*** Section VII. Works Requirements

**PART 3 Conditions of Contract and Contract Forms*** Section VIII. General Conditions of Contract (GCC)
* Section IX. Particular Conditions of Contract (PCC)
* Section X. Annex to the Particular Conditions - Contract Forms
 |
|  | 6.2 The Invitation for Bids issued by the Employer is not part of the Bidding Documents. |
|  | 6.3 Unless obtained directly from the Employer, the Employer is not responsible for the completeness of the Bidding Documents, responses to requests for clarification, the minutes of the pre-Bid meeting (if any), or Addenda to the Bidding Documents in accordance with ITB 8. In case of any contradiction, documents obtained directly by the Employer shall prevail. |
|  | 6.4 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Documents and to furnish with its bid all information and documentation as is required by the Bidding Documents. |
| **Clarification of Bidding Documents, Site Visit, Pre-Bid Meeting** | 7.1 A Bidder requiring any clarification of the Bidding Documents shall contact the Employer in writing at the Employer’s address **specified in the BDS** or raise its enquiries during the pre-bid meeting if provided for in accordance with ITB 7.4. The Employer will respond in writing to any request for clarification, provided that such request is received no later than fourteen (14) days prior to the deadline for submission of bids. The Employer shall forward copies of its response to all Bidders who have acquired the Bidding Documents in accordance with ITB 6.3, including a description of the inquiry but without identifying its source. If so specified in the BDS, the Employer shall also promptly publish its response at the web page identified in the BDS. Should the clarification result in changes to the essential elements of the Bidding Documents, the Employer shall amend the Bidding Documents following the procedure under ITB 8 and ITB 22.2. |
|  | 7.2 The Bidder is advised to visit and examine the Site of Works and its surroundings and obtain for itself on its own responsibility all information that may be necessary for preparing the bid and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the Bidder’s own expense. |
|  | 7.3 The Bidder and any of its personnel or agents will be granted permission by the Employer to enter upon its premises and lands for the purpose of such visit, but only upon the express condition that the Bidder, its personnel, and agents will release and indemnify the Employer and its personnel and agents from and against all liability in respect thereof, and will be responsible for death or personal injury, loss of or damage to property, and any other loss, damage, costs, and expenses incurred as a result of the inspection. |
|  | 7.4 If so specified in the BDS, the Bidder’s designated representative is invited to attend a pre-bid meeting. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage. |
|  | 7.5 The Bidder is requested to submit any questions in writing, to reach the Employer not later than one week before the meeting. |
|  | 7.6 Minutes of the pre-bid meeting, if applicable, including the text of the questions asked by Bidders, without identifying the source, and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Bidders who have acquired the Bidding Documents in accordance with ITB 6.3. Any modification to the Bidding Documents that may become necessary as a result of the pre-bid meeting shall be made by the Employer exclusively through the issue of an Addendum pursuant to ITB 8 and not through the minutes of the pre-bid meeting. Non attendance at the pre-bid meeting will not be a cause for disqualification of a Bidder. |
| **Amendment of Bidding Documents** | 8.1 At any time prior to the deadline for submission of bids, the Employer may amend the Bidding Documents by issuing addenda. |
|  | 8.2 Any addendum issued shall be part of the Bidding Documents and shall be communicated in writing to all who have obtained the Bidding Documents from the Employer in accordance with ITB 6.3.The Employer shall also promptly publish the addendum on the Employer’s web page in accordance with ITB 7.1. |
|  | 8.3 To give Bidders reasonable time in which to take an addendum into account in preparing their bids, the Employer should extend the deadline for the submission of bids, pursuant to ITB 22.2 |
|  | **C. Preparation of Bids** |
| **Cost of Bidding** | 9.1 The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the Employer shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process. |
| **Language of Bid** | 10.1 The Bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Employer, shall be written in the language **specified in the BDS**. Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language **specified in the BDS**, in which case, for purposes of interpretation of the Bid, such translation shall govern. |
| **Documents Comprising the Bid** | 11.1 The Bid shall comprise the following:1. Letter of Bid and Appendix to Bid;
2. completed schedules as required, including priced Bill of Quantities, in accordance with ITB 12 and 14;
3. Bid Security or Bid-Securing Declaration, in accordance with ITB 19.1;
4. alternative bids, if permissible, in accordance with ITB 13;
5. written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB 20.2;
6. documentary evidence in accordance with ITB 17 establishing the Bidder’s continued qualified status or, if post-qualification applies, as specified in accordance with ITB 4.8, the Bidder’s qualifications to perform the contract if its Bid is accepted;
7. Technical Proposal in accordance with ITB 16; and
8. any other document **required in the BDS**.

11.2 In addition to the requirements under ITB 11.1, bids submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all members. Alternatively, a letter of intent to execute a Joint Venture Agreement in the event of a successful bid shall be signed by all members and submitted with the bid, together with a copy of the proposed Agreement. 11.3 The Bidder shall furnish in the Letter of Bid information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Bid. |
| **Letter of Bid and Schedules** | 12.1 The Letter of Bid and Schedules, including the Bill of Quantities*,* shall be prepared using the relevant form*s* furnished in Section IV, Bidding Forms. The forms must be completed without any alterations to the text, and no substitutes shall be accepted except as provided under ITB 20.2. All blank spaces shall be filled in with the information requested.  |
| **Alternative Bids** | **13.1 Unless otherwise specified in the BDS**, alternative bids shall not be considered. |
|  | 13.2 When alternative times for completion are explicitly invited, a statement to that effect **will be included in the BDS**, as will the method of evaluating different times for completion. |
|  | 13.3 Except as provided under ITB 13.4 below, Bidders wishing to offer technical alternatives to the requirements of the Bidding Documents must first price the Employer’s design as described in the Bidding Documents and shall further provide all information necessary for a complete evaluation of the alternative by the Employer, including drawings, design calculations, technical specifications, breakdown of prices, and proposed construction methodology and other relevant details. Only the technical alternatives, if any, of the lowest evaluated Bidder conforming to the basic technical requirements shall be considered by the Employer. |
|  | **13.4 When specified in the BDS**, Bidders are permitted to submit alternative technical solutions for specified parts of the Works, and such parts **will be identified in the BDS**, as will the method for their evaluating, and described in Section VII, Works Requirements. |
| **Bid Prices and Discounts** | 14.1 The prices and discounts (including any price reduction) quoted by the Bidder in the Letter of Bid and in the Bill of Quantities shall conform to the requirements specified below.14.2 The Bidder shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items against which no rate or price is entered by the Bidder shall be deemed covered by the rates for other items in the Bill of Quantities and will not be paid for separately by the Employer. An item not listed in the priced Bill of Quantities shall be assumed to be not included in the Bid, and provided that the Bid is determined substantially responsive notwithstanding this omission, the average price of the item quoted by substantially responsive bidders will be added to the bid price and the equivalent total cost of the bid so determined will be used for price comparison. |
|  | 14.3 The price to be quoted in the Letter of Bid, in accordance with ITB 12.1, shall be the total price of the Bid, excluding any discounts offered.  |
|  | 14.4 The Bidder shall quote any discounts and the methodology for their application in the Letter of Bid, in accordance with ITB 12.1. |
|  | **14.5 Unless otherwise specified in the BDS** and the Contract, the rates and prices quoted by the Bidder are subject to adjustment during the performance of the Contract in accordance with the provisions of the Conditions of Contract. In such a case, the Bidder shall furnish the indices and weightings for the price adjustment formulae in the Schedule of Adjustment Data and the Employer may require the Bidder to justify its proposed indices and weightings. |
|  | 14.6 If so specified in ITB 1.1, bids are being invited for individual lots (contracts)or for any combination of lots (packages). Bidders wishing to offer discounts for the award of more than one Contract shall specify in their bid the price reductions applicable to each package, or alternatively, to individual Contracts within the package. Discounts shall be submitted in accordance with ITB 14.4, provided the bids for all lots (contracts) are opened at the same time.  |
|  | 14.7 All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 28 days prior to the deadline for submission of bids, shall be included in the rates and prices and the total Bid Price submitted by the Bidder. |
| **Cu****rrencies of Bid and Payment** | 15.1 The currency(ies) of the bid and the currency(ies) of payments shall be **as specified in the BDS***.*15.2 Bidders may be required by the Employer to justify, to the Employer’s satisfaction, their local and foreign currency requirements, and to substantiate that the amounts included in the unit rates and prices and shown in the Schedule of Adjustment Data in the Appendix to Bid are reasonable, in which case a detailed breakdown of the foreign currency requirements shall be provided by Bidders. |
| **Documents Comprising the Technical Proposal** | 16.1 The Bidder shall furnish a Technical Proposal including a statement of work methods, equipment, personnel, schedule and any other information as stipulated in Section IV, in sufficient detail to demonstrate the adequacy of the Bidder’s proposal to meet the work requirements and the completion time.  |
| **Documents Establishing the Qualifications of the Bidder** | 17.1 In accordance with Section III, Evaluation and Qualification Criteria, to establish that the Bidder continues to meet the criteria used at the time of prequalification, the Bidder shall provide in the corresponding information sheets included in Section IV, Bidding Forms, updated information on any assessed aspect that changed from that time, or if post-qualification applies as specified in ITB 4.8, the Bidder shall provide the information requested in the corresponding information sheets included in Section IV, Bidding Forms. |
|  | 17.2 If a margin of preference applies as specified in accordance with ITB 33.1, domestic Bidders, individually or in joint ventures, applying for eligibility for domestic preference shall supply all information required to satisfy the criteria for eligibility specified in accordance with ITB 33.1.17.3 Any change in the structure or formation of a Bidder after being prequalified and invited to Bid (including, in the case of a JV, any change in the structure or formation of any member thereto) shall be subject to the written approval of the Employer prior to the deadline for submission of Bids. Such approval shall be denied if (i) a Bidder proposes to associate with a disqualified Bidder or in case of a disqualified joint venture, any of its members; (ii) as a consequence of the change, the Bidder no longer substantially meets the qualification criteria set forth in Section III, Qualification Criteria and Requirements; or (iii) in the opinion of the Employer, the change may result in a substantial reduction in competition. Any such change should be submitted to the Employer not later than fourteen (14) days after the date of the Invitation for Bids. |
| **Period of Validity of Bids** | 18.1 Bids shall remain valid for the period **specified in the BDS** after the bid submission deadline date prescribed by the Employer in accordance with ITB 22.1. A bid valid for a shorter period shall be rejected by the Employer as non responsive. |
|  | 18.2 In exceptional circumstances, prior to the expiration of the bid validity period, the Employer may request Bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. If a bid security is requested in accordance with ITB 19, it shall also be extended for twenty-eight (28)days beyond the deadline of the extended validity period. A Bidder may refuse the request without forfeiting its bid security. A Bidder granting the request shall not be required or permitted to modify its bid, except as provided in ITB 18.3. |
|  | 18.3 If the award is delayed by a period exceeding fifty-six (56) days beyond the expiry of the initial bid validity, the Contract price shall be determined as follows:* + 1. In the case of fixed price contracts, the Contract price shall be the bid price adjusted by the factor **specified in the BDS**.
		2. In the case of adjustable price contracts, to determine the Contract price, the fixed portion of the bid price shall be adjusted by the factor **specified in the BDS**.
		3. In any case, bid evaluation shall be based on the bid price without taking into consideration the applicable correction from those indicated above.
 |
| **Bid Security** | **19.1** The Bidder shall furnish as part of its bid, either a Bid-Securing Declaration or a bid security **as specified in the BDS**, in original form and, in the case of a bid security, in the amount and currency **specified in the BDS**. |
|  | 19.2 A Bid-Securing Declaration shall use the form included in Section IV, Bidding Forms..*(It is not applicable)* |
|  | 19.3 If a bid security is specified pursuant to ITB 19.1, the bid security shall be a demand guarantee in any of the following forms at the Bidder’s option:(a) an unconditional guarantee issued by a Fund or financial institution (such as an insurance, bonding or surety company); (b) an irrevocable letter of credit; (c) a cashier’s or certified check; or(d) another security **specified in the BDS**, from a reputable source from an eligible country. If the unconditional guarantee is issued by a financial institution located outside the Employer’s Country, the issuing financial institution shall have a correspondent financial institution located in the Employer’s Country to make it enforceable. In the case of a bank guarantee, the bid security shall be submitted either using the Bid Security Form included in Section IV, Bidding Forms, or in another substantially similar format approved by the Employer prior to bid submission. The bid security shall be valid for twenty-eight (28) days beyond the original validity period of the bid, or beyond any period of extension if requested under ITB 18.2. |
|  | 19.4 If a bid security is specified pursuant to ITB 19.1, any bid not accompanied by a substantially responsive bid security or Bid-Securing Declaration shall be rejected by the Employer as non responsive. |
|  | 19.5 If a bid security is specified pursuant to ITB 19.1, the bid security of unsuccessful Bidders shall be returned as promptly as possible upon the successful Bidder’s signing the Contract and furnishing the performance security pursuant to ITB 42. |
|  | 19.6 The bid security of the successful Bidder shall be returned as promptly as possible once the successful Bidder has signed the Contract and furnished the required performance security. |
|  | 19.7 The bid security may be forfeited or the Bid-Securing Declaration executed:* + 1. if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Letter of Bid, or any extension thereto provided by the Bidder; or
		2. if the successful Bidder fails to:

(i) sign the Contract in accordance with ITB 41; or(ii) furnish a performance security in accordance with ITB 42. |
|  | 19.8 The bid security or the Bid-Securing Declaration of a JV shall be in the name of the JV that submits the bid. If the JV has not been legally constituted into a legally enforceable JV at the time of bidding, the bid security or the Bid-Securing Declaration shall be in the names of all future members as named in the letter of intent referred to in ITB 4.1 and ITB 11.2*.*19.9 If a bid security is **not required in the BDS pursuant to ITB 19.1**, and * 1. if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Letter of Bid, or
	2. if the successful Bidder fails to sign the Contract in accordance with ITB 41; or furnish a performance security in accordance with ITB 42;

the Beneficiary may, **if provided for in the BDS**, declare the Bidder ineligible to be awarded a contract by the Employer for a period of time **as stated in the BDS**. |
| **Format and Signing of Bid** | 20.1 The Bidder shall prepare one original of the documents comprising the bid as described in ITB 11 and clearly mark it “Original.” Alternative bids, if permitted in accordance with ITB 13, shall be clearly marked “Alternative.” 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. |
|  | 20.2 The original and all copies of the bid shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder. This authorization shall consist of a written confirmation **as specified in the BDS** and shall be attached to the bid. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the bid where entries or amendments have been made shall be signed or initialed by the person signing the bid. |
|  | 20.3 In case the Bidder is a JV, the Bid shall be signed by an authorized representative of the JV on behalf of the JV, and so as to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized representatives. |
|  | 20.4 Any inter-lineation, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the bid. |
|  | **D. Submission and Opening of Bids** |
| **Sealing and Marking of Bids** | 21.1 The Bidder shall enclose the original and all copies of the bid, including alternative bids, if permitted in accordance with ITB 13, in separate sealed envelopes, duly marking the envelopes as “Original”, “Alternative” and “Copy.” These envelopes containing the original and the copies shall then be enclosed in one single envelope. |
|  | 21.2 The inner and outer envelopes shall:1. bear the name and address of the Bidder;
2. be addressed to the Employer in accordance with ITB 22.1;
3. bear the specific identification of this bidding process specified in the BDS 1.1; and
4. bear a warning not to open before the time and date for bid opening.
 |
|  | 21.3 If all envelopes are not sealed and marked as required, the Employer will assume no responsibility for the misplacement or premature opening of the bid. |
| **Deadline for Submission of Bids** | 22.1 Bids must be received by the Employer at the address and no later than the date and time **specified in the BDS**. **When so specified in the BDS**, bidders shall have the option of submitting their bids electronically. Bidders submitting bids electronically shall follow the electronic bid submission procedures **specified in the BDS**. |
|  | 22.2 The Employer may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Documents in accordance with ITB 8, in which case all rights and obligations of the Employer and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended. |
| **Late Bids** | 23.1 The Employer shall not consider any bid that arrives after the deadline for submission of bids, in accordance with ITB 22. Any bid received by the Employer after the deadline for submission of bids shall be declared late, rejected, and returned unopened to the Bidder. |
| **Withdrawal, Substitution, and Modification of Bids** | 24.1 A Bidder may withdraw, substitute, or modify its bid after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITB 20.2, (except that withdrawal notices do not require copies). The corresponding substitution or modification of the bid must accompany the respective written notice. All notices must be:1. prepared and submitted in accordance with ITB 20 and ITB 21 (except that withdrawals notices do not require copies), and in addition, the respective envelopes shall be clearly marked “Withdrawal,” “Substitution,” “Modification;” and
2. received by the Employer prior to the deadline prescribed for submission of bids, in accordance with ITB 22.
 |
|  | 24.2 Bids requested to be withdrawn in accordance with ITB 24.1 shall be returned unopened to the Bidders. |
|  | 24.3 No bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Letter of Bid or any extension thereof.  |
| **Bid Opening** | 25.1 Except in the cases specified in ITB 23 and 24, the Employer shall publicly open and read out in accordance with ITB 25.3 all bids received by the deadline, at the date, time and place **specified in the BDS**, in the presence of Bidders` designated representatives and anyone who choose to attend. Any specific electronic bid opening procedures required if electronic bidding is permitted in accordance with ITB 22.1, shall be **as specified in the BDS.** |
|  | 25.2 First, envelopes marked “Withdrawal” shall be opened and read out and the envelope with the corresponding bid shall not be opened, but returned to the Bidder. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at bid opening. Next, envelopes marked “Substitution” shall be opened and read out and exchanged with the corresponding bid being substituted, and the substituted bid shall not be opened, but returned to the Bidder. No bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at bid opening. Envelopes marked “Modification” shall be opened and read out with the corresponding bid. No bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at bid opening. Only bids that are opened and read out at bid opening shall be considered further. |
|  | 25.3 All other envelopes shall be opened one at a time, reading out: the name of the Bidder and whether there is a modification; the total Bid Price, per lot (contract) if applicable, including any discounts and alternative bids; the presence or absence of a bid security, if required; and any other details as the Employer may consider appropriate. Only discounts and alternative bids read out at bid opening shall be considered for evaluation. The Letter of Bid and the Bill of Quantities are to be initialed by representatives of the Employer attending bid opening in the manner **specified in the BDS**. The Employer shall neither discuss the merits of any bid nor reject any bid (except for late bids, in accordance with ITB 23.1). |
|  | 25.4 The Employer shall prepare a record of the bid opening that shall include, as a minimum: the name of the Bidder and whether there is a withdrawal, substitution, or modification; the Bid Price, per lot (contract) if applicable, including any discounts and alternative bids; and the presence or absence of a bid security, if one was required. The Bidders’ representatives who are present shall be requested to sign the record. The omission of a Bidder’s signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Bidders. |
|  | **E. Evaluation and Comparison of Bids** |
| **Confidentiality** | 26.1 Information relating to the evaluation of bids and recommendation of contract award shall not be disclosed to Bidders or any other persons not officially concerned with the bidding process until information on Contract award is communicated to all Bidders in accordance with ITB 40. |
|  | 26.2 Any attempt by a Bidder to influence the Employer in the evaluation of the bids or Contract award decisions may result in the rejection of its bid. |
|  | 26.3 Notwithstanding ITB 26.2, from the time of bid opening to the time of Contract award, if a Bidder wishes to contact the Employer on any matter related to the bidding process, it shall do so in writing. |
| **Clarification of Bids** | 27.1 To assist in the examination, evaluation, and comparison of the bids, and qualification of the Bidders, the Employer may, at its discretion, ask any Bidder for a clarification of its bid, given a reasonable time for a response. Any clarification submitted by a Bidder that is not in response to a request by the Employer shall not be considered. The Employer’s request for clarification and the response shall be in writing. No change, including any voluntary increase or decrease, in the prices or substance of the bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the bids, in accordance with ITB 31. |
|  | 27.2 If a Bidder does not provide clarifications of its bid by the date and time set in the Employer’s request for clarification, its bid may be rejected. |
| **Deviations, Reservations, and Omissions** | 28.1 During the evaluation of bids, the following definitions apply:1. “Deviation” is a departure from the requirements specified in the Bidding Documents;
2. “Reservation” is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Documents; and
3. “Omission” is the failure to submit part or all of the information or documentation required in the Bidding Documents.
 |
| **Determination of Responsiveness** | 29.1 The Employer’s determination of a bid’s responsiveness is to be based on the contents of the bid itself, as defined in ITB11. |
|  | 29.2 A substantially responsive bid is one that meets the requirements of the Bidding Documents without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that,(a) if accepted, would(i) affect in any substantial way the scope, quality, or performance of the Works specified in the Contract; or(ii) limit in any substantial way, inconsistent with the Bidding Documents, the Employer’s rights or the Bidder’s obligations under the proposed Contract; or(b) if rectified, would unfairly affect the competitive position of other Bidders presenting substantially responsive bids. |
|  | 29.3 The Employer shall examine the technical aspects of the bid submitted in accordance with ITB 16, Technical Proposal, in particular, to confirm that all requirements of Section VI, Works Requirements have been met without any material deviation, reservation or omission.  |
|  | 29.4 If a bid is not substantially responsive to the requirements of the Bidding Documents, it shall be rejected by the Employer and may not subsequently be made responsive by correction of the material deviation, reservation, or omission. |
| **Nonmaterial Nonconformities** | 30.1 Provided that a bid is substantially responsive, the Employer may waive any nonconformities in the Bid*.* |
|  | 30.2 Provided that a bid is substantially responsive, the Employer may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities in the bid related to documentation requirements. Requesting information or documentation on such nonconformities shall not be related to any aspect of the price of the Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid. |
|  | 30.3 Provided that a bid is substantially responsive, the Employer shall rectify quantifiable nonmaterial nonconformities related to the Bid Price. To this effect, the Bid Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component. The adjustment shall be made using the method specified in Section III, Evaluation and Qualification Criteria*.* |
| **Correction of Arithmetical Errors** | 31.1 Provided that the bid is substantially responsive, the Employer shall correct arithmetical errors on the following basis:(a) if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Employer there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;(b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and(c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above. |
|  | 31.2 Bidders shall be requested to accept correction of arithmetical errors. Failure to accept the correction in accordance with ITB 31.1, shall result in the rejection of the Bid. |
| **Conversion to Single Currency** | 32.1 For evaluation and comparison purposes, the currency(ies) of the Bid shall be converted into a single currency **as specified in the BDS**. |
| **Margin of Preference** | **33.1 Unless otherwise specified in the BDS,** a margin of preference for domestic bidders[[1]](#footnote-1) shall not apply. |
| **Subcontractors** | **34.1 Unless otherwise stated in the BDS,** the Employer does not intend to execute any specific elements of the Works by sub-contractors selected in advance by the Employer.34.2 In case of Prequalification, the Bidder’s Bid shall name the same specialized subcontractor as submitted in the prequalification application and approved by the Employer.34.3 In case of Post qualification, the Employer may permit subcontracting for certain specialized works as indicated in Section III 4.2. When subcontracting is permitted by the Employer, the specialized sub-contractor’s experience shall be considered for evaluation. Section III describes the qualification criteria for sub-contractors.34.4Bidders may propose subcontracting up to the percentage of total value of contracts or the volume of works as **specified in the BDS**. |
| **Evaluation of Bids** | 35.1 The Employer shall use the criteria and methodologies listed in this Clause. No other evaluation criteria or methodologies shall be permitted. 35.2 To evaluate a bid, the Employer shall consider the following:(a) the bid price, excluding Provisional Sums and the provision, if any, for contingencies in the Summary Bill of Quantities, but including Daywork items, where priced competitively;(b) price adjustment for correction of arithmetic errors in accordance with ITB 31.1;(c) price adjustment due to discounts offered in accordance with ITB 14.3;(d) converting the amount resulting from applying (a) to (c) above, if relevant, to a single currency in accordance with ITB 32;(e) price adjustment due to quantifiable nonmaterial nonconformities in accordance with ITB 30.3;(f) the additional evaluation factors are specified in Section III, Evaluation and Qualification Criteria; |
|  | 35.3 The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be taken into account in bid evaluation. |
|  | 35.4 If these Bidding Documents allows Bidders to quote separate prices for different lots (contracts), the methodology to determine the lowest evaluated price of the lot (contract) combinations, including any discounts offered in the Letter of Bid Form, is specified in Section III, Evaluation and Qualification Criteria. |
|  | 35.5 If the bid, which results in the lowest Evaluated Bid Price, is seriously unbalanced or front loaded in the opinion of the Employer, the Employer may require the Bidder to produce detailed price analyses for any or all items of the Bill of Quantities, to demonstrate the internal consistency of those prices with the construction methods and schedule proposed. After evaluation of the price analyses, taking into consideration the schedule of estimated Contract payments, the Employer may require that the amount of the performance security be increased at the expense of the Bidder to a level sufficient to protect the Employer against financial loss in the event of default of the successful Bidder under the Contract. |
| **Comparison of Bids** | 36.1 The Employer shall compare the evaluated prices of all substantially responsive bids established in accordance with ITB 35.2to determine the lowest evaluated bid*.* |
| **Qualification of the Bidder** | 37.1 The Employer shall determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated and substantially responsive bid either continues to meet (if prequalification applies) or meets (if post qualification applies) the qualifying criteria specified in Section III, Evaluation and Qualification Criteria. |
|  | 37.2 The determination shall be based upon an examination of the documentary evidence of the Bidder’s qualifications submitted by the Bidder, pursuant to ITB 17.1.37.3 An affirmative determination shall be a prerequisite for award of the Contract to the Bidder. A negative determination shall result in disqualification of the bid, in which event the Employer shall proceed to the next lowest evaluated bid to make a similar determination of that Bidder’s qualifications to perform satisfactorily. |
| **Employer’s Right to Accept Any Bid, and to Reject Any or All Bids** | 38.1 The Employer reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to contract award, without thereby incurring any liability to Bidders. In case of annulment, all bids submitted and specifically, bid securities, shall be promptly returned to the Bidders. |
|  | **F. Award of Contract** |
| **Award Criteria** | 39.1 Subject to ITB 38.1, the Employer shall award the Contract to the Bidder whose offer has been determined to be the lowest evaluated bid and is substantially responsive to the Bidding Documents, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily. |
| **Notification of Award** | 40.1 Prior to the expiration of the period of bid validity, the Employer shall notify the successful Bidder, in writing, that its bid has been accepted. The notification letter (hereinafter and in the Conditions of Contract and Contract Forms called the “Letter of Acceptance”) shall specify the sum that the Employer will pay the Contractor in consideration of the execution and completion of the Works (hereinafter and in the Conditions of Contract and Contract Forms called “the Contract Price”). At the same time, the Employer shall also notify all other Bidders of the results of the bidding and shall publish in an appropriate newspaper or Gazette and OFID website online the results identifying the bid and lot (contract)numbers and the following information: (i) name of each Bidder who submitted a Bid; (ii) bid prices as read out at Bid Opening; (iii) name and evaluated prices of each Bid that was evaluated; (iv) name of bidders whose bids were rejected and the reasons for their rejection; and (v) name of the successful Bidder, and the Price it offered, as well as the duration and summary scope of the contract awarded. |
|  | 40.2 Until a formal contract is prepared and executed, the notification of award shall constitute a binding Contract. |
|  | 40.3 The Employer shall promptly respond in writing to any unsuccessful Bidder who, after notification of award in accordance with ITB 40.1, requests in writing the grounds on which its bid was not selected. |
| **Signing of Contract** | 41.1 Promptly upon notification, the Employer shall send the successful Bidder the Contract Agreement.  |
|  | 41.2 Within twenty-eight (28) days of receipt of the Contract Agreement, the successful Bidder shall sign, date, and return it to the Employer. |
| **Performance Security** | 42.1 Within twenty-eight (28) days of the receipt of notification of award from the Employer, the successful Bidder shall furnish the performance security in accordance with the General Conditions of Contract, subject to ITB 35.5, using for that purpose the Performance Security Form included in Section IX, Annex to the Particular Conditions - Contract Forms, or another form acceptable to the Employer. If the performance security furnished by the successful Bidder is in the form of a bond, it shall be issued by a bonding or insurance company that has been determined by the successful Bidder to be acceptable to the Employer. A foreign institution providing a bond shall have a correspondent financial institution located in the Employer’s Country. |
|  | 42.2 Failure of the successful Bidder to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security. In that event the Employer may award the Contract to the next lowest evaluated Bidder whose offer is substantially responsive and is determined by the Employer to be qualified to perform the Contract satisfactorily. |

### **SECTION II – BID DATA SHEET**

This Section consists of provisions that are specific to each procurement and supplement the information or requirements included in Section I - Instructions to Bidders.

**A. General**

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| **ITB 1.1** | The number of the Invitation for Bids is: (IUL)13-K1/13/2016/135 |
| **ITB 1.1** | The Employer is: Ministry of Environment and Energy, Republic of Maldives |
| **ITB 1.1** | The name of the International Competitive Bidding (ICB) is: **Provision of Water Supply Facilities in Ha. Hoarafushi and H.Dh. Hanimaadhoo**The identification numberof the ICB is: (IUL)13-K1/13/2016/135The number and identification of lots comprising this ICB is: **One** |
| **ITB 2.1** | The Beneficiary is: The Government of Maldives |
| **ITB 2.1** | The name of the Project is: **Provision of Water Supply Facilities in Ha. Hoarafushi and H.Dh. Hanimaadhoo** |
| **ITB 4.1** | Maximum number of members in the JV shall be: **3** |
| **ITB 4.4** | The electronic address of firms and individuals debarred by the Fund is available at: [**http://www.ofid.org**](http://www.ofid.org) |
| **ITB 4.8** | This Bidding process IS NOT subject to pre-qualification |

**B. Contents of Bidding Documents**

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| --- | --- |
| **ITB 7.1** | For **clarification purposes** only, the Employer’s address is:**Tender Evaluation Section,** Ministry of Finance and Treasury,Street address: Ameenee Magu, ,City: Male’-20-03Country: Republic of MaldivesTelephone: (+960) 334-9203, (+960) 334-9101Fax: (+960) 334-0706, (+960) 3324432E-mail address: tender@finance.gov.mvRequests for clarification should be received by the Employer no later than: **8th August 2016,1330 hrs** |
| **ITB 7.1** | Web Page : [www.finance.gov.mv](http://www.finance.gov.mv) |
| **ITB 7.4** | A Pre-Bid meeting shall take place at the following date, time and place: Date**: 31st July 2016**Time: **1300hrs**Place: Tender Evaluation Section meeting room, Tender Evaluation Section, Ministry of Finance and Treasury Ameenee Magu, Male’, 20-03 Republic of Maldives, Tel: (960) 3349101, (960) 3349102 Fax: (960) 3320706, (960) 3324432 Email: ibrahim.aflah@finance.gov.mv CC: tender@finance.gov.mv |

**C. Preparation of Bids**

|  |  |
| --- | --- |
| **ITB 10.1** | The language of the Bid is: **English**All correspondence exchange shall be in **ENGLISH** language.Language for translation of supporting documents and printed literature is **ENGLISH** |
| **ITB 11.1 (h)** | The Bidder shall submit with its Bid the following additional documents**: NA**  |
| **ITB 12.1** | The units and rates in figures entered into the Bill of Quantities and Daywork Schedule should be typewritten or if written by hand, must be in print form. Bill of Quantities and Daywork Schedule not presented accordingly may be considered nonresponsive. |
| **ITB 13.1** | Alternative Bids shall NOT be permitted. |
| **ITB 13.2** | Alternative times for completion shall NOT be permitted. |
| **ITB 13.4** | Alternative technical solutions shall be permitted for the following parts of the Works: **Not Applicable**  |
| **ITT 14.1** | Bid price should indicate amount of GST (Goods and Services Tax). Where GST amount is not indicated, quoted bid price shall be deemed to be inclusive of GST. |
| **ITB 14.5** | The prices quoted by the Bidder shall not be adjusted: **N/A**  |
| **ITB 15.1**  | The currency(ies) of the bid and the payment currency(ies) shall be in **United States Dollars (USD) and Maldivian Rufiyaa (MVR)** |
| **ITB 15.4** | The rates of exchange shall be the selling rates **14 days** prior to the deadline for submission of bids published by: **Maldives Monetary Authority** |
| **ITB 18.1** | The bid validity period shall be **120** days. |
| **ITB 19.1** | A Bid Security SHALL BE required.The amount and currency of the bid security shall be **USD 25000.00 or equivalent Maldivian rufiyaa** |
| **ITB 19.3 (d)** | Bid Security Shall be an unconditional guarantee issued by a bank or financial institution (such as an insurance, bonding or surety company) or a cashier’s or certified check may be submitted by a local bidder. |
| **ITB 19.4** | Any bid not accompanied by an irrevocable and callable bid security shall be rejected by the Employer as nonresponsive. However, if a bidder submits a bid security that deviates in form, amount, and/or period of validity, the Employer shall request the Bidder to submit a compliant bid security within 7days of receiving such a request. Failure to provide a compliant bid security within the prescribed period of receiving such a request shall cause the rejection of the Bid. |
| **ITB 20.1** | In addition to the original Bid, the number of copies is: **One** |
| **ITB 20.2** | The written confirmation of authorization to sign on behalf of the Bidder shall consist of **a Power of Attorney**  |
| **ITB 20.2** | The Bidder shall submit an acceptable authorization within **7 days.** |

**D. Submission and Opening of Bids**

|  |  |
| --- | --- |
| **ITB 21.1** | Bidders do not have the option of submitting their Bids electronically. |
| **ITB 21.1 (b)** | If Bidders shall have the option of submitting their Bids electronically, the electronic bidding submission procedures shall be: N/A |
| **ITB 22.1**  | For **bid submission purposes** only, the Employer’s address is:**Attention: Tender Evaluation Section,** Ministry of Finance and Treasury,Street address: Ameenee Magu, ,City: Male’-20-03Country: Republic of MaldivesTel: (+960) 334-9203, (+960) 334-9101Fax: (+960) 334-0706, (+960) 3324432E-mail address: tender@finance.gov.mv**The deadline for bid submission is:**Date: 28th August 2016Time: 1100hrs |
| **ITB 25.1** | The bid opening shall take place at:**Tender Evaluation Section,** Ministry of Finance and Treasury,Street address: Ameenee Magu, ,City: Male’-20-03Country: Republic of MaldivesTel: (+960) 334-9203, (+960) 334-9101Fax: (+960) 334-0706, (+960) 3324432E-mail address: tender@finance.gov.mvDate: 28th August 2016Time: 1100hrs |
| **ITB 25.1** | Electronic bid opening procedure shall be as follows: **N/A** |

**E. Evaluation and Comparison of Bids**

|  |  |
| --- | --- |
| **ITB 32.1** | The currency that shall be used for bid evaluation and comparison purposes to convert all bid prices expressed in various currencies into a single currency is: **United States Dollars (US$)**The source of exchange rate shall be: **Maldives Monitory Authorities** **(MMA)**The date for the selling exchange rate shall be: **14 days prior to the bid submission date**The currency(ies) of the Bid shall be converted into a single currency in accordance with the procedure under Alternative B that follows: **Alternative A: Bidders quote entirely in local currency**For comparison of bids, the Bid Price, corrected pursuant to Clause 31, shall first be broken down into the respective amounts payable in various currencies by using the exchange rates specified by the bidder in accordance with Sub-Clause 15.1.In the second step, the Employer will convert the amounts in various currencies in which the Bid Price is payable (excluding Provisional Sums but including Daywork where priced competitively) to the single currency identified above at the selling rates established for similar transactions by the authority specified and on the date stipulated above.**OR****Alternative B: Bidders quote in local and foreign currencies**The Employer will convert the amounts in various currencies in which the Bid Price, corrected pursuant to Clause 31, is payable (excluding Provisional Sums but including Daywork where priced competitively) to the single currency identified above at the selling rates established for similar transactions by the authority specified and on the date stipulated above. |
| **ITB 33.1** | A margin of preference shall not apply.  |

### **SECTION III – EVALUATION AND QUALIFICATION CRITERIA**

**-Without Prequalification-**

This Section contains all the criteria that the Employer shall use to evaluate bids and qualify Bidders. In accordance with ITB 34 and ITB 36, no other methods, criteria and factors shall be used. The Bidder shall provide all the information requested in the forms included in Section IV (Bidding Forms).

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**1. Evaluation**

Wherever a Bidder is required to state a monetary amount, Bidders should indicate the USD equivalent using the rate of exchange determined as follows:

• For construction turnover or financial data required for each year - Exchange rate prevailing on the last day of the respective calendar year (in which the amounts for that year is to be converted) was originally established.

• Value of single contract - Exchange rate prevailing on the date of the contract.

Exchange rates shall be taken from the publicly available source identified in the ITB 32.1. Any error in determining the exchange rates in the Bid may be corrected by the Employer.

* Failure to provide sufficient information required in the mentioned formats shall result in disqualification of the bidder.
* Tax clearance of the technically qualified lowest evaluated bidder shall be checked prior to contract award.

In addition to the criteria listed in ITB 34.2 (a) – (e), other relevant factors are as follows:

**1.1 Adequacy of Technical Proposal**

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

Non-compliance with equipment and personnel requirements described in Section V (Employer’s Requirements) shall not normally be a ground for bid rejection and such non-compliance will be subject to clarification during bid evaluation and rectification prior to contract award.

**1.2 Completion Time**

An alternative Completion Time, if permitted under ITB 13.2, will be evaluated as follows:

Not Applicable

**1.3 Technical Alternatives**

Technical alternatives, if permitted under ITB 13.4, will be evaluated as follows:

Not Applicable

**1.4 Quantifiable Nonconformities and Omissions**

Subject to ITB 14.2 and ITB 34.2, the evaluated cost of quantifiable nonconformities including omissions, is determined as follows:

 “Pursuant to ITB 30.3, the cost of all quantifiable nonmaterial nonconformities shall be evaluated, including omissions in Day work where competitively priced but excluding omission of prices in the Bill of Quantities. The Employer will make its own assessment of the cost of any nonmaterial nonconformities and omissions for the purpose of ensuring fair comparison of Bids.”]

**1.5 Domestic Preference**

If a margin of preference is provided for under ITB 33.1, the following procedure shall apply:

Not Applicable

**1.6 Multiple Contracts**

Works are grouped in multiple contracts and pursuant to ITB 34.4, the Employer shall evaluate and compare Bids on the basis of a contract, or a combination of contracts, or as a total of contracts in order to arrive at the least-cost combination for the Employer by taking into account discounts offered by Bidders in case of award of multiple contracts.

If a Bidder submits several successful (lowest evaluated substantially responsive) bids, the evaluation will also include an assessment of the Bidder’s capacity to meet the following aggregated requirements as presented in the bid:

* Average annual construction turnover,
* Financial resources,
* Equipment to be allocated, and
* Personnel to be fielded.

**2. Qualification**

It is the legal entity or entities comprising the Bidder, and not the Bidder’s parent companies, subsidiaries, or affiliates, that must satisfy the qualification criteria described below.

**2.1 Eligibility**

| **Criteria** | **Compliance Requirements** | **Documents** |
| --- | --- | --- |
| **Requirement** | **Single Entity** | **Joint Venture** | **Submission Requirements** |
| **All Partners Combined** | **Each Partner** | **One Partner** |

**2.1.1 Nationality**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Nationality in accordance with ITB Subclause 4.2. | must meet requirement | must meet requirement | must meet requirement | not applicable | Forms ELI - 1; ELI - 2with attachments |

**2.1.2 Conflict of Interest**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| No conflicts of interest in accordance with ITB Subclause 4.3. | must meet requirement | must meet requirement | must meet requirement | not applicable | Letter of Bid |

**2.1.3 OFID Eligibility**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Not having been declared ineligible by OFID, as described in ITB Subclause 4.4. | must meet requirement | must meet requirement | must meet requirement | not applicable | Letter of Bid |

**2.1.4 Government-Owned Entity**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Bidder required to meet conditions of ITB Subclause 4.5. | must meet requirement | must meet requirement | must meet requirement | not applicable | Forms ELI - 1; ELI - 2with attachments |

**2.2 Historical Contract Non-Performance**

**2.2.1 History of Non-Performing Contracts**

|  |  |  |
| --- | --- | --- |
| **Criteria** | **Compliance Requirements** | **Documents** |
| **Requirement** | **Single Entity** | **Joint Venture** | **Submission Requirements** |
| **All Partners Combined** | **Each Partner** | **One Partner** |
| Non-performance of a contract[[2]](#footnote-2) did not occur as a result of contractor default since last 5 years | Must meet requirement12 | Must meet requirements | Must meet requirement[[3]](#footnote-3) | not applicable | Form CON - 2 |
| Suspension based on execution of Bid Securing Declaration by the Employer or withdrawal of the Bid within Bid validity | Not under suspension based on execution of a Bid Securing Declaration pursuant to ITB4.6 or withdrawal of the Bid pursuant ITB 19.9. | must meet requirement | must meet requirement | not applicable | Bid Submission Form |

**2.3 Pending Litigation**

**2.2.1 Pending Litigation and Arbitration**

|  |  |  |
| --- | --- | --- |
| **Criteria** | **Compliance Requirements** | **Documents** |
| **Requirement** | **Single Entity** | **Joint Venture** | **Submission Requirements** |
| **All Partners Combined** | **Each Partner** | **One Partner** |
| Bidder’s financial position and prospective long term profitability sound according to criteria established in 3.1 below and assuming that all pending litigation and arbitration, if any, shall be treated as resolved against the Bidder | must meet requirement by itself or as partner to past or existing Joint Venture | not applicable | must meet requirement by itself or as partner to past or existing Joint Venture | not applicable | Form CON - 2 |
| Litigation History: No consistent history of court/arbitral award decisions against the Bidder[[4]](#footnote-4) for the last 5 years | must meet requirement | must meet requirement | must meet requirement | not applicable | Form CON - 2 |

**2.3 Financial Situation**

**2.3.1 Historical Financial Performance**

|  |  |  |
| --- | --- | --- |
| **Criteria** | **Compliance Requirements** | **Documents** |
| **Requirement** | **Single Entity** | **Joint Venture** | **Submission Requirements** |
| **All Partners Combined** | **Each Partner** | **One Partner** |
|  (i) The Bidder shall demonstrate that it has access to, or has available, liquid assess, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the construction cash flow requirements estimated as USD$1,000,000 for the subject contract(s) net of the Bidders other commitments(ii) The Bidders shall also demonstrate, to the satisfaction of the Employer, that it has adequate sources of finance to meet the cash flow requirements on works currently in progress and for future contract commitments.(iii) The audited financial statements or, if not required by the laws of the Bidder’s country, other financial statements acceptable to the Employer, for the **last five (05)** years shall be submitted and must demonstrate the current soundness of the Bidder’s financial position and indicate its prospective long term profitability. | must meet requirementmust meet requirementmust meet requirement | N/Amust meet requirementN/A | must meet requirementN/Amust meet requirement | N/AN/AN/A | Form FIN – 3.1 with attachments |

**2.3.2 Average Annual Construction Turnover**

|  |  |  |
| --- | --- | --- |
| **Criteria** | **Compliance Requirements** | **Documents** |
| **Requirement** | **Single Entity** | **Joint Venture** | **Submission Requirements** |
| **All Partners Combined** | **Each Partner** | **One Partner** |
| Minimum average annual construction turnover of US$ 2,000,000 million calculated as total certified payments received for contracts in progress and/or completed, within the last 5 (five) years, divided by 5 years. | must meet requirement | must meet requirement | must meet30% of the requirement | must meet 30%of the requirement | Form FIN – 3.2 |

**2.3.3 Financial Resources**

|  |  |  |
| --- | --- | --- |
| **Criteria** | **Compliance Requirements** | **Documents** |
| **Requirement** | **Single Entity** | **Joint Venture** | **Submission Requirements** |
| **All Partners Combined** | **Each Partner** | **One Partner** |
| The Bidder must demonstrate that it has the financial resources to meet:  |  |  |  |  |  |
| 1. its current contract commitments, as defined in FIN-4 (Total Financial Requirements for Current Contract Commitments), plus
 | must meet requirement | not applicable | must meet requirement for its own contractual commitments | not applicable | Form FIN - 4 |
| 1. the requirements for the Subject Contract of US$ 2 million
 | must meet requirement | must meet requirement | must meet30% | must meet30% | Form FIN – 3 and Form FIN - 4 |

**2.4 Construction Experience**

**2.4.1 Contracts of Similar Size and Nature**

|  |  |  |
| --- | --- | --- |
| **Criteria** | **Compliance Requirements** | **Documents** |
| **Requirement** | **Single Entity** | **Joint Venture** | **Submission Requirements** |
| **All Partners Combined** | **Each Partner** | **One Partner** |
| The similarity of the Bidder’s participation shall be based on the physical size, nature of works, complexity, methods, technology or other characteristics as described in Section 6, Employer’s Requirements.1. Experience under construction contracts in the role of prime contractor, JV member, sub-contractor, or management contractor for at least the last 5 years,
2. A minimum number of similar contracts specified below that have been satisfactorily and substantially completed as a prime contractor, joint venture member, management contractor or sub-contractor have 2 contracts that has been successfully or substantially completed within the last five years and that is similar to the proposed works, where the value of the Bidder’s participation of minimum value of US$1,500,000;

OR1. Less than or equal to 5 contracts, each of minimum value US$600,000, but with total value of all contracts equal or more than 2 x US$1,500,000.
 | must meet requirement | N/A | N/A | must meet requirement | Form EXP - 1 |

**2.4.2 Construction Experience in Key Activities**

(May be complied with by Specialist Subcontractors. Employer shall require evidence of subcontracting agreement from the Bidder. Specialist Subcontractor is a specialist enterprise engaged for highly specialized processes which cannot be provided by the main Contractor.)

|  |  |  |
| --- | --- | --- |
| **Criteria** | **Compliance Requirements** | **Documents** |
| **Requirement** | **Single Entity** | **Joint Venture** | **Submission Requirements** |
| **All Partners Combined** | **Each Partner** | **One Partner** |
| For the above or other contracts executed during the period stipulated in 2.4.1 above, a minimum construction experience in the following key activities successfully completed: | must meet requirement | must meet requirement | not applicable | not applicable | Form EXP - 2 |
| ***Supply and installation of SWRO Plant of the capacity of at least 70 m3 per day*** | must meet requirement | must meet requirement | not applicable | must meet requirement | Form EXP - 2 |
| ***Construction of ground water sump with capacity of 400 m3***  | must meet requirement | must meet requirement | not applicable | must meet requirement | Form EXP - 2 |
| ***Supply and installation of high lift pumps with VFD with the capacity of at least 1 l/s installed pump capacity*** | must meet requirement | must meet requirement | not applicable | must meet requirement | Form EXP - 2 |
| ***Laid PVC/ HDPE water distribution network for at least a length of 15km in two contracts*** | must meet requirement | must meet requirement | not applicable | must meet requirement | Form EXP - 2 |

**2.5 Personnel Requirements**

Using Form PER-1 and PER-2 in Section 4 (Bidding Forms), the Bidder must demonstrate that it has personnel who meet the following requirements:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **No.** | **Position** | **Qualification** | **Number** | **Total Work Experience**[years] | **Experience In Similar Work** [years] |
| 1 | Project Manager | Masters in Project Management or relevant field | 1 | 10 | 5 |
| 2 | Resident Engineer (Water Supply) | Bachelor’s Degree in Civil Engineering | 2 | 5 | 5 |
| 3 | Site Supervisors  | Engineering Diploma | 2 | 5 | 5 |
| 4 | Engineer (RO Plant) | Bachelor’s Degree in Civil Engineering | 2 | 5 | 3 |
| 5 | Electromechanical Engineer | Bachelor’s Degree in Electrical/Mechanical Engineering | 2 | 5 | 3 |
| 6 | Structural Engineer | Bachelor’s Degree in Civil Engineering | 2 | 5 | 3 |
| 7  | Land Surveyor  | Diploma in Engineering Surveying | 2 | 5 | 3 |

**2.6 Equipment Requirements**

Using Form EQU in Section IV (Bidding Forms), the Bidder must demonstrate that it has the key equipment listed below:

|  |  |  |
| --- | --- | --- |
| **No.** | **Equipment Type and Characteristics** | **Minimum Number Required** |
| 1 | Total Station | 1 |
| 2 | Butt fusion welding equipment for HDPE | 3 |
| 3 | Excavator with 0.5m, 0,75m and 1m buckets  | 3 |
| 4 | Automatic Theodolite | 2 |
| 5 | Dumpy level | 2 |
| 6 | Mini Excavator | 2 |
| 7 | Roller compactors | 2 |
| 8 | Electrical testing equipments | 3 |
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|  |
| --- |
| **Letter of Bid** |

-Note-

*The bidder must accomplish the Letter of Bid on its letterhead clearly showing the bidder’s complete name and address.*

 Date: ………………..………….

 ICB No.: ……………;;;……………

 Invitation for Bid No.:…………………………..

To:

We, the undersigned, declare that:

1. We have examined and have no reservations to the Bidding Documents, including Addenda issued in accordance with Instructions to Bidders (ITB) 8.
2. We offer to execute in conformity with the Bidding Documents the following Works: Provision of Water Supply Facilities in Ha. Hoarafushi and H.Dh. Hanimaadhoo
3. The total price of our Bid, excluding any discounts offered in item (d) below is:

 [*amount of foreign currency in words*], [*amount in figures*], and [*amount of local currency in words*], [*amount in figures*]

*The total bid price from the Summary of Bill of Quantities should be entered by the bidder inside this box. Absence of the total bid price in the Letter of Bid may result in the rejection of the bid.*

1. The discounts offered and the methodology for their application are: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
2. Our bid shall be valid for a period of . . . . . days from the date fixed for the bid submission deadline in accordance with the Bidding Documents, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
3. If our bid is accepted, we commit to obtain a performance security in accordance with the Bidding Documents.
4. Our firm, including any Subcontractors or Suppliers for any part of the Contract, have nationalities from eligible countries in accordance with ITB 4.2.
5. We, including any Subcontractors or Suppliers for any part of the contract, do not have any conflict of interest in accordance with ITB 4.3.
6. We are not participating, as a Bidder in more than one Bid in this bidding process in accordance with ITB 4.3(e), other than alternative offers submitted in accordance with ITB 13.
7. Our firm, its affiliates or subsidiaries, including any Subcontractors or Suppliers for any part of the contract, has not been declared ineligible by OFID, under the Employer’s country laws or official regulations or by an act of compliance with a decision of the United Nations Security Council.
8. [We are not a government-owned enterprise] / [We are a government-owned enterprise but meet the requirements of ITB 4.5].**[[5]](#footnote-5)**
9. We have paid, or will pay the following commissions, gratuities, or fees with respect to the bidding process or execution of the Contract:**[[6]](#footnote-6)**

|  |  |  |  |
| --- | --- | --- | --- |
| Name of Recipient | Address | Reason | Amount |
|   |   |   |   |
| ……………………  | …………………… | ………………… | …………… |

 …………………… …………………… ………………… …………….

1. We understand that this bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal contract is prepared and executed.
2. We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive.
3. We agree to permit OFID or its representative to inspect our accounts and records and other documents relating to the bid submission and to have them audited by auditors appointed by OFID.
4. If our Bid is accepted, we commit to mobilizing key equipment and personnel in accordance with the requirements set forth in Section V (Employer’s Requirements) and our technical proposal, or as otherwise agreed with the Employer.

Name

In the capacity of

Signed

Duly authorized to sign the Bid for and on behalf of

Date

### **Schedules**

**Schedule of Payment Currencies**

For Provision of Water Supply Facilities in Ha. Hoarafushi and H.Dh. Hanimaadhoo

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **A** | **B** | **C** | **D** |
| **Name of Payment Currency** | **Amount of Currency** | **Rate of Exchange****to Local Currency** | **Local Currency Equivalent****C = A x B** | **Percentage of Net Bid Price (NBP)** **100xC** **NBP** |
| **Local Currency** |  | **1.00** |  |  |
| **Net Bid Price** |  |  |  | **100.00** |
| **Provisional Sums Expressed in Local Currency** |  | **1.00** |  |  |
| **BID PRICE** |  |  |  |  |

- Note -

*The rates of exchange shall be the selling rates 28 days prior to the deadline for submission of bids published by the source specified in BDS 15.*

**Tables of Adjustment Data**

**Not Applicable**

### **Bid Security**

**Bank Guarantee**

 *Bank’s name, and address of issuing branch or office***[[7]](#footnote-7)**

**Beneficiary:** *Name and address of employer*

**Date:**

**Bid Security No.:**

We have been informed that . . . . . *name of the bidder. . . . .*  (hereinafter called "the Bidder") has submitted to you its bid dated . . . . . . . . . (hereinafter called "the Bid") for the execution of . . . . . . . . *name of contract* . . . . . . . under Invitation for Bids No. . . . . . . . . . (“the IFB”).

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

At the request of the Bidder, we . . . . . *name of bank. . . . .*  hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of . . . . . . . . . .*amount in figures* . . . . . . . . . (. . . . . . .*amount in words* . . . . . . . )upon receipt by us of your first demand in writing accompanied by a written statement stating that the Bidder is in breach of its obligation(s) under the bid conditions, because the Bidder:

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

(b) does not accept the correction of errors in accordance with the Instructions to Bidders (hereinafter “the ITB”); or

(c) having been notified of the acceptance of its Bid by the Employer during the period of bid validity, (i) fails or refuses to execute the Contract Agreement, or (ii) fails or refuses to furnish the performance security, in accordance with the ITB, or (iii) fails or refuses to furnish a domestic preference security, if required.

This guarantee will expire (a) if the Bidder is the successful Bidder, upon our receipt of copies of the Contract Agreement signed by the Bidder and the Performance Security issued to you upon the instruction of the Bidder; or (b) if the Bidder is not the successful Bidder, upon the earlier of (i) our receipt of a copy of your notification to the Bidder of the name of the successful Bidder, or (ii) 28 days after the expiration of the Bidder’s bid.

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

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.**[[8]](#footnote-8)**

. . . . . . . . . . . *.Bank’s seal and authorized signature(s)* . . . . . . . . . .

-- Note –

*In case of a joint venture, the bid security must be in the name of all partners to the joint venture that submits the bid.*

### **Bid-Securing Declaration**

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

Bid No.: *[insert number of bidding process]*

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

To: *[insert complete name of employer]*

We, the undersigned, declare that:

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

We accept that we will automatically be suspended from being eligible for bidding in any contract with the Borrower for the period of time of . . . [*insert number of years as indicated in ITB 19.2 of the BDS]*. . . . .starting on the date that we receive a notification from the Employer*,* if we are in breach of our obligation(s) under the bid conditions, because we

(a) have withdrawn our Bid during the period of bid validity specified in the Letter of Bid; or

(b) do not accept the correction of errors in accordance with the Instructions to Bidders (hereinafter “the ITB”); or

(c) having been notified of the acceptance of our Bid by the Employer during the period of bid validity, (i) fail or refuse to execute the Contract, if required; or (ii) fail or refuse to furnish the Performance Security, in accordance with the ITB; or (iii) fail or refuse to furnish a domestic preference security, if required.

We understand this Bid-Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of (i) our receipt of your notification to us of the name of the successful Bidder; or (ii) 28 days after the expiration of our Bid.

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*]

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

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

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

Corporate Seal*[where appropriate]*

**-- Note --**

*In case of a joint venture, the Bid-Securing Declaration must be in the name of all partners to the joint venture that submits the bid.*

### **Technical Proposal**

* **Personnel**
* **Equipment**
* **Site Organization**
* **Method Statement**
* **Mobilization Schedule**
* **Construction Schedule**

### **Personnel**

### **Form PER – 1: Proposed Personnel**

Bidder should provide the details of the proposed personnel and their experience record in the relevant Information Forms below for each candidate:

|  |  |
| --- | --- |
| **1.** | **Title of position\*** |
|  | **Name**  |
| **2.** | **Title of position\*** |
|  | **Name**  |
| **3.** | **Title of position\*** |
|  | **Name**  |
| **4.** | **Title of position\*** |
|  | **Name**  |
| **5.** | **Title of position\*** |
|  | **Name**  |
| **6.** | **Title of position\*** |
|  | **Name**  |
| **etc.** | **Title of position\*** |
|  | **Name** |

**-- Note --**

*\* As listed in Section V (Employer’s Requirements).*

### **Form PER – 2: Resumé of Proposed Personnel**

The Bidder shall provide all the information requested below. Use one form for each position.

|  |
| --- |
| **Position** |
| **Personnel information** | **Name**  | **Date of birth** |
|  | **Professional qualifications** |
| **Present employment** | **Name of employer** |
|  | **Address of employer** |
|  | **Telephone** | **Contact (manager / personnel officer)** |
|  | **Fax** | **E-mail** |
|  | **Job title** | **Years with present employer** |

Summarize professional experience in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

|  |  |  |
| --- | --- | --- |
| **From** | **To** | **Company/Project/Position/Relevant Technical and Management Experience** |
|  |  |  |
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### **Equipment**

### **Form EQU: Equipment**

The Bidder shall provide adequate information and details to demonstrate clearly that it has the capability to meet the equipment requirements indicated in Section V (Employer’s Requirements), using the Forms below. A separate Form shall be prepared for each item of equipment listed, or for alternative equipment proposed by the Bidder.

|  |
| --- |
| **Item of Equipment** |
| **Equipment Information** | **Name of manufacturer** | **Model and power rating** |
|  | **Capacity** | **Year of manufacture** |
| **Current Status** | **Current location** |
|  | **Details of current commitments** |
|  |  |
| **Source** | **Indicate source of the equipment** **o Owned o Rented o Leased o Specially manufactured** |

Omit the following information for equipment owned by the Bidder.

|  |  |
| --- | --- |
| **Owner** | **Name of owner** |
|  | **Address of owner** |
|  |  |
|  | **Telephone** | **Contact name and title** |
|  | **Fax** | **Telex** |
| **Agreements** | **Details of rental / lease / manufacture agreements specific to the project** |
|  |  |
|  |  |

### **Site Organization**

### **Method Statement**

### **Mobilization Schedule**

### **Construction Schedule**

### **Bidders Qualification**

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

### **Form ELI - 1: Bidder’s Information Sheet**

|  |
| --- |
| **Bidder’s Information** |
| **Bidder’s legal name**  |  |
| **In case of Joint Venture, legal name of each partner** |  |
| **Bidder’s country of constitution** |  |
| **Bidder’s year of constitution** |  |
| **Bidder’s legal address in country of constitution** |  |
| **Bidder’s authorized representative**(name, address, telephone numbers, fax numbers, e-mail address) |  |
| **Attached are copies of the following documents.*** 1. In case of single entity, articles of incorporation or constitution of the legal entity named above, in accordance with ITB 4.1 and ITB 4.2.
* 2. Authorization to represent the firm or Joint Venture named above, in accordance with ITB 20.2.
* 3. In case of Joint Venture, letter of intent to form Joint Venture or Joint Venture agreement, in accordance with ITB 4.1.
* 4. In case of a government-owned enterprise, any additional documents not covered under 1 above required to comply with ITB 4.5.
 |

### **Form ELI - 2: Joint Venture Information Sheet**

Each member of the Joint Venture and Specialist Subcontractor must fill out this form separately.

|  |
| --- |
| **Joint Venture / Specialist Subcontractor Information** |
| **Bidder’s legal name** |  |
| **Joint Venture Partner’s or Specialist Subcontractor’s legal name** |  |
| **Joint Venture Partner’s or Specialist Subcontractor’s country of constitution** |  |
| **Joint Venture Partner’s or Specialist Subcontractor’s year of constitution** |  |
| **Joint Venture Partner’s or Specialist Subcontractor’s legal address in country of constitution** |  |
| **Joint Venture Partner’s or Specialist Subcontractor’s authorized representative information**(name, address, telephone numbers, fax numbers, e-mail address) |  |
| **Attached are copies of the following documents:** * 1. Articles of incorporation or constitution of the legal entity named above, in accordance with ITB 4.1 and ITB 4.2.
* 2. Authorization to represent the firm named above, in accordance with ITB 20.2.
* 3. In the case of government-owned enterprise, documents establishing legal and financial autonomy and compliance with commercial law, in accordance with ITB 4.5.
 |

Specialist Subcontractor is a specialist enterprise engaged for highly specialized processes that cannot be provided by the main Contractor.

### **Form LIT - 1: Pending Litigation and Arbitration**

Each Bidder must fill out this form if so required under Criterion 2.2(b) of Section III (Evaluation and Qualification Criteria) to describe any pending litigation or arbitration formally commenced against it.

In case of joint ventures, each Joint Venture Partner must fill out this form separately, and provide the Joint Venture Partner name below:

Joint Venture Partner: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

|  |
| --- |
| **Pending Litigation and Arbitration** |
| **Choose one of the following:*** No pending litigation and Arbitration.
* Below is a description of all pending litigation and Arbitration involving the Bidder (or each Joint Venture member if Bidder is a Joint Venture).
 |
| **Year** | **Matter in Dispute**  | **Value of Pending Claim in US$ Equivalent** | **Value of Pending Claim as a Percentage of Net Worth** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

- Note -

*This form shall only be included if Criterion 2.2(b) of Section III (Evaluation and Qualification Criteria) is applicable.*

### **Form FIN - 1: Historical Financial Performance**

Each Bidder must fill out this form.

In case of joint ventures, each Joint Venture Partner must fill out this form separately, and provide the Joint Venture Partner name below:

Joint Venture Partner: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

|  |  |
| --- | --- |
|  | **Financial Data for Previous ……… Years [US$ Equivalent]** |
| **Year 1:**  | **Year 2:**  | **Year \_\_:**  |

**Information from Balance Sheet**

|  |  |  |  |
| --- | --- | --- | --- |
| **Total Assets (TA)** |  |  |  |
| **Total Liabilities (TL)** |  |  |  |
| **Net Worth = TA – TL** |  |  |  |
| **Current Assets (CA)** |  |  |  |
| **Current Liabilities (CL)** |  |  |  |

|  |  |  |
| --- | --- | --- |
| **Most Recent****Working Capital** |  | To be obtained for most recent year and carried forward to FIN-3 Line 1; in case of Joint Ventures, to the corresponding Joint Venture Partner’s FIN-3 |

**Information from Income Statement**

|  |  |  |  |
| --- | --- | --- | --- |
| **Total Revenues**  |  |  |  |
| **Profits Before Taxes** |  |  |  |
| **Profits After Taxes** |  |  |  |
| * Attached are copies of financial statements (balance sheets including all related notes and income statements) for the last \_\_\_\_\_ years, as indicated above, complying with the following conditions:
* Unless otherwise required by Section III of the Bidding Document, all such documents reflect the financial situation of the legal entity or entities comprising the Bidder and not the Bidder’s parent companies, subsidiaries, or affiliates.
* Historical financial statements must be audited by a certified accountant.
* Historical financial statements must be complete, including all notes to the financial statements.
* Historical financial statements must correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).
 |

### **Form FIN - 2: Average Annual Construction Turnover**

Each Bidder must fill out this form.

The information supplied should be the Annual Turnover of the Bidder or each member of a Joint Venture in terms of the amounts billed to clients for each year for work in progress or completed, converted to US Dollars at the specified exchange rate.

In case of joint ventures, each Joint Venture Partner must fill out this form separately, and provide the Joint Venture Partner name below:

Joint Venture Partner: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

|  |
| --- |
| **Annual Turnover Data for the Last ……. Years (Construction only)** |
| **Year** | **Amount****Currency** | **Exchange** **Rate** | **US$****Equivalent** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
| **Average Annual Construction Turnover** |  |

### **Form FIN – 3: Availability of Financial Resources**

Bidders must demonstrate sufficient financial resources, usually comprising of Working Capital supplemented by credit line statements or overdraft facilities and others to meet the Bidder’s financial requirements for

1. its current contract commitments, and
2. the subject contract.

In case of joint ventures, each Joint Venture Partner must fill out this form separately and provide the Joint Venture Partner name below:

Joint Venture Partner: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

|  |
| --- |
| **Financial Resources** |
| **No.** | **Source of financing** | **Amount (US$ equivalent)** |
| 1 | Working Capital (to be taken from FIN-1) |  |
| 2 | Credit Line***a*** |  |
| 3 | Other Financial Resources |  |
| Total Available Financial Resources |  |

*a* *To be substantiated by a letter from the bank issuing the line of credit.*

### **Form FIN- 4: Financial Requirements for Current Contract Commitments**

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

In case of joint ventures, each Joint Venture Partner must fill out this form separately and provide the Joint Venture Partner name below:

Joint Venture Partner: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

|  |
| --- |
| **Current Contract Commitments** |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Name of Contract** | **Employer’s****Contact (Address, Tel, Fax)** | **Contract Completion****Date** | **Outstanding Contract Value****(X)** | **Remaining Contract Period in months (Y)** | **Monthly Financial Resources Requirement****(X / Y)** |
| 1 |  |  |  |  |  |  |
| 2 |  |  |  |  |  |  |
| 3 |  |  |  |  |  |  |
| 4 |  |  |  |  |  |  |
| Total Monthly Financial Requirement for Current Contract Commitments | **US$** . . . . . . . . . . . . . . . . .  |

### **Form FIN - 5: Compliance Check of Financial Resources (Criterion 2.3.3 of Section III)**

**Form FIN-5A: For Single Entities**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **For Single Entities:** | **Total Available Financial Resources from FIN-3****(C)** | **Total Monthly Financial Requirement for Current Contract Commitments (CCC) from FIN-4****(D)** | **Available Financial Resources net of CCC****(C-D)** | **≥** | **Requirementa** |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Name of Bidder) | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | **≥** | 100% of Requirementfrom Section III - 2.3.3(b)**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |

**Form FIN-5B: For Joint Ventures**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **For Joint Ventures:** | **Total Available Financial Resources from FIN-3****(C)** | **Total Monthly Financial Requirement for Current Contract Commitments (CCC) from FIN-4****(D)** | **Available Financial Resources net of CCC****(C-D)** | **≥** | **Requirementa** |
| One Partner: |  |  |  |  |  |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Name of Partner) | **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | **≥** | B(%) of Requirement\_\_\_\_\_\_\_\_\_\_\_\_ |
| Each (Other) Partner: |  |  |  |  |  |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Name of Partner 1) | **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | **≥** | A(%) of Requirement\_\_\_\_\_\_\_\_\_\_\_\_ |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Name of Partner 2) | **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | **≥** | A(%) of Requirement\_\_\_\_\_\_\_\_\_\_\_\_ |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Name of Partner 3) | **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | **≥** | A(%) of Requirement\_\_\_\_\_\_\_\_\_\_\_\_ |
| **All partners combined** |  |  | **∑ (C-D)b =****\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | **≥** | 100% of Requirementfrom Section III - 2.3.3(b\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**- Note -**

*Form FIN – 5 is made available for use by the bidder as a self-assessment tool, and by the employer as evaluation work sheet, to determine compliance with financial resources.*

*a Requirement for the subject contract is defined in Criterion 2.3.3(b) of Section III. Value A is the required percentage of the subject contract, which each partner must meet; and value B is the required percentage of the subject contract, which one partner must meet. A and B values are defined in Criterion 2.3.3 of Section III (Evaluation and Qualification Criteria).*

*b Σ (C – D) = sum of available financial resources net of current contract commitments (CCC) for all partners.*

### **Form EXP** **– 1: Contracts of Similar Size and Nature**

Fill out one (1) form per contract.

|  |
| --- |
| **Contract of Similar Size and Nature** |
| **Contract No** . . . . . . **of** . . . . . | **Contract Identification** |  |
| **Award Date** |  | **Completion Date** |  |
| **Role in Contract** | * **Contractor**
 | * **Management Contractor**
 | * **Subcontractor**
 |
| **Total Contract Amount** | **US$** |
| **If partner in a Joint Venture or subcontractor, specify participation of total contract amount** | **Percent of Total** | **Amount** |
| **Employer’s name****Address****Telephone number****Fax number****E-mail** |  |
| **Description of the similarity in accordance with Criterion 2.4.1 of Section III** |
|  |  |

### **Form EXP - 2: Construction Experience in Key Activities**

Fill out one (1) form per contract.

|  |
| --- |
| **Contract with Similar Key Activities** |
| **Contract No** . . . . . . **of** . . . . . . | **Contract Identification** |  |
| **Award Date** |  | **Completion Date** |  |
| **Role in Contract** | * **Contractor**
 | * **Management Contractor**
 | * **Subcontractor**
 |
| **Total Contract Amount** | **US$** |
| **If partner in a Joint Venture or subcontractor, specify participation of total contract amount** | **Percent of Total** | **Amount** |
| **Employer’s name****Address****Telephone number** **Fax number****E-mail** |  |
| **Description of the key activities in accordance with Criterion 2.4.2 of Section III** |
|  |  |

### **SECTION V – ELIGIBLE COUNTRIES**

1. In reference to ITB4.7 and 5.1, for the information of the Bidders, at the present time firms, goods and services from the following countries are excluded from this bidding process:

Under ITB 4.7(a) and 5.1: “None”.

Under ITB 4.7(b) and 5.1: “None”.

### **SECTION VI – FUND POLICY – CORRUPT AND FRAUDULENT PRACTICES**

**“Fraud and Corruption”:**

1.16 It is the Fund’s policy to require that Beneficiary's (including beneficiaries of Fund loans), bidders, suppliers, contractors and their agents (whether declared or not), sub-contractors, sub-consultants, service providers or suppliers, and any personnel thereof, observe the highest standard of ethics during the procurement and execution of Fund-financed contracts.[[9]](#footnote-9) In pursuance of this policy, the Fund:

(a) defines, for the purposes of this provision, the terms set forth below as follows:

(i) “corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;[[10]](#footnote-10);

(ii) “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;[[11]](#footnote-11)

(iii) “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;[[12]](#footnote-12)

(iv) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;[[13]](#footnote-13)

(v) “obstructive practice” is

(aa) deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or

(bb) acts intended to materially impede the exercise of the Fund’s inspection and audit rights provided for .

(b) will reject a proposal for award if it determines that the bidder recommended for award, or any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;

(c) will declare misprocurement and cancel the portion of the financing allocated to a contract if it determines at any time that representatives of the Beneficiary or of a Recipient of any part of the proceeds of the financing engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the procurement or the implementation of that contract, without the Beneficiary having taken timely and appropriate action satisfactory to the Fund to address such practices when they occur, including by failing to inform the Fund in a timely manner at the time they knew of the practices; and

(d) will sanction a firm or individual, at any time, in accordance with the prevailing Fund’s sanctions procedures,[[14]](#footnote-14) including by publicly declaring such firm or individual ineligible, either indefinitely or for a stated period of time: (i) to be awarded a Fund-financed contract; and (ii) to be a nominated[[15]](#footnote-15);

(e) will require that a clause be included in bidding documents and in contracts financed by a Fund loan, requiring bidders, suppliers and contractors, and their sub-contractors, agents, personnel, consultants, service providers, or suppliers, to permit the Fund to inspect all accounts, records, and other documents relating to the submission of bids and contract performance, and to have them audited by auditors appointed by the Fund.”

# **PART II - VOLUME 2**

## **EMPLOYER’S REQUIREMENTS**

### **SECTION VII – EMPLOYER’S REQUIREMENTS**

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# **TECHNICAL SPECIFICATIONS - VOLUME 3**

# **BILL OF QUANTITIES (BOQ) - VOLUME 4**

# **DRAWINGS - VOLUME 5**

# **PART III**

## **CONDITIONS OF CONTRACT AND CONTRACT FORMS**

### **SECTION VIII – GENERAL CONDITIONS OF CONTRACT (GCC)**

The Conditions of Contract comprise two parts, this Section VI - General Conditions of Contract (GCC) and the following Section VII - Particular Conditions of Contract (PCC).

The General Conditions shall be the Conditions of Contract for Construction for Building and Engineering Works Designed by the Employer, Multilateral Development Bank Harmonized Edition, prepared by the International Federation of Consulting Engineers (Fédération Internationale des Ingénieurs-Conseil, or FIDIC) (FIDIC MDB Harmonized Construction Contract), FIDIC 2010 which is available at [www.fidic.org](http://www.fidic.org).

The standard text of the General Conditions chosen must be retained intact to facilitate its reading and interpretation by Bidders and its review by OFID. Any amendments and additions to the GCC, specific to the contract in hand, should be introduced in Section VII (Particular Conditions of Contract), Part A (Contract Data) and Part B (Special Provisions). Clause numbers in the PCC correspond to those in the GCC. As per GCC 1.5 (Priority of Documents), the PCC takes precedence over the GCC.

Part A (Contract Data) of the PCC includes data to complement the GCC in a manner similar to the way in which the Bid Data Sheet (BDS) complements the Instructions to Bidders (ITB).

Part B (Specific Provisions) is to be used to introduce country- or project-specific provisions, if so required. Whoever drafts the Specific Provisions should be thoroughly familiar with the provisions of the GCC and with any specific requirements of the Contract. Legal advice is recommended when amending provisions or drafting new ones.

The Conditions of Contract have been prepared for an ad measurement (unit price or unit rate) type of contract and cannot be used for other types of contract.

### **SECTION IX – PARTICULAR CONDITIONS OF CONTRACT (PCC)**

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

**Part A – Contract Data**

|  |  |  |
| --- | --- | --- |
| **Ref. GCC** | **Subject** | **Data** |
| 1.1.2.2 and 1.3 | **Employer’s name and address** | Ministry of Environment and EnergyGreen Building.Ameenee Magu, Male’Republic of Maldives. |
| 1.1.2.4 and 1.3 | **Engineer’s name and address** | ------------------Ministry of Environment and EnergyGreen Building.Male’Republic of Maldives. |
| 1.1.2.11 | **Funds name**  | OPEC Fund for International Development (OFID) |
| 1.1.2.12 | **Beneficiary’s name**  | Government of Maldives |
| 1.1.3.3 | **Time for Completion** | 548 days  |
| 1.1.3.7 | **Defects Notification Period** | 365 days. |
| 1.3 | **Electronic transmission systems** | Email and Fax  |
| 1.4 | **Governing Law** | The law is that in force in the Republic of Maldives |
| 1.4 | **Ruling language** | English |
| 1.4 | **Language for communications** | English |
| 1.6 | **Time for the Parties entering into a Contract Agreement** | 30 days |
| 1.15 | **Inspections and Audit by the Fund** | This clause shall be amended as follows:The Contractor shall permit, and shall cause its agents (whether declared or not), sub-contractors, sub-consultants, service providers, or suppliers and any personnel thereof, to permit, the Fund and/or persons appointed by the Fund to inspect the Site and all accounts and records relating to the performance of the Contract and the submission of the bid, and to have such accounts and records audited by auditors appointed by the Fund if requested by the Fund. The Contractor’s attention is drawn to Sub-Clause 15.6 [Corrupt or Fraudulent Practices] which provides, inter alia, that acts intended to materially impede the exercise of the Fund’s inspection and audit rights provided for under Sub-Clause 1.15 constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to the Fund’s prevailing sanctions procedures. |
| 2.1 | **Time for access to the Site** | 7 days after Commencement Date |
| 3.1(b)(ii) | **Engineer’s Duties and Authority**  | The Engineer shall obtain the specific approval of the Employer before ordering any works involving delay or any extra payment by the Employer or to make variation of or in the Works or Contract |
| 4.2 | **Performance Security** | The performance security will be in the form of an unconditional bank guarantee in the amount(s) of 10% of the Accepted Contract Amount and in the same currency(ies) of the Accepted Contract Amount. |
| 6.5 | **Normal working hours** | 8.00 am to 4.00 pmHowever normal working times to be as agreed with the Engineer, considering the limitations applicable, and the methodology to be adopted for each part of the Works, subject to compliance to regulations of relevant authorities and local labour laws. |
| 8.1 | **Commencement of Works** | Within 30 Days of Contract Signing. |
| 8.7 & 14.15(b)  | **Delay damages for the Works** | 0.05 % of the Contract Price per day, in the currencies and proportions in which the Contract Price is payable. |
| 8.7 | **Maximum amount of delay damages** | 10% of the final Contract Price. |
| 13.5.(b)(ii)  | **Provisional Sums** | As given in the price schedules |
| 13.8 | **Adjustments for Changes in Cost** | The Contract Price shall not be adjusted during Contract Execution. |
| 14.2 | **Total advance payment**  | The Employer shall make an advance payment, as an interest free loan for mobilization and cash flow support, when the Contractor submits a guarantee in accordance with this Sub Clause. The total advance payment and the applicable currencies and proportions shall be as stated in the Contract Data.a) The Employer shall make an advance payment to the Contractor exclusively for the costs of mobilization in respect of the Works in the amount equivalent to **10% (ten) percent of the Accepted Contract Amount** named in the Letter of Acceptance (less Provisional Sums & Contingencies) payable in proportions of foreign and local currencies of the Accepted Contract Amount. Payment of such advance amount will be due under separate certification by the Engineer after:(i) Provision by the Contractor of the performance security in accordance with Sub-Clause 4.2; and signing of agreement.(ii) Submission of program, methodology and cash flow estimates as per Clauses 8.3 and 14.4; and(iii) Provision by the Contractor of an unconditional bank guarantee in a form and by a bank acceptable to the Employer in amounts and currencies equal to the advance payment including the percentage of GST payments related to the advance payment. b) The bank guarantee shall be obtained from:(i) Bank located in Maldives and approved by Maldives Monitory Authority; or(ii) A bank located outside Maldives, which shall have a correspondent financial institution located in the country of Maldives regulated by Maldives Monitory Authority |
| 14.2(b) | **Repayment amortization of advance payment**  | The advance payment under (a) above 10% shall be repaid through percentage deductions from the interim payments certified by the Engineer in accordance with this Clause. Deductions shall commence in the next interim Payment Certificate following that in which the total of all interim payments certified to the Contractor has reached 30 (thirty) percent of the Accepted Contract and shall be made at an amortization rate calculated in accordance with the following formula:Y = (X-0.3) x Z (0.9 – 0.3)Y = Cumulative repaymentZ = Total amount of advanceX = Percentage value of cumulative work doneIn the types proportionate amounts of currencies of the advance payment until such time as the advance payment has been repaid: always provided that the advance payment shall be completely repaid prior to the time when 90% of the Accepted Contract Amount has been certified for payment. |
| 14.3(c) | **Percentage of Retention** | 5% |
| 14.3(c) | **Limit of Retention Money** | 5% of the Accepted Contract Amount. |
| 14.5(b)(i) | **Plant and Materials** | If Sub-clause 14.5 applies:Plant and Materials for payment Free on Board 60% |
| 14.5(c)(i) | Plant and Materials for payment when delivered to the Site 80% |
| 14.6 | **Minimum Amount of Interim Payment Certificates** | 2.5 % of the Accepted Contract Amount. |
| 17.6  | **Maximum total liability of the Contractor to the Employer** | The amount of the maximum total liability shall be 110% the Accepted Contract Amount |
| 18.1 | **Periods for submission of insurance:****a. evidence of insurance.** **b. relevant policies** | 14 days21 days |
| 18.2(d) | **Maximum amount of deductibles for** **insurance of the Employer's risks** | USD 30,000 per occurrence |
| 18.3 | **Minimum amount of third party** **insurance** | USD 1,000,000.00 |
| 20.2 | **Date by which the Dispute Board shall be appointed** | 28 days after the Commencement date |
| 20.2 | **The Dispute Board shall be comprised of** | "Three Members" |
| 20.3 | **Appointment (if not agreed) to be** **made by** | Ministry of Finance and Treasury |
| 20.6 (a) | **International arbitration shall be administered by** | International arbitration shall be:1. Administered by: Singapore International Arbitration Centre
2. ((ii) Arbitration proceedings shall be conducted in Maldives in accordance with the rules of United Nations Commission on International Trade Law (UNCITRAL).
 |
| 20.6 | **Place of Arbitration** | Tender Evaluation Section, Ministry of Finance and Treasury,Street address: Ameenee Magu, ,City: Male’-20-03Country: Republic of Maldives |

**Part B – Specific Provisions**

**The following Particular Conditions of Contract (PCC) shall supplement the General Conditions of Contract (GCC). In the event of a conflict, the provisions herein shall prevail over those in the GCC**

**Clause/Sub-Clause numbers in the PCC correspond to those in the GCC.**

|  |  |
| --- | --- |
| **1.1.6.7 Site** | At the end of subparagraph 1.1.6.7, add:The Site shall also include the area of facilities provided to Engineer under the terms of the Contract.  |
| **1.3 Communications**  | Substitute Sub-Clause 1.3 (a) with the following: (a) in writing and delivered by hand (against receipt), sent by mail or courier **and also** a scanned copy of the signed document transmitted by email. In case of bulky documents, only the covering letter of such submission may be sent by email. At the end of Sub-Clause 1.3, add:For the purpose of communications between the Contractor and the Engineer and vice versa, appropriate forms (where relevant) shall be developed by the Contractor jointly with the Engineer. For giving approvals, consents, notices and requests, verbal communications between the Parties are also equally acceptable, if such modes of communications are confirmed in writing pursuant to Sub- clause (a) hereby |
| **1.13 Compliance with Laws** | At the end of Sub clause 1.13, add:However, the Contractor upon submission in good time to the Employer the details of Goods, Contractor’s Equipment and Plant, shall the request the Employer for assistance, as far as practicable, to obtain permits or licences required for these Goods, Contractor’s Equipment and Plant.The Employer shall also assist to obtain or grant all consents including permits to work, rights-of-way and approvals required for the Works. |
| **Clause 2** | **The Employer** |
| **2.1 Right of Access to the Site** | Amend the second sentence of the Sub-Clause as follows:The right and possession shall not be exclusive to the Contractor, but shall be subject to joint occupation with the right of use of public roads within the Site by the public, and by the utility service organizations, and other authorized entities, to carry out their legitimate duties within the Site if so required by them.  |
| **Clause 3** | **The Engineer** |
| **3.1 Engineer’s Duties and Authority**  | Sub-paragraphs 8 and 9 shall be replaced by:Notwithstanding anything to the contrary elsewhere in the Contract, the Engineer shall obtain the specific approval of the Employer before taking actions under any of the Conditions of Contract: (a) in granting extension of time for the Time for Completion by an aggregate of two months beyond the Time for Completion stated in Part A – Contract Data, (b) in approving/accepting a proposal under Sub-Clause 13.2 – Value Engineering, and  |
| **3.6 Management Meetings** | Insert this new Sub-Clause 3.6 at the end of Clause 3:The Engineer or the Contractor’s Representative may require the other to attend a management meeting in order to review the arrangements for future work, or for any other purpose. The Engineer shall record the business of management meetings and supply copies of the record to those attending the meeting and to the Employer. In the record, responsibilities for any actions to be taken shall be in accordance with the Contract.  |
| **Clause 4** | **The Contractor** |
| **4.2 Performance Security** | At the end of first paragraph in Sub-Clause 4.2, add:The performance security shall be in the form of an unconditional “On Demand” bank guarantee in the format given in Section 9, and in proportions in which the Contract Price is payable, issued by a reputable commercial bank registered and operating in Maldives or in other eligible country, and en-cashable at a reputable commercial bank in Maldives. If the guarantee is to be issued by a bank outside Maldives, it shall be from a bank that has a correspondent bank in Maldives. |
| **4.3 Contractor’s Representative** | At the end of first paragraph in Sub-Clause 4.3, add:The Engineer may require the Contractor’s authorized representative to be replaced under Sub–Clause 6.9, if his knowledge of the English language is found to be insufficient by the Engineer. |
| **4.4 Subcontractors** | Amend first paragraph of Sub-Clause 4.4 as follows:The Contractor shall not subcontract more than forty percent (40%) of the Contract in terms of value.  |
| **4.7 Setting Out** | At the end of first paragraph in Sub-Clause 4.7, add:When setting out any part of the Works, the Contractor shall give the Engineer sufficient notice (not less than 24 hours) to enable the Engineer also to satisfy himself to the correctness of the setting out, before the Contractor commences construction of the part concerned. However this will not relieve the responsibility of the Contractor for the correct positioning of all parts of the Works  |
| **4.10 Site Data** | At the end of Sub-Clause 4.10, add:The data referred to herein shall deemed to include data open for inspection at the office of the Engineer.  |
| **4.14 Avoidance of Interference** | Insert following additional paragraphs at the end of Sub-Clause 4.14: The Contractor shall acquaint himself with the locations of all existing services including drains, telephone and electricity lines and poles, water mains, irrigation ditches and the like, in the vicinity, before any excavation or other work (which are likely to affect the existing services) is commenced. The Contractor shall relocate any utilities which obstruct their work in accordance with the relevant authority.In the case of any accidental damages being caused to existing utilities due to his operations, he shall promptly bring it to the notice of the Engineer and to the relevant Utility Authority.The Contractor will be held liable for all damage (including consequential damage) to the road, irrigation structures, ditches, water mains, and electric or telecommunication cables, lines or ducts of any kind caused by him or his Subcontractors in the execution of the Works. The Contractor shall make good any damage without delay and, if necessary, carry out any further work ordered by the Engineer. He shall also ensure that his Third Party Insurance Cover shall include provisions to fully settle any Claims which may be made by the Utility Authorities consequent to such damages.When operations on the public roads necessitate diversion, obstruction or closure of any road, or any other right of way, the written approval of the Engineer and relevant authorities shall be obtained in advance by the Contractor.The method of working on public roads shall be in compliance with the Specifications and in accordance with procedures approved by the Engineer, and complying with stipulations of the relevant road authority and / or Local Authority, and security forces.The Contractor shall not deposit any equipment on material in any waterway adjacent to the Works. Where temporary works obstruct any waterway, the Contractor shall be responsible for obtaining any approvals from the relevant authorities for such purpose and for rectifying any damages caused by consequential flooding and shall remove all temporary works to the satisfaction of the Engineer on completion of his operations. |
| **4.16 Transport of Goods** | At the end of Sub-Clause 4.16, add:If it is found necessary for the Contractor to move loads of heavy constructional equipment and machinery, materials or prefabricated units or parts of units of work over roads, highways, bridges, waterways and sea, on which area such oversized and overweight items are not normally allowed to be moved for safety considerations, the Contractor shall obtain prior permission from the Engineer and the relevant Authorities. Payments to be made to relevant Authorities for complying with their requirements, if any, for protection of or strengthening of the roads, highways or bridges shall be made by the Contractor and such costs shall be deemed to be included in his Contract Price. |
| **4.21 Progress Reports**  | At the end of the Sub-Clause 4.21, add:(i) each of the obligations in Sub-Clause 4.18, 6.1, 6.2, 6.4, 6.7 and 6.20.These Reports shall be taken up for discussion at the Management Meetings specified under Sub-Clause 3.6. The format of the report shall be as acceptable to the Engineer. |
| **4.23 Contractor’s Operations on Site** | At the end of Sub-Clause 4.23, add:If the Contractor fails to attend to any of the above requirements within 28 days of the issue of the Taking-Over-Certificate, then the Employer may dispose of same and/or take any appropriate measures by other means and shall after deducting from the proceeds the costs, charges and expenses of and in connection with such disposal and pay the balance, if any, to the Contractor.The Contractor shall not sell or otherwise dispose of or remove, except for the purpose of the Works, any sand, stone, clay, ballast, rock or other substances or materials which he obtains from any excavation made for the purpose of the Works or any buildings or produce upon the Site during the time he is in the possession of the Site, and all such substance, materials, buildings and produce shall be the property of the Employer or the relevant Government Authority, provided that the Contractor may with the permission in writing of the Engineer use any of the same for the purposes of the Works or dispose of them off the Site at approved locations. |
| **Clause 6** | **Staff and Labour**  |
| **6.7 Health and Safety**  | At the end of Sub-Clause 6.7, add:In the event of any outbreak of illness of an epidemic nature, the Contractor shall comply with and carry out such regulations, orders and requirements as may be made by the Government or the local medical or sanitary authorities, for the purpose of dealing and overcoming the same. |
| **6.21 Child Labour** | Delete Sub-Clause 6.21 and replace it with the following:The Contractor shall not employ any child to perform work, including work that is economically exploitative, or is likely to be hazardous to, or interfere with, the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development. Child means a child below the statutory age of eighteen (18).  |
| **Clause 7** | **Plant, Materials and Workmanship** |
| **7.1 Manner of Execution** | Insert additional paragraphs at the end of Sub-Clause 7.1:Unless otherwise stated elsewhere in the contract, at least 14 days in advance of his programmed commencement of each principal item of work; the Contractor shall furnish for the Engineer’s concurrence, the method of working he intends to adopt for execution of such item giving full details of the method of working, equipment to be deployed and measures to be adopted for ensuring the quality of construction and the safety of his workers as well as third parties.He shall also inform the Engineer as a good practice, at least 24 hours in advance of its intended commencement of any work / operation requiring Engineer’s inspection and/or approval by forwarding the relevant details, including the resources intended to be deployed - preferably on an agreed format. |
| **Clause 8** | **Commencement, Delays and Suspension** |
| **8.3 Programme** | At the end of the penultimate paragraph, add: Notwithstanding the above, the Contractor should also recommend to the Engineer, practical ways and means of reducing or avoiding the adverse effects on the work, due to such specific probable future events or circumstances which may result in an increase of cost or extension of time for completion of the contract. Correspondingly the Contractor should also submit an amended programme with the objective of keeping to the Time for Completion of the Contract and to the Accepted Contract Amount. |
| **Clause 10** | **Employer’s Taking Over** |
| **10.2 Taking Over of Parts of the Works**  | At the end of Sub-Clause10.2, add:Notwithstanding anything to the contrary stated above, the flow of sewage along any part of the existing, rehabilitated, de-silted, and newly laid pipelines, would not constitute or construed as use of the part of Works by the Employer and shall not deemed to have been taken over of those parts by the Employer, unless and until the Engineer has issued a Taking-Over Certificate for that part or whole of the Works.  |
| **Clause 13** | **Variations and Adjustments**  |
| **13.5 Provisional Sums** | Amend the first sentence as follows:Each Provisional Sum shall only be used, in whole or in part, or not at all, in accordance with the Engineer’s instructions and the Contract Price shall be adjusted accordingly. |
| **Clause 14** | **Contract Price and Payment** |
| **14.1 The Contract Price** | Replace the last paragraph of Sub-Clause 14.1 with the following:e) Notwithstanding the provisions of subparagraph (b), Contractor's Equipment, including essential spare parts therefore, imported by the Contractor for the sole purpose of executing the Contract shall be temporarily exempt from the payment of import duties and taxes upon initial importation, provided the Contractor shall post with the customs authorities at the port of entry an approved export bond or bank guarantee, valid until the Time for Completion plus six months, in an amount equal to the full import duties and taxes which would be payable on the assessed imported value of such Contractor's Equipment and spare parts, and callable in the event the Contractor's Equipment is not exported from the Country on completion of the Contract. A copy of the bond or bank guarantee endorsed by the customs authorities shall be provided by the Contractor to the Employer upon the importation of individual items of Contractor's Equipment and spare parts. Upon export of individual items of Contractor's Equipment or spare parts, or upon the completion of the Contract, the Contractor shall prepare, for approval by the customs authorities, an assessment of the residual value of the Contractor's Equipment and spare part to be exported, based on the depreciation scale(s and other criteria used by the customs authorities for such purposes under the provisions of the applicable Laws. Import duties and taxes shall be due and payable to the customs authorities by the Contractor on (a) the difference between the initial imported value and the residual value of the Contractor's Equipment and spare parts to exported; and (b) on the initial imported value that Contractor's Equipment and spare parts remaining in the Country after completion of the Contract. Upon payment of such dues within 28 days of being invoiced, the bond or bank guarantee shall be reduced or released accordingly; otherwise the security shall be called in the full amount remaining.At the end of Sub-Clause14.1, add:The Contract Price shall include all taxes, duties and other charges imposed outside the Employer’s country on the production, manufacture, sale and transport of the Contractor’s equipment, Plant, materials and supplies to be used on or furnished under the Contract, and on the services performance under the Contract.Nothing in the Contract shall relieve the Contractor from its responsibility to pay any tax that may be levied in the Employer’s country on profits made by it in respect of the Contract.All employees of the Contractor and the Subcontractors, whether local or foreign, are liable for personal taxation on their emoluments and any other benefits to be derived, in accordance with the laws and regulations being in force in Maldives. In this regard the Contractor is further required to comply with the directives of the Department of Inland Revenue, where applicable. |
| **14.3 Application for Interim Payment Certificate** | In the first sentence of Sub-Clause 14.3 substitute six copies with three (3) copies. |
| **14.6 Issue of Interim Payment Certificate** | Add the following sentence at the end of subparagraph (b):The amount to be withheld for such non-compliance shall be as determined by the Engineer. |
| **14.10 Statement at Completion** | In the first sentence of Sub-Clause 14.10 six copies with three (03) copies. |
| **14.11 Application for Final Payment Certificate** | In the first sentence of Sub-Clause 14.11 substitute six copies with three copies.Amend 14.11 (a) and (b) as follows:(a) the value of Works certified in the Statement at Completion (b) the values of any authorized additional work (Variations) done during the Defects Notification Period, and (c) any further sums which the Contractor considers to be due to him under the Contract or otherwise which arose in the Defects Notification Period.  |

### **SECTION X – ANNEX TO PARTICULAR CONDITIONS OF CONTRACT – CONTRACT FORMS**

**Table of Forms**

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# **Notification of Award**

**Letter of Acceptance**

*[letter head paper of the Employer]*

*[date]*

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

This is to notify you that your Bid dated *[date]* for execution of the *[name of the Contract and identification number, as given in the Contract Data]* for the Accepted Contract Amount of the equivalent of *[amount in numbers and words] [name of currency]*, as corrected and modified in accordance with the Instructions to Bidders, is hereby accepted by our Agency.

You are requested to furnish the Performance Security within 28 days in accordance with the Conditions of Contract, using for that purpose one of the Performance Security Form*s* included in Section IX, Annex to the Particular Conditions - Contract Forms, of the Bidding Documents

Authorized Signature:

Name and Title of Signatory:

Name of Agency:

**Attachment: Contract Agreement**

|  |
| --- |
| **Contract Agreement** |

THIS AGREEMENT made the \_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_, between [*insert name and address of Employer*]of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter “the Employer”), of the one part, and [ *insert name and address of Contractor*] of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter “the Contractor”), of the other part:

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

The Employer and the Contractor agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.

2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.

1. The Letter of Acceptance
2. The Letter of Bid
3. the addenda Nos \_\_\_\_\_\_\_\_(if any)
4. the Particular Conditions
5. the General Conditions;
6. the Specification
7. the Drawings*;* and
8. the completedSchedules,

3. In consideration of the payments to be made by the Employer to the Contractor as specified in this Agreement, the Contractor hereby covenants with the Employer to execute the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract.

4. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ on the day, month and year specified above.

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

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

|  |
| --- |
| **Performance Security** |

**Option 1: (Demand Guarantee)**

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

**Beneficiary:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

**PERFORMANCE GUARANTEE No.:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Guarantor:** *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

We have been informed that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter called "the Applicant") has entered into Contract No. \_\_\_\_\_\_\_\_\_\_\_\_\_ dated \_\_\_\_\_\_\_\_\_\_\_\_ with the Beneficiary, for the execution of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Applicant, we as Guarantor,hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of \_\_\_\_\_\_\_\_\_\_\_
(),[[16]](#footnote-16)1 such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary’s complying demand supported by the Beneficiary’s statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire, no later than the …. Day of ……, 2… [[17]](#footnote-17)2, and any demand for payment under it must be received by us at this office indicated above on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
*[signature(s)]*

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

**Option 2: Performance Bond**

By this Bond\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as Principal (hereinafter called “the Contractor”) and\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_] as Surety (hereinafter called “the Surety”), are held and firmly bound unto\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_] as Obligee (hereinafter called “the Employer”) in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, for the payment of which sum well and truly to be made in the types and proportions of currencies in which the Contract Price is payable, the Contractor and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Contractor has entered into a written Agreement with the Employer dated the day of , 20 , for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in accordance with the documents, plans, specifications, and amendments thereto, which to the extent herein provided for, are by reference made part hereof and are hereinafter referred to as the Contract.

NOW, THEREFORE, the Condition of this Obligation is such that, if the Contractor shall promptly and faithfully perform the said Contract (including any amendments thereto), then this obligation shall be null and void; otherwise, it shall remain in full force and effect. Whenever the Contractor shall be, and declared by the Employer to be, in default under the Contract, the Employer having performed the Employer’s obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

(1) complete the Contract in accordance with its terms and conditions; or

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

(3) pay the Employer the amount required by Employer to complete the Contract in accordance with its terms and conditions up to a total not exceeding the amount of this Bond.

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

Any suit under this Bond must be instituted before the expiration of one year from the date of the issuing of the Taking-Over Certificate.

No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Employer named herein or the heirs, executors, administrators, successors, and assigns of the Employer.

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

SIGNED ON on behalf of

By in the capacity of

In the presence of

SIGNED ON on behalf of

By in the capacity of

In the presence of

|  |
| --- |
| **Advance Payment Security** |

**Demand Guarantee**

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

**Beneficiary:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

**ADVANCE PAYMENT GUARANTEE No.:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Guarantor:** *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

We have been informed that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter called “the Applicant”) has entered into Contract No. \_\_\_\_\_\_\_\_\_\_\_\_\_ dated \_\_\_\_\_\_\_\_\_\_\_\_ with the Beneficiary, for the execution of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum \_\_\_\_\_\_\_\_\_\_\_ () is to be made against an advance payment guarantee.

At the request of the Applicant, we as Guarantor hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of \_\_\_\_\_\_\_\_\_\_\_
()*[[18]](#footnote-18)1* upon receipt by us of the Beneficiary’s complying demand supported by the Beneficiary’s statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating either that the Applicant:

* + 1. has used the advance payment for purposes other than the costs of mobilization in respect of the Works; or
		2. has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount which the Applicant has failed to repay.

A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary’s bank stating that the advance payment referred to above has been credited to the Applicant on its account number \_\_\_\_\_\_\_\_\_\_\_ at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Applicant as specified in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that ninety (90) percent of the Accepted Contract Amount, less provisional sums, has been certified for payment, or on the \_\_\_ day of \_\_\_\_\_, 2\_\_\_,[[19]](#footnote-19)2 whichever is earlier.Consequently, any demand for payment under thisguarantee must be received by us at this office on or before that date..

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
*[signature(s)]*

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

|  |
| --- |
| **Retention Money Security** |

**Demand Guarantee**

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [Guarantor letter head or SWIFT identifier code]*

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

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

**RETENTION MONEY GUARANTEE No.:** *[Insert guarantee reference number]*

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

We have been informed that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *[insert name of Contractor, which in the case of a joint venture shall be the name of the joint venture]* (hereinafter called "the Applicant") has entered into Contract No. \_\_\_\_\_\_\_\_\_\_\_\_\_ *[insert reference number of the contract]* dated \_\_\_\_\_\_\_\_\_\_\_\_ with the Beneficiary, for the execution of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *[insert name of contract and brief description of* Works*]*(hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, the Beneficiary retains moneys up to the limit set forth in the Contract (“the Retention Money”), and that when the Taking-Over Certificate has been issued under the Contract and the first half of the Retention Money has been certified for payment, payment of *[insert thesecond half of the Retention Moneyor if the amount guaranteed under the Performance Guarantee when the Taking-Over Certificate is issued is less than half of the Retention Money,thedifference between half of the Retention Money and the amount guaranteed under the Performance Security]* is to be made against a Retention Money guarantee.

At the request of the Applicant, we,as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of \_\_\_\_\_\_\_\_\_\_\_ *[insert amount in figures]*()*[amount in words][[20]](#footnote-20)1* upon receipt by us of the Beneficiary’s complying demand supported by the Beneficiary’s statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract,without your needing to prove or show grounds for your demand or the sum specified therein.

A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary’s bank stating that the second half of the Retention Money as referred to above has been credited to the Applicant on its account number \_\_\_\_\_\_\_\_\_\_\_ at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *[insert name and address of Applicant’s bank]*.

This guarantee shall expireno later than the …. day of ……, 2… [[21]](#footnote-21)2, and any demand for payment under it must be received by us at the office indicated above on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
*[signature(s)]*

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

1. An individual firm is considered a domestic bidder for purposes of the margin of preference if it is registered in the country of the Employer or has more than 50 percent ownership by nationals of the country of the Employer, and if it does not subcontract more than 10 percent of the contract price, excluding provisional sums, to foreign contractors. JVs are considered as domestic bidders and eligible for domestic preference only if the individual member firms are registered in the country of the Employer or have more than 50 percent ownership by nationals of the country of the Employer, and the JV shall be registered in the country of the Beneficiary. The JV shall not subcontract more than 10 percent of the contract price, excluding provisional sums, to foreign firms. JVs between foreign and national firms will not be eligible for domestic preference. [↑](#footnote-ref-1)
2. Non-performance, as decided by the Employer, shall include all contracts where (a) nonperformance was not challenged by the contractor, including through referral to the dispute resolution mechanism under the respective contract, and (b) contracts that were so challenged but fully settled against the contractor. Non-performance shall not include contracts where Employers decision was overruled by the dispute resolution mechanism. Non-performance must be based on all information on fully settled disputes or litigation, i.e. dispute or litigation that has been resolved in accordance with the dispute resolution mechanism under the respective contract and where all appeal instances available to the Bidder have been exhausted. [↑](#footnote-ref-2)
3. This requirement also applies to contracts executed by the Bidder as JV member. [↑](#footnote-ref-3)
4. The Bidder shall provide accurate information on the letter of Bid about any litigation or arbitration resulting from contracts completed or ongoing under its execution over the last five years. A consistent history of court/arbitral awards against the Bidder or any member of a joint venture may result in disqualifying the Bidder. [↑](#footnote-ref-4)
5. Use one of the two options as appropriate. [↑](#footnote-ref-5)
6. If none has been paid or is to be paid, indicate “None”. [↑](#footnote-ref-6)
7. All italicized text is for use in preparing this form and shall be deleted from the final document. [↑](#footnote-ref-7)
8. Or 758 as applicable. [↑](#footnote-ref-8)
9. In this context, any action to influence the procurement process or contract execution for undue advantage is improper. [↑](#footnote-ref-9)
10. For the purpose of this sub-paragraph, “*another party*” refers to a public official acting in relation to the procurement process or contract execution. In this context, “*public official*” includes OFID fund staff and employees of other organizations taking or reviewing procurement decisions. [↑](#footnote-ref-10)
11. For the purpose of this sub-paragraph, “party” refers to a public official; the terms “benefit” and “obligation” relate to the procurement process or contract execution; and the “act or omission” is intended to influence the procurement process or contract execution. [↑](#footnote-ref-11)
12. For the purpose of this sub-paragraph, “parties” refers to participants in the procurement process (including public officials) attempting either themselves, or through another person or entity not participating in the procurement or selection process, to simulate competition or to establish bid prices at artificial, non-competitive levels, or are privy to each other’s bid prices or other conditions. [↑](#footnote-ref-12)
13. For the purpose of this sub-paragraph, “party” refers to a participant in the procurement process or contract execution. [↑](#footnote-ref-13)
14. A firm or individual may be declared ineligible to be awarded a Fund financed contract upon: (i) completion of the Fund’s sanctions proceedings as per its sanctions procedures, including, inter alia, cross-debarment as agreed with other International Financial Institutions, including Multilateral Development Funds; and (ii) as a result of temporary suspension or early temporary suspension in connection with an ongoing sanctions proceeding. See footnote 14 and paragraph 8 of Appendix 1 of these Guidelines. [↑](#footnote-ref-14)
15. A nominated sub-contractor, consultant, manufacturer or supplier, or service provider (different names are used depending on the particular bidding document) is one which has either been: (i) included by the bidder in its pre-qualification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification requirements for the particular bid; or (ii) appointed by the Beneficiary. [↑](#footnote-ref-15)
16. *1 The Guarantor shall insert an amount representing the percentage of the Accepted Contract Amount specified in the Letter of Acceptance, less provisional sums, if any, and denominated either in the currency(cies) of the Contract or a freely convertible currency acceptable to the Beneficiary.* [↑](#footnote-ref-16)
17. *2 Insert the date twenty-eight days after the expected completion dateas described in GC Clause 11.9. The Employer should note that in the event of an extension of thisdate for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: “The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Beneficiary’s written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.”* [↑](#footnote-ref-17)
18. 1 *The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency(ies) of the advance payment as specified in the Contract, or in a freely convertible currency acceptable to the Employer.* [↑](#footnote-ref-18)
19. 2 *Insert the expected expiration date of the Time for Completion. The Employer should note that in the event of an extension of the time for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: “The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Beneficiary’s written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.”* [↑](#footnote-ref-19)
20. 1 *The Guarantor shall insert an amount representing the amount of the second half of the Retention Money or or if the amount guaranteed under the Performance Guarantee when the Taking-Over Certificate is issued is less than half of the Retention Money, the difference between half of the Retention Money and the amount guaranteed under the Performance Security and denominated either in the currency(ies) of the second half of the Retention Money as specified in the Contract, or in a freely convertible currency acceptable to the Beneficiary.* [↑](#footnote-ref-20)
21. *2 Insert the same expiry date as set forth in the performance security, representing the date twenty-eight days after the completion date described in GC Clause 11.9. The Employer should note that in the event of an extension of thisdatefor completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: “The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Beneficiary’s written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.”* [↑](#footnote-ref-21)