



The Republic of Uganda

# MINISTRY OF WATER AND ENVIRONMENT

## DIRECTORATE OF WATER DEVELOPMENT

### Bidding Document

for the

### Procurement of Works

## UNDER OPEN DOMESTIC BIDDING

Subject of Procurement: **PROCUREMENT OF CONTRACTOR  
FOR CONSTRUCTION OF KAWUMU  
PRESIDENTIAL MODEL VILLAGE  
IRRIGATION SYSTEM AND FACILITIES**

Procurement Reference Number: **MoWE/WRKS/2021-2022/00074**

Procurement Method: **OPEN DOMESTIC BIDDING**

## **PREFACE**

This Bidding Document for the Procurement of Works has been prepared by Ministry of Water and Environment and is based on the Standard Bidding Document for the Procurement of Works under Open or Restricted Bidding issued by the Public Procurement and Disposal of Public Assets Authority dated December 2021.

## **LIST OF ACRONYMS**

BDS	Bid Data Sheet
BEB	Best Evaluated Bidder
BS	Bid Security
BSD	Bid Securing Declaration
ESHS	Environmental, Social, Health and Safety
GCC	General Conditions of the Contract
ITB	Instruction to Bidders.
JV	Joint Venture
NOBEB	Notice of Best Evaluated Bidder
PDE	Procuring and Disposing Entity
PPDA	Public Procurement and Disposal of Public Assets Authority
SBD	Standard Bidding Document
SCC	Special Conditions of the Contract
SOR	Statement of Requirements.
TCS	Technical Compliance Selection

# Bidding Document

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THE REPUBLIC OF UGANDA

MINISTRY OF WATER AND ENVIRONMENT

**ABRIDGED BID NOTICE UNDER OPEN DOMESTIC BIDDING**

1. The **Ministry of Water and Environment** invites sealed bids from eligible bidders for:

No.	Procurement Number	Reference	Subject Matter of Procurement	Bid Security
1.	MoWE/WRKS/2021-2022/00074		Procurement of Contractor for Construction of Kawumu Presidential Model Village Irrigation System and Facilities	UGX 30,000,000= (Uganda Shillings, Thirty Million Only)

2. The bidding document(s) shall be inspected, issued, and submitted at the Employer's address below:

**Ministry of Water and Environment (MWE)**  
**Kabalega Crescent Close, Plot 3-7, Luzira**  
**PDU-Ground Floor**  
**P.O. Box 20026**  
**Kampala, Uganda**

3. The deadline for bid submission shall be at **11:00 am** on as per online date

4. The bid opening shall take place at: Online  
**Ministry of Water and Environment (MWE)**  
**Kabalega Crescent Close, Plot 3-7, Luzira**  
**Kampala, Uganda**

Date: As per online date

Time (local time): 11:30am

5. A Pre-Bid meeting will take place at the following date, time and place:

Date: **28<sup>th</sup> January, 2022**

Time: **10:00 hours** East African Time

Place: **Kawumu Presidential Model Village, Makulubita SC**



THE REPUBLIC OF UGANDA

**MINISTRY OF WATER AND ENVIRONMENT**

**PLOT 3-7 KABALEGA CRESCENT ROAD, LUZIRA. P.O. BOX 20026 KAMPALA**

**BID NOTICE UNDER OPEN DOMESTIC BIDDING**

**PROCUREMENT OF CONTRACTOR FOR CONSTRUCTION OF KAWUMU PRESIDENTIAL MODEL VILLAGE IRRIGATION IRRIGATION SYSTEM AND FACILITIES**

**PROCUREMENT REFERENCE NUMBER: MoWE/WRKS/2021-2022/00074**

1. The Government of the Republic of Uganda through **Ministry of Water and Environment**, has received funds to be used for the acquisition of **Procurement of Contractor for Construction of Kawumu Presidential Model Village Irrigation Irrigation System and Facilities**.
2. The Entity invites sealed bids from eligible bidders for the provision of the above works.
3. Bidding shall be conducted in accordance with the procedures contained in the Public Procurement and Disposal of Public Assets Act, 2003 (the Act) and the Regulations made under the Act and is open to all bidders.
4. Interested eligible bidders may obtain further information and inspect the bidding document at the address given below at 8(a) from 8:00am to 5:00pm during official working hours
5. The bidding document which has been prepared in the English language may be purchased by interested bidders at 8(b) upon payment of a non-refundable fee of **UGX 100,000= (Uganda Shillings, One Hundred Thousand Only)** The method of payment will be **Direct Debit to URA Accounts**.
6. Bids must be delivered to the address below at 8(c) at or before **11:00am on the EGP online date**. All bids must be accompanied by a bid security of **UGX 30,000,000= (Uganda Shillings, Thirty Million Only)**. Bid securities must be valid until: **28 working days after expiry of bid validity**. Late bids shall be rejected. Bids will be opened in the presence of the bidders' representatives who choose to attend at the address below at 8(d) at **11:30am on the EGP online date**.
7. There shall be a pre-bid meeting at the address below at 9(b) at **10:00am** on the dates indicated in the proposed schedule in this notice.
8. Bidders should note the following:
  - (a) Documents may be inspected at: **Online**

**Ministry of Water and Environment (MWE)**

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**Kabalega Crescent Close, Plot 3-7, Luzira  
P.O. Box 20026  
Kampala, Uganda**

(b) Documents will be issued from: **Online**

**Ministry of Water and Environment (MWE)  
Kabalega Crescent Close, Plot 3-7, Luzira  
P.O. Box 20026  
Kampala, Uganda**

(c) Bids must be delivered to: **Online**

**Ministry of Water and Environment (MWE)  
Kabalega Crescent Close, Plot 3-7, Luzira  
P.O. Box 20026  
Kampala, Uganda**

(d) Address of bid opening: **Online**

**Ministry of Water and Environment (MWE)  
Kabalega Crescent Close, Plot 3-7, Luzira  
Kampala, Uganda**

9. The Planned Procurement Schedule (subject to changes) is as follows:

<b>Activity</b>	<b>Date</b>
(a) Publish bid notice	<b>As per EGP online date</b>
(b) Pre-bid meeting/ Site visits ( <b>Site Visit is Mandatory</b> )	<b>28th January, 2022, Kawumu Presidential Model Village, Makulubita SC @ 10:00 hours East African Time</b>
(c) Bid closing date	<b>As per EGP online date</b>
(d) Bid opening date	<b>As per EGP online date</b>
(e) Evaluation process	<i>(Within 40 working days from bid closing date)</i>
(f) Display and communication of best evaluated bidder notice	<i>(Within 5 working days from Contracts Committee award)</i>
(g) Contract signature	<i>(After expiry of at least 10 working days from display of the best evaluated bidder notice and where applicable the Attorney General's approval).</i>

**The Permanent Secretary**

**Ministry of Water and Environment**

## **PART 1 - Bidding Procedures**

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

### **A. General**

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

- 1.1 The Procuring and Disposing Entity (PDE), as defined in the Bid Data Sheet (BDS), invites bids for the construction of works, as described in the BDS. The name and procurement reference number of the Contract and number of lots in this Bidding Document are provided in the BDS. The Instructions to Bidders (ITB) should be read in conjunction with the BDS.
- 1.2 The successful bidder will be expected to complete the works by the Intended Completion Date specified in the Special Conditions of Contract (SCC).
- 1.3 Throughout this bidding document:
  - (a) the “Contractor” means the provider.
  - (b) “day” means working day unless otherwise expressly stated herein and excludes the Government of Uganda public holidays and weekends.
  - (c) “day works” means varied work inputs subject to payment on a time basis for the Contractor’s employees and Equipment, in addition to payments for associated Materials and Plant.
  - (d) the “Employer” means the procuring and disposing entity.
  - (e) “ESHS” means environmental, social (including sexual exploitation and abuse (SEA) and gender based violence (GBV)), health and safety.
  - (f) “in writing” means hand-written, type-written, printed or electronically made, and resulting in a permanent record.

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

- 2.1 The PDE has an approved budget towards the cost of the procurement named in the BDS. The PDE intends to use these funds to place a contract for which this Bidding Document is issued.
- 2.2 Payments will be made directly by the PDE and shall be subject to the terms and conditions of the resulting contract placed by the PDE.

#### **3. Corrupt and Fraudulent Practices**

- 3.1 It is the Government of Uganda’s policy to require that PDEs, as well as bidders and Contractors, to observe the highest standards of ethics during procurement and the execution of contracts. In pursuit of this policy:
  - (a) PPDA defines, for the purposes of this provision, the terms set forth below as follows:
    - (i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value, to influence the action of a public official in

## Part 1: Section 1 Instructions to Bidders

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- the procurement process or in contract execution;
- (ii) “fraudulent practice” means as any such practices under the code of ethics of the providers and not limited to misrepresentation of facts in order to influence a procurement or disposal process or the execution of a contract to the detriment of the procuring or disposing entity, and includes collusive practices among bidders prior to or after bid submission designed to establish bid prices at artificial non-competitive levels and to deprive the PDE of the benefits of free and open competition;
  - (b) The PDE will reject a recommendation for award if the Bidder recommended for award has engaged in corrupt or fraudulent practices; and
  - (c) PPDA shall suspend a provider from engaging in any public procurement proceedings for a stated period of time in accordance with the PPDA Act 2003 and the Regulations made under the Act, if the provider has engaged in corrupt or fraudulent practices.
- 3.2 In pursuit of the policy defined in ITB Sub-Clause 3.1, the PDE may terminate a contract for works, or be ordered by the Public Procurement and Disposal of Public Assets Appeals Tribunal to cancel a contract, if it at any time determines that corrupt or fraudulent practices were engaged in by representatives of the PDE or of a Bidder or Contractor during the procurement or the execution of a contract.
- 3.3 In further pursuit of the policy defined in ITB Sub-Clause 3.1, the PPDA requires representatives of both the PDE and of Bidders and Contractors to adhere to the relevant codes of ethical conduct. The Code of Ethical Conduct for Bidders and Providers as provided in the bidding forms shall be signed by the bidder and submitted together with the other bidding forms.
- 3.4 Any communications between a bidder and the PDE related to matters of alleged fraud or corruption must be made in writing and addressed to the Accounting Officer of the PDE and copied to the PPDA.

### 4. Eligible Bidders

- 4.1 A Bidder, and all parties constituting the Bidder, shall meet the following criteria to be eligible to participate in public procurement:
- (a) The bidder has the legal capacity to enter into a contract with the PDE;
  - (b) The bidder is not:
    - (i) Insolvent;
    - (ii) In receivership;
    - (iii) Bankrupt; or
    - (iv) Being wound up
  - (c) The bidder’s business activities have not been suspended;
  - (d) The bidder is not the subject of legal proceedings for any of the circumstances in (b); and
  - (e) The bidder has fulfilled his or her obligations to pay taxes and social security contributions.
  - (f) The bidder is not a member of the Contracts Committee or an employee of the Procuring and Disposing Entity.
- 4.2 A bidder may be a physical person or artificial person, such as an entity. A combination

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

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of persons can bid if they have an agreement to form a Joint Venture (JV), Consortium or Association. Such a bid shall include a Power of Attorney from each party authorizing a representative to conduct all business for and on behalf of the party during the bidding process, contract signature and contract execution. Each party to the JV, Consortium or Association shall be a signatory to the contract with the PDE and shall be jointly and severally liable.

- 4.3 A bidder, and all parties constituting the bidder including sub-contractors, shall have the nationality of an eligible country, in accordance with Section 5, Eligible Countries. A bidder shall be deemed to have the nationality of a country if the bidder is a citizen or is constituted, incorporated, or registered and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors for any part of the Contract including related services.
- 4.4 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 with one or more parties in this bidding process, if the bidder:
- (a) Has controlling shareholding with another bidder; or
  - (b) Receives or has received any direct or indirect subsidy from another bidder; or
  - (c) Has the same authorized representative for purposes of this bidding process as another bidder; or
  - (d) Has a relationship with another bidder, directly or through common third parties, that puts the bidder in a position to have access to information about or influence the bid of another bidder, or influence the decisions of the PDE regarding this bidding process; or
  - (e) Submits more than one bid in this bidding process, except for alternative bids permitted under ITB 19. However, this does not limit the participation of subcontractors in more than one bid, or as Bidders and subcontractors simultaneously; or
  - (f) Is associated, or has been associated in the past, directly or indirectly, with the consultant or any other entity that has prepared the design, specifications, and other documents for the Project or is being proposed as Project Manager for the Contract. A bidder that has been engaged by the PDE to provide consulting services for the preparation or supervision of the works, and any of its affiliates, shall not be eligible to bid.
- 4.5 A bidder that is suspended by the PPDA shall not be eligible to participate in the bidding process.
- 4.6 Government-owned enterprises shall be eligible only if they can establish that they are legally and financially autonomous and operate under commercial law.
- 4.7 Bidders shall provide such evidence of their continued eligibility satisfactory to the PDE, as the PDE shall reasonably request.
- 4.8 To establish eligibility in accordance with ITB 4, a bidder shall complete the eligibility declarations in the Bid Submission Sheet, included in Section 4, Bidding Forms and submit the documents required in Section 3, Evaluation Methodology and Criteria.
- 4.9 A bidder whose circumstances in relation to eligibility change during a procurement process or during the implementation of a contract, shall immediately inform the PDE.

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

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- 4.10 All materials, equipment and services to be used in the performance of the contract shall have as their country of origin an eligible country in accordance with Section 5, Eligible Countries.

### **5. Qualification of the Bidder**

- 5.1 To establish its qualifications to perform the Contract, the bidder shall complete and submit:
- (a) The Qualification Form provided in Section 4, Bidding Forms; and
  - (b) The information and documents stated in Section 3, Evaluation Methodology and Criteria.
- 5.2 The qualifications of the best evaluated bidder will be assessed as part of a post-qualification in accordance with ITB 40.

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

- 6.1 Bids submitted by a JV, Consortium or Association shall include a copy of the Joint Venture, Consortium or Association Agreement signed by all parties to the Joint Venture, Consortium or Association Agreement.
- 6.2 In addition to the requirements under ITB 15.1, bids submitted by a joint venture, consortium or association of two or more firms as partners shall comply with the following requirements, unless otherwise stated in the BDS:
- (a) The bid shall include all the information listed in Section 3, Evaluation Methodology and Criteria for each partner;
  - (b) The bid shall be signed so as to be legally binding on all partners;
  - (c) All partners shall be jointly and severally liable for the implementation of the Contract in accordance with the Contract terms;
  - (d) One of the partners will be nominated as being in charge and receive instructions for and on behalf of any and all partners; and
  - (e) The implementation of the entire Contract shall be by the Joint Venture, consortium or association.

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

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

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

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

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

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

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- 9.1 The bidder, at the bidder's own responsibility and risk, is encouraged to visit and examine the site of works and its surroundings and obtain all information that may be necessary for preparing the bid and entering into a contract for construction of the works. The costs of visiting the site shall be at the bidder's own expense.
- 9.2 The bidder and any of its authorized personnel or agents shall be granted permission by the PDE 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 PDE 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.
- 9.3 If so indicated in the BDS, the PDE will hold a pre-bid meeting or site visit at the time, date and location specified in the BDS to clarify issues and to answer questions on any matter that may be raised at that stage.
- 9.4 Bidders may submit any questions in writing to the Entity prior to the date of the meeting and may also orally raise questions at the meeting.
- 9.5 Minutes of the pre-bid meeting, if any was held, including the text of the questions asked by bidders, without identifying the source, and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all bidders who have acquired the Bidding Documents. Any modification to the Bidding Documents that may become necessary as a result of the pre-bid meeting shall be made by the PDE exclusively through the issue of an Addendum pursuant to ITB 12 and not through the minutes of the pre-bid meeting. Unless otherwise indicated in the BDS, non-attendance at the site visit shall not cause disqualification of a Bidder.
- 10. Reservation/Preference Schemes**
- 10.1 Unless otherwise specified in the BDS, reservation and/or preference schemes shall apply. Where the reservation and /or preference schemes applies, its application and detail shall be specified in Section 3, Evaluation Methodology and Criteria.
- 10.2 For the purpose of using the reservation schemes, bids will be classified in one of the categories specified under the Guideline on Reservation Schemes to promote Local Content and for preference schemes the PPDA Act, 2003 shall be applied.

## **B. Bidding Document**

### **11. Content of Bidding Document**

- 11.1 The Bidding Document consists of Parts 1, 2, and 3, which includes all the Sections indicated below, and should be read in conjunction with any addenda issued in accordance with ITB Clause 13.

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

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

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

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

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- Section 6. Statement of Requirements

### **PART 3 Contract**

- Section 7. General Conditions of Contract (GCC)
- Section 8. Special Conditions of Contract (SCC)
- Section 9. Contract Forms

- 11.2 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.
- 11.3 The bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Document and to furnish with its bid all information and documentation required by the Bidding Documents.

### **12. Clarification of Bidding Document**

A bidder requiring any clarification of the Bidding Document shall contact the PDE in writing at the PDE's address indicated in the BDS. The PDE will respond in writing to any request for clarification, provided that such request is received no later than the date indicated in the BDS. The PDE shall forward copies of its response to all bidders who have acquired the Bidding Document directly from it, including a description of the inquiry but without identifying its source. Should the PDE deem it necessary to amend the Bidding Document as a result of a clarification, it shall do so following the procedure under ITB 13 and ITB 24.2.

### **13. Amendment of Bidding Document**

- 13.1 At any time prior to the deadline for submission of bids, the PDE may amend the Bidding Document by issuing an addendum.
- 13.2 Any addendum issued shall be part of the Bidding Document and shall be communicated in writing to all who have obtained the Bidding Document directly from the PDE.
- 13.3 To give bidders reasonable time in which to take an addendum into account in preparing their bids, the PDE shall extend the deadline for submission of bids by a reasonable period in the event that less than one third of the bidding period remains after the issue date of the addendum. The PDE may, at its discretion, extend the deadline for the submission of bids, where more than one third of the bidding period remains after the date of issue of the addendum.

## **C. Preparation of Bids**

### **14. Language of the Bid**

- 14.1 The bid shall be in writing.
- 14.2 The bid, as well as all correspondence and documents relating to the bid exchanged between the bidder and the PDE, shall be written in English.
- 14.3 Supporting documents and printed literature that are part of the bid may be in another language provided they are accompanied by an accurate translation by a competent institution of the relevant passages to English. In which case, for purposes of interpretation of the bid, such translation shall govern.

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

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### **15. Documents Comprising the Bid**

- 15.1 The bid submitted by the bidder shall comprise the following:
- (a) The Bid Submission Sheet, in accordance with ITB 15.2;
  - (b) A Bid Security or a Bid Securing Declaration in accordance with ITB 20;
  - (c) Written confirmation authorising the signatory of the bid to commit the bidder, in accordance with ITB 22;
  - (d) Documentary evidence in accordance with ITB 4.8 establishing the bidder's eligibility to bid;
  - (e) A priced Activity Schedule or Bill of Quantities in accordance with ITB 16 and 17;
  - (f) The Qualification Form and Documents in accordance with ITB 5;
  - (g) Technical documentation (description of the proposed work method and schedule, including drawings and charts, as necessary) in accordance with ITB 16;
  - (h) The Code of Ethical Conduct for Bidders and Providers in accordance with ITB 3.3; and
  - (i) Any other document(s) required in the BDS.
- 15.2 The Bidder shall submit the Bid Submission Sheet using the form provided in Section 4, Bidding Forms. This form must be completed without any alterations to its format, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested.

### **16. Technical Documentation**

- 16 The bidder shall furnish technical documentation including a statement of work methods, equipment, personnel, schedule and any other information as stipulated in Section 4, Bidding Forms, in sufficient detail to demonstrate the adequacy of the bidder's proposal to meet the work's requirements and the completion time.

### **17. Bid Prices and Discounts**



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

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- 17.1 The prices and discounts quoted by the bidder in the Bid Submission Sheet and in the Priced Activity Schedules or Bills of Quantities submitted by the bidder shall conform to the requirements specified below.
- 17.2 The bidder shall fill in rates and prices for all items of the works described in the Bill of Quantities. If a Price Schedule shows items listed but not priced, their prices shall be assumed to be included in the prices of other items. Items not listed in the Price Schedule shall be assumed not to be included in the bid, and provided that the bid is substantially responsive, the corresponding adjustment shall be applied in accordance with ITB 32.3.
- 17.3 The price to be quoted in the Bid Submission Sheet shall be the total price of the bid, excluding any discounts offered. In the event that taxes are not exempt, the price must include any applicable taxes.
- 17.4 The bidder shall quote any discounts in the Bid Submission Sheet.
- 17.5 The total bid price shall be for the whole works based on the priced Activity Schedule or Bill of Quantities submitted by the bidder.
- 17.6 The lump sum price quoted by the bidder shall be subject to adjustment during the performance of the Contract if provided for in the SCC and the provisions of Clause 47 of the GCC.

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

- 18.1 Bid prices for works and related services originating in and outside Uganda shall be quoted in Uganda Shillings unless authorised by a competent authority.
- 18.2 If authorised by the competent authority the Bidder shall utilise the rate of exchange specified in the BDS to express its offer. The source, date and type of exchange rate shall be indicated in ITB 36.
- 18.3 If authorised by the competent authority, bidders shall indicate details of their expected foreign currency requirements in the Bid. Foreign currency requirements shall be indicated as a percentage of the bid price (excluding provisional sums) and shall be payable at the option of the bidder in up to three foreign currencies, unless otherwise stated in the BDS.
- 18.4 If authorised by the competent authority, bidders may be required by the PDE to clarify their foreign currency requirements and to substantiate that the amounts included in the lump sum and in the SCC are reasonable and responsive to ITB 18.3.

### **19. Bid Validity**

- 19.1 Bids shall remain valid until the date specified in the BDS. A bid valid for a shorter period shall be rejected by the PDE as non-compliant while a bid valid for a longer period than the date specified in the BDS shall not be rejected but shall only be valid until the date in the BDS.
- 19.2 The PDE shall make its best effort to complete the procurement process within the duration of the validity period specified in the BDS. A PDE must ensure the validity of bids, bid securities and bid securing declarations throughout the procurement process until contract signature.
- 19.3 In exceptional circumstances, prior to the expiration of the bid validity period, the PDE

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

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may request Bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. If a Bid Security or a Bid Securing Declaration is requested in accordance with ITB Clause 20, it shall also be extended for a period corresponding to the extension of the bid validity. A bidder may refuse to extend its bid validity period without forfeiting its Bid Security or Bid Securing Declaration. A bidder who extends the validity periods of its bid and bid security or bid securing declaration shall not be required or permitted to modify its bid.

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

- 20.1 The bidder shall furnish as part of its bid either a Bid Security or a Bid Securing Declaration 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.
- 20.2 If a bid security is specified pursuant to ITB 20.1, the bid security shall be a demand guarantee in the amount specified in the BDS and denominated in Uganda Shillings or a freely convertible currency, and shall:
- (a) Be issued by a reputable financial institution selected by the bidder from an eligible country. If the institution issuing the security is located outside Uganda, it shall be enforceable through a financial institution located in Uganda.
  - (b) Be in the form of the bid security included in section 4, bidding forms;
  - (c) Be discharged by the financial institution immediately upon written demand by the PDE in case the conditions stated in the bid security are invoked;
  - (d) Be included in the bid and submitted in its original form - copies shall not be accepted.
- 20.3 The Bid Security or Bid Securing Declaration shall be submitted using the appropriate form included in Section 4, Bidding Forms and shall be valid until the date specified in the BDS.
- 20.4 Any bid not accompanied by appropriate Bid Security or Bid Securing Declaration, shall be rejected by the PDE as non-compliant.
- 20.5 The Bid Security or Bid Securing Declaration of all bidders shall be returned as promptly as possible once the successful bidder has signed the contract and provided the required Performance Security and ESHS Performance Security where applicable.
- 20.6 The Bid Security or Bid-Securing Declaration of a JV, Consortium or Association must be issued in the names of all their members or partners.
- 20.7 The Bid Security may be forfeited or the conditions of the Bid Securing Declaration executed in the following circumstances:
- (a) If a bidder withdraws its bid during the period of bid validity specified by the Bidder in the Bid Submission Sheet, or during any extension thereto;
  - (b) If a bidder fails to accept the correction of its bid price pursuant to ITB Sub-Clause 32.5; or
  - (c) If the successful bidder fails to:
    - (i) Sign the Contract in accordance with ITB 45;
    - (ii) Furnish a Performance Security and if required in the BDS, the Environmental,

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

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Social, Health and Safety (ESHS) Performance Security in accordance with ITB 46.2.

### **21. Alternative Bids**

- 21.1 Bidders shall submit offers that comply with the requirements of the bidding documents, including the basic technical design as indicated in the drawings and specifications. Alternative bids shall not be considered unless they are permitted in the BDS.
- 21.2 Where permitted, alternative bids do not need to conform precisely to the Statement of Requirements (SORs), but must-
- (a) Meet the objectives and/or performance requirements prescribed in the SORS;
  - (b) Be substantially within any delivery or completion schedule, budget or other performance parameters stated in the solicitation document;
  - (c) Provide all information necessary for a complete evaluation of the alternative by the PDE, including design calculations, technical specifications, breakdown of prices, proposed construction methods and other relevant details; and
  - (d) Clearly state the benefits of the alternative bid over any solution which conforms precisely to the SORS, in terms of technical performance, price, operating costs or any other benefit.
- 21.3 A bidder may submit both a main bid which conforms precisely to the SORS and an alternative bid.
- 21.4 Where a bidder submits more than one bid, each bid shall be submitted as a completely separate bid and shall conform to the instructions for preparation and submission of bids in its own right, without any reliance on any other bid. In particular, each bid shall be separately signed, authorised, sealed, labelled and submitted in accordance with the instructions for submission of bids and shall be accompanied by a separate BS or BSD, if so required. Such bids shall be labelled “Main Bid” and “Alternative Bid”.
- 21.5 The evaluation of alternative bids shall use the same methodology, criteria and weights as the evaluation of main bids, except that the detailed technical evaluation shall take into account only the objectives and/or performance requirements prescribed in SORS.

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

- 22.1 The bidder shall prepare one original of the documents comprising the bid as described in ITB Clause 14 and clearly mark it “ORIGINAL.” In addition, the Bidder shall submit copies of the Bid, in the number specified in the BDS, and clearly mark each of them “COPY.” In the event of any discrepancy between the original and the copies, the original shall prevail.
- 22.2 The original and all copies of the bid shall be signed by the bidder in the event that he or she is a physical person personally submitting the bid and in any other event by a person duly authorised to sign on behalf of the bidder. This authorisation shall consist of a Power of Attorney which if signed in Uganda shall be registered with the competent authority and if signed outside Uganda, shall be notarized. The Power of Attorney shall be submitted in the bid. The name and position held by each person signing the authorisation must be typed

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

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or printed below the signature. All pages of the bid, except for un-amended printed literature, shall be signed or initialed by the person authorized to sign the bid.

- 22.3 The bid shall contain no alterations or additions, except those to comply with instructions issued by the PDE, or as necessary to correct errors made by the Bidder, in which case such corrections shall be initialed by the person or persons signing the Bid.
- 22.4 In the case of bids submitted by a JV, Consortium or Association, each member or partner shall nominate a representative through a power of attorney to conduct all business on its behalf during the bid preparation, bidding process and contract execution in case of award of the contract. Each representative duly nominated through the power of attorney shall commit each respective member or partner by executing a JV, Consortium or Association agreement providing; that the parties shall jointly submit a bid, naming the lead member or partner and authorizing the representative of the lead member or partner who was granted power of attorney to sign the bid.
- 22.5 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**

#### **23. Sealing and Marking of Bids**

- 23.1 The bidder shall enclose the original and each copy of the bid, in separate sealed envelopes or packages, duly marking the envelopes as “ORIGINAL” and “COPY.” These envelopes or packages containing the original and the copies shall then be enclosed in one single plain envelope or package securely sealed in such a manner that opening and resealing cannot be achieved undetected and shall be submitted as specified in the BDS.
- 23.2 The inner and outer envelopes shall:
- (a) Bear the name and address of the Bidder;
  - (b) Be addressed to the PDE in accordance with ITB 23.1;
  - (c) Bear the Procurement Reference number of this bidding process; and
  - (d) Bear a warning not to open before the time and date for bid opening, in accordance with ITB 23.1.
- 23.3 If all envelopes are not sealed and marked as required, the PDE will assume no responsibility for the misplacement or premature opening of the bid.

#### **24. Deadline for Submission of Bids**

- 24.1 Bids must be received by the PDE at the address and no later than the date and time indicated 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.
- 24.2 The PDE may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Documents in accordance with ITB 13, in which case all rights and obligations of the PDE and bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.

#### **25. Late Bids**

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The PDE shall not consider any bid that arrives after the deadline for submission of bids, in accordance with ITB 24. Any bid received by the PDE after the deadline for submission of bids shall be declared late, rejected, and returned unopened to the bidder.

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

- 26.1 A bidder may withdraw or replace its bid after it has been submitted at any time before the deadline for submission of bids by sending a written notice, duly signed by an authorised representative, which shall include a copy of the authorisation in accordance with ITB 24.2. Any corresponding replacement of the bid must accompany the respective written notice. All notices must be:
- (a) Submitted in accordance with ITB 23 and 24 (except that withdrawals notices do not require copies), and in addition, the respective envelopes shall be clearly marked “Withdrawal,” or “REPLACEMENT,” and
  - (b) Received by the Procuring and Disposing Entity prior to the deadline prescribed for submission of bids, in accordance with ITB Clause 24.
- 26.2 Bids requested to be withdrawn in accordance with ITB Sub-Clause 24.1 shall be returned unopened to the Bidder.
- 26.3 No bid may be withdrawn or replaced in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder in the Bid Submission Sheet or any extension thereof.
- 26.4 Bids may only be modified by withdrawal of the original bid and submission of a replacement bid in accordance with ITB Sub-Clause 26.1. Modifications submitted in any other way shall not be taken into account in the evaluation of bids.
- 26.5 Bidders may only offer discounts to, or otherwise modify the prices of their bids, by withdrawing and replacing their bid in accordance with this clause, or by including the discount in the original bid submission in accordance with ITB 17.

### **27. Bid Opening**

- 27.1 The PDE shall conduct the bid opening in the presence of bidders` designated representatives who choose to attend, and at the address, date and time specified in the BDS. Any specific electronic bid opening procedures required if electronic Bidding is permitted in accordance with ITB 24.1 shall be as specified in the BDS.
- 27.2 First, envelopes marked “WITHDRAWAL” shall be opened and read out and the envelope with the corresponding bid shall not be opened, but returned to the Bidder. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorisation to request the withdrawal and is read out at the bid opening.
- 27.3 All other envelopes including those marked “REPLACEMENT” shall be opened and the relevant details read out. Replacement bids shall be recorded as such on the record of the bid opening.
- 27.4 Only envelopes or packages that are opened and read out at the bid opening shall be evaluated.
- 27.5 All other envelopes shall be opened one at a time, reading out: the name of the bidder; the bid price, per lot where applicable, including any discounts; the presence of a Bid Security or Bid Securing Declaration; and any other details as the Procuring and

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Disposing Entity may consider appropriate. No bid shall be rejected at the bid opening except for late bids, in accordance with ITB 25

- 27.6 The PDE shall prepare a record of the bid opening that shall include, as a minimum: the name of the bidder and whether there is a withdrawal and/or replacement; the total bid price or the bid price per lot if applicable, including any discounts; the presence or absence of a Bid Security or Bid Securing Declaration, and whether a Power of Attorney was submitted. 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 upon request be distributed to bidders and displayed on the PDE's Notice Board within one working day from the date of the bid opening for a minimum of seven (7) working days.
- 27.7 The original bids shall be kept in the custody of the Accounting Officer and where there is a discrepancy at evaluation of the bids, reference shall be made to the originals in the custody of the Accounting Officer.

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

#### **28. Confidentiality**

- 28.1 Information relating to the examination, evaluation, comparison, and post-qualification of bids, and recommendation of contract award, shall not be disclosed to bidders or any other persons not officially concerned with such process until information detailing the Best Evaluated Bidder (BEB) is communicated to all Bidders.
- 28.2 Any attempt by a Bidder to influence the PDE in the examination, evaluation, comparison, and post-qualification of the bids or contract award decisions may result in the rejection of its bid.
- 28.3 Notwithstanding ITB 28.2, from the time of bid opening to the time of Contract award, if any Bidder wishes to contact the PDE on any matter related to the bidding process, it should do so in writing

#### **29. Evaluation of Bids**

- 29.1 The PDE shall use the criteria and methodologies listed in Section 3, Evaluation Methodology and Criteria. No other evaluation criteria or methodology shall be permitted. By applying the set criteria and methodology, the PDE shall determine the Best Evaluated Bid.
- 29.2 If this bidding document allows bidders to quote separate prices for different lots, the methodology to determine the Best Evaluated Bid for a lot shall be as specified in Section 3, Evaluation Methodology and Criteria.

#### **30. Clarification and Changes to Bids**

- 30.1 To assist in the examination, evaluation, comparison and post-qualification of the bids, the Procuring and Disposing Entity may, at its discretion, ask any bidder for a clarification of its Bid, including breakdowns of unit rates or prices. Any clarification submitted by a bidder that is not in response to a request by the PDE shall not be considered. The PDE's request for clarification and the Bidder's response shall be in

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writing and copied to all bidders for information purposes. No change 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 PDE in the evaluation of the bids, in accordance with ITB 32.

- 30.2 If a bidder does not provide clarifications of its Bid by the date and time set in the PDE's request for clarification, its Bid may be rejected.

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

- 31.1 The PDE's determination of a bid's compliance and responsiveness is to be based only on the contents of the bid itself with the exception of findings recorded in the Evaluation Report after a due diligence or post qualification.

- 31.2 A substantially compliant and responsive bid is one that conforms to all the terms, conditions, and specifications of the Bidding Document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:

- (a) Affects in any substantial way the scope, quality, or performance of the Works specified in the Contract; or
- (b) Limits in any substantial way, inconsistent with the Bidding Document, the PDE's rights or the Bidder's obligations under the Contract; or
- (c) If rectified would unfairly affect the competitive position of other Bidders presenting substantially compliant and responsive bids.
- (d) Impacts the key factors of a procurement including cost, risk, time and quality and causes -
  - (i) Unacceptable time schedules, where it is stated in the bidding document that time is of the essence;
  - (ii) Unacceptable alternative technical details, such as design, materials, workmanship, specifications, standards or methodologies; or unacceptable counter-bids with respect to key contract terms and conditions, such as payment terms, price adjustment, liquidated damages, sub-contracting or warranty.

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

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

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

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

- 32.3 Provided that a bid is substantially compliant and responsive, the PDE shall rectify nonmaterial nonconformities or omissions. To this effect, the bid price shall be adjusted, for comparison purposes only, to reflect the price of the missing or non-conforming item or component. The cost of any missing items will be added to the bid price using

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the highest price from other bids submitted.

- 32.4 Provided that the bid is substantially compliant and responsive, the PDE shall correct arithmetic errors on the following basis:
- (a) If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the PDE 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.
- 32.5 If a bidder does not accept the correction of errors, the bid shall be rejected and the BS may be forfeited or conditions in the BSD executed.

### **33. Stages of Evaluation: Using the Technical Compliance Selection Evaluation Method**

The evaluation of a bid for the procurement of works using the technical compliance evaluation method shall be conducted under the following stages:

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

- 34.1 The PDE shall examine the legal documentation to establish the eligibility of the bidders and to verify the validity and authenticity of the documents submitted by the bidder.
- 34.2 If after the examination of eligibility, the PDE determines that the bid is not compliant, it shall reject the bid with the exception of rectification of omissions in accordance with ITB 32.2.
- 34.3 The PDE shall confirm that the following administrative compliance documents and information have been provided in the bid. If any of these documents or information is missing or contrary to the requirements in the bidding document, the bid shall be rejected.
- (a) The Bid Submission Sheet duly signed by the authorized representative of the bidder, including:
    - i. A brief description of the works and related services offered;
    - ii. The total price of the bid; and
    - iii. The appropriate duration of the bid validity;
  - (b) The Price Schedule;
  - (c) A Power of Attorney in accordance with ITB 22.2; and
  - (d) An authentic Bid Security or Bid Securing Declaration, whichever is applicable, in the appropriate form and amount.
- 34.4 Eligibility and administrative compliance shall be determined on a pass or fail basis and a bid which is not eligible or administratively compliant shall be rejected at the



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preliminary stage of evaluation

### **35. Detailed Evaluation**

- 35.1 The PDE shall examine the technical aspects of the Bid submitted in accordance with ITB 16, in particular, to confirm that all requirements of Section 6, SORs have been met without any material deviation, reservation or omission.
- 35.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB Clause 5, to clarifications in accordance with ITB Clause 30 and the qualification criteria indicated in Section 3, Evaluation Methodology and Criteria.
- 35.3 If, after the examination of the terms, conditions and requirements, the PDE determines that the bid is not substantially responsive in accordance with ITB 31, it shall reject the bid.

### **36. Currency and Exchange Rate**

- 36.1 The currency that shall be used for evaluation purposes for all bids shall be Uganda Shillings unless otherwise authorized by a competent authority.
- 36.2 The exchange rate shall be the prevailing Bank of Uganda exchange rate at the date of bid submission deadline.

### **37. Financial Comparison of Bids**

- 37.1 The PDE will evaluate and compare only the bids determined to be substantially responsive following detailed evaluation in accordance with ITB 37.3.
- 37.2 To financially evaluate a bid, the PDE shall only use the criteria and methodologies defined in this clause and in Section 3, Evaluation Methodology and Criteria. No other criteria or methodology shall be permitted.
- 37.3 To financially compare bids, the PDE shall:
- (a) Correct any arithmetic errors in accordance with ITB 30.1;
  - (b) Apply any discounts offered in accordance with ITB 17;
  - (c) Make adjustments for any deviation that is not a material deviation in accordance with ITB 32;
  - (d) Convert all bids to a single currency in accordance with ITB 18;
  - (e) Apply any margin of preference, in accordance with ITB 38;
  - (f) Determine the total evaluated price of each bid.
- 37.4 The PDE shall consider prices that appear to:
- (a) Be unbalanced;
  - (b) Show a misunderstanding of the requirements; or
  - (c) Be intended to front load earnings.
- 37.5 The PDE reserves the right to accept or reject any variation, deviation, or alternative offer. Variations, deviations, and alternative offers and other factors which are in excess of the requirements of the bidding documents or otherwise result in unsolicited benefits for the PDE will not be taken into account in bid evaluation, unless otherwise specified in Section 3, Evaluation Methodology and Criteria.
- 37.6 The estimated effect of any price adjustment conditions under Clause 47 of the GCC,

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during the period of implementation of the Contract, will not be taken into account in bid evaluation, unless otherwise indicated in Section 3, Evaluation Methodology and Criteria.

### **38. Margin of Preference**

- 38.1 Unless otherwise specified in the BDS, a margin of preference shall apply. Where a Margin of Preference applies, its application and detail shall be specified in Section 3, Evaluation Methodology and Criteria.
- 38.2 For the purpose of granting a margin of domestic preference, bids will be classified in one of three groups, as follows:
- (a) Group A: Bids from contractors incorporated or registered in Uganda with more than fifty percent of the bidder's shareholding owned by Ugandan citizens or by the Government or a procuring and disposing entity of Uganda;
  - (b) Group B: Bids from joint ventures, consortium or associations registered in Uganda and including a contractor qualifying under the conditions in paragraph (a) which holds more than fifty percent beneficiary interest in the joint venture, consortium or association; and
  - (c) Group C: All other bids which do not qualify for preference under paragraphs (a) or (b).
- 38.3 Bidders claiming eligibility for a Margin of Preference must complete the declarations in the bid submission sheet and shall provide the following documentary evidence of their eligibility:
- (a) National Identity Card or copies of key passport pages to establish the nationality of the bidder or shareholder;
  - (b) The relevant company forms or its equivalent indicating the shareholding percentages.

### **39. Post-qualification Evaluation**

- 39.1 The PDE shall determine to its satisfaction whether the Bidder that is selected as having submitted the best evaluated bid is qualified to perform the Contract satisfactorily.
- 39.2 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 PDE shall proceed to the next best evaluated bid to make a similar determination of that Bidder's capabilities to perform satisfactorily.
- 39.3 Post-qualification will be conducted in accordance to the PPDA Act, 2003.

### **40. Determination of Best Evaluated Bid**

The best evaluated bid shall be the lowest priced bid which is eligible, administratively and technically compliant to the requirements specified in the bidding document.

## **F. Award of Contract**

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### **41. Award Procedure and Notice of Best Evaluated Bidder**

- 41.1 An award decision by the Contracts Committee is not a contract. The bidder with the best evaluated bid shall be awarded the contract following an adjudication by the Contracts Committee.
- 41.2 The PDE shall issue a Notice of Best Evaluated Bidder (NOBEB) within five (5) working days after the decision of the Contracts Committee to award a contract, deliver a copy of the notice to all bidders who participated in the bidding process, place such Notice on its notice board for display for ten (10) working days and publish it on the website of the Authority. The computation of the ten (10) working days shall commence from the next day following the display of the notice.
- 41.3 No contract shall be signed within the period of ten (10) working days after the date of display of the best evaluated bidder notice.
- 41.4 Negotiations will only be held in exceptional circumstances as provided for under the PPDA Act 2003.

### **42. PDE's Right to Accept Any Bid And to Reject Any or all Bids**

The PDE reserves the right to accept or reject any bid and to cancel the bidding process at any time prior to contract award, without thereby incurring any liability.

### **43. Confirmation of Award**

An award shall be confirmed by a written contract signed by both the bidder and the PDE.

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

- 44.1 On expiry of the ten (10) working day period after display of the best evaluated bidder notice and upon approval by the Attorney General where applicable, the PDE shall promptly sign a contract with the successful Bidder.
- 44.2 Failure by the successful bidder to promptly sign the contract shall constitute sufficient ground for annulment of the contract award decision and forfeiture of the Bid Security or execution of the Bid Securing Declaration. In that event, the PDE may award the Contract to the next best ranked bidder whose bid was evaluated at the financial comparison stage.
- 44.3 Effectiveness of the contract shall be subject to submission of a satisfactory performance security where applicable and any other conditions specified in the Contract.
- 44.4 A contract shall not be entered into by an Accounting Officer with a bidder during the period of administrative review as provided for under the PPDA Act, 2003.

### **45. Debriefing of Bidders**

- 45.1 The bidder shall be provided with information on the reasons for the failure of its bid in the notice of best evaluated bidder.

### **46. Performance Security**

- 46.1 Within twenty-one (21) calendar days after signing of the contract, the successful bidder

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shall where applicable, furnish to the PDE a Performance Security and, if required in the BDS, the Environmental and Social (ES) Performance Security in the amount stipulated in the SCC and in the form of an on demand Bank Guarantee as stipulated in Section 9, denominated in the type and proportions of the currencies of the Contract. The Performance Security shall be issued by a Bank located in Uganda or a foreign Bank through correspondence with a Bank located in Uganda.

- 46.2 Failure of the successful bidder to submit the above-mentioned Performance Security and, if required in the BDS, the Environmental and Social (ES) Performance Security, shall constitute sufficient ground for annulment of the contract award decision. In this case, or where the successful bidder fails to sign the contract as stated in ITB Clause 44.2, the successful Bidder's Bid Security shall be forfeited or the conditions of the Bid Securing Declaration shall be executed. In that event, the PDE may award the contract to the next best ranked bidder whose bid was evaluated at the financial comparison stage.

### **47. Administrative Review**

- 47.1 Bidders may seek an Administrative Review for any omission or breach by the PDE in accordance with the Public Procurement and Disposal of Public Assets Act, 2003, any regulations or guidelines made under the Act.
- 47.2 The PDE shall promptly provide a bidder who seeks administrative review with:
- (a) A summary of the evaluation process
  - (b) A comparison of the tenders, proposals, or quotations including the evaluation criteria used, and
  - (c) The reasons for rejecting the concerned bids.
  - (d) The details of the applicable administrative review fees and the account to which the fees are to be paid

## Section 2: Bid Data Sheet

Instructions to Bidders Reference	Data relevant to the ITB
<b>ITB 1.1</b>	The Procuring and Disposing Entity is: <b>Ministry of Water and Environment</b>
<b>ITB 1.1</b>	The works consist of: <b>Procurement of Contractor for Construction of Kawumu Presidential Model Village Irrigation System and Facilities.</b> <ul style="list-style-type: none"> <li>a) Borehole Works</li> <li>b) Transmission Main</li> <li>c) 120m<sup>3</sup> steel Reservoir on a 15m steel tower</li> <li>d) Water Distribution Network</li> <li>e) Drip Irrigation Equipment</li> <li>f) Sprinkler Irrigation Equipment</li> <li>g) Mechanical and Electrical Works</li> <li>h) Guard and Attendant House</li> <li>i) Waterborne Public Toilet</li> <li>j) Consumer Connections</li> </ul>
<b>ITB 1.1</b>	The Procurement Reference Number of the Contract is: <b>MoWE/WRKS/2021-2022/00074</b>
<b>ITB 1.1</b>	The number and identification of lots comprising this Bidding Document is: <b>N/A</b> The minimum and maximum number of lots a bidder may bid for is: <b>N/A</b>
<b>ITB 9.3</b>	The PDE <b>Shall</b> be holding a pre-bid meeting or site visit. If a pre-bid meeting / site visit is to be held, it shall take place at: Location: <b>Kawumu Presidential Model Village, Makulubita SC Kampala, Uganda</b> Date: <b>28<sup>th</sup> January, 2022</b> Time: <b>10:00am</b>
<b>ITB 12.1</b>	For clarification purposes only, the Procuring and Disposing Entity's address is: Attention: Online <b>Head, Procurement and Disposal Unit Ministry of Water and Environment (MWE) Kabalega Crescent Close, Plot 3-7, Luzira</b>  Address: <b>P.O. Box 20026</b>
<b>ITB 12.1</b>	The Procuring and Disposing Entity will respond to any request for clarification provided that such request is received no later than: <b>As per EGP online dates</b>
<b>ITB 15.1(i)</b>	The bidder shall submit with its bid the following additional documents:

<b>Instructions to Bidders Reference</b>	<b>Data relevant to the ITB</b>
	<p><b>-ESHS Code of Conduct for Contractor’s Personnel</b></p> <p>The bidder shall submit its Code of Conduct that will apply to the Contractor’s Personnel to ensure compliance with its Environmental, Social, Health and Safety (ESHS) obligations under the contract. <i>[Note: Complete and include the risks to be addressed by the Code in accordance with Section VI- Statement of Requirements, e.g. risks associated with: labour influx, spread of communicable diseases, sexual harassment, gender based violence, sexual exploitation and abuse, illicit behaviour and crime, and maintaining a safe environment etc.]</i></p> <p>In addition, the Bidder shall detail how this Code of Conduct will be implemented. This will include: how it will be introduced into conditions of employment/engagement, what training will be provided, how it will be monitored and how the Contractor proposes to deal with any breaches.</p> <p>The Contractor shall be required to implement the agreed Code of Conduct.</p> <p><b>Environment and Social Management Plan (ESMP)</b></p> <p>The Contractor shall be required to submit for approval, and subsequently implement, the Contractor’s Environment and Social Management Plan that includes the Strategies and Implementation Plans described below:</p> <p><i>[Note: insert name of applicable plans and strategies and specific risk/s];</i></p> <ul style="list-style-type: none"> <li>• <i>[e.g. Traffic Management Plan to ensure safety of local communities from construction traffic];</i></li> <li>• <i>[e.g. Water Resource Protection Plan to prevent contamination of drinking water];</i></li> <li>• <i>[e.g. Boundary Marking and Protection Strategy for mobilization and construction to prevent offsite adverse impacts];</i></li> <li>• <i>[e.g. Strategy for obtaining Consents/Permits prior to the start of relevant works such as opening a quarry or borrow pit];</i></li> <li>• <i>[e.g. Gender based violence and sexual exploitation and abuse (GBV/SEA) prevention and response action plan].</i></li> <li>• <i>[e.g strategy for marking and respecting work site boundaries etc.]</i></li> </ul> <p><i>[Note: The extent and scope of these requirements should reflect the significant ESHS risks or requirements set out in Section VI as advised by Environmental/Social specialists.</i></p> <p><i>The key risks to be addressed by the Bidder should be identified by Environmental/Social specialists, for example from the Environmental and Social Impact Assessment (ESIA). The risks may arise during mobilization or construction phases, and may include construction traffic impacts on the community, pollution of drinking water, depositing on private land and impacts on rare species etc.</i></p>
<b>ITB 18.2</b>	The Authority for specifying rates of exchange shall be the Bank of Uganda.

## Part 1: Section 2 Bid Data Sheet

Instructions to Bidders Reference	Data relevant to the ITB
ITB 18.3	Foreign currency requirements <b>shall not be</b> payable in different foreign currencies.
ITB 19.1	Bids must be valid until: <b>90 working days from the EGP online closing date</b>
ITB 19.3	The adjustment of bid price shall be calculated on the basis of an annual increase for foreign costs of _____ percent and an annual increase for local costs of _____ percent. N/A
ITB 20.1	<b>A Bid Security shall be required.</b> A Bid Securing Declaration shall not be required.
ITB 20.2	Where a Bid Security is required, the amount and currency of Bid Security shall be <b>UGX 30,000,000= (Uganda Shillings, Thirty Million).</b>
ITB 20.3	The Bid Security or Bid securing Declaration shall be valid until: <b>28 working days after expiry of the bid validity date.</b>
ITB 21.1	Alternative bids to the requirements of the bidding documents shall not be permitted with respect to This Contract.
ITB 22.1	In addition to the original of the Bid, the number of copies required is: <b>N/A</b>
ITB 22.2	The written confirmation of authorization to sign on behalf of the Bidder shall be: <b>A Registered Power of Attorney Specific to this procurement if drawn and signed in Uganda; or a notarized Power of Attorney if drawn and signed outside Uganda.</b>
ITB 23.1	For bid submission purposes only, the Procuring and Disposing Entity's address is: <b>EGP Online Ministry of Water and Environment (MWE) Kabalega Crescent Close, Plot 3-7, Luzira PDU-Ground Floor P.O. Box 20026 Kampala, Uganda</b>
ITB 24.1	The deadline for bid submission is: Date: <b>As per EGP online date</b> Time (local time): <b>11:00am</b>
ITB 27.1	The bid opening shall take place at: Online <b>Ministry of Water and Environment (MWE) Kabalega Crescent Close, Plot 3-7, Luzira Kampala, Uganda</b>

## Part 1: Section 2 Bid Data Sheet

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<b>Instructions to Bidders Reference</b>	<b>Data relevant to the ITB</b>
	Date: <b>As per EGP Online date</b> Time (local time): <b>11:30am</b>
<b>ITB 38.1</b>	A margin of preference shall not apply. If a margin of preference applies, the application methodology shall be as stated in Section 3 Evaluation Methodology and Criteria.
<b>ITB 38.3</b>	The Bidder shall submit with its bid the following documents to evidence that they qualify for a margin of preference: <b>N/A</b>



## Section 3: Evaluation Methodology and Criteria

Procurement Reference Number: MoWE/WRKS/2021-2022/00074

### A. Evaluation Methodology

#### 1. Methodology Used

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

#### 2. Summary of Methodology

2.1 The evaluation shall be conducted in four sequential stages –

- (a) A preliminary examination to determine the eligibility of bidders and the administrative compliance of bids received;
- (b) A detailed evaluation to determine the technical responsiveness of the eligible and compliant bids;
- (c) A financial comparison to compare costs of the eligible, compliant, responsive bids received and determine the best evaluated bid; and
- (d) Post qualification to confirm whether the best evaluated bidder has the capacity and resources to effectively execute the procurement

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

### B. Preliminary Examination Criteria

#### 3. Eligibility Criteria

3.1 The eligibility requirements shall be determined in accordance with ITB Clause 4; and

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

- (a) **A certificate of registration issued by the Authority for bidders currently registered with the Authority for 2021 or a copy of the bidder's trading licence or equivalent for 2021 and a copy of the bidder's certificate of registration or equivalent for bidders not currently registered with the Authority**
- (b) **A statement in the bid submission sheet that the bidder meets the eligibility criteria stated in ITB 4.1 and 4.4**
- (c) **A declaration in the bid submission sheet of nationality of the bidder**
- (d) **A declaration in the bid submission sheet that the bidder is not under suspension by the authority**
- (e) **Fulfilment of obligations to pay taxes and social security contributions in Uganda where applicable.**
- (f) **Copy of the Memorandum & Articles of Association**
- (g) **Copy of Certificate of Incorporation**

- (h) Copy of Form 7 for the Company Directors**
- (i) Copy of the Bidder's Current Income Tax Clearance Certificate specific for this tender and addressed to Ministry of Water and Environment**
- (j) Code of Ethical Conduct in Business for Bidders and Providers signed by the Bidder's representative**
- (k) Site Inspection Certificate in the format provided in the bidding forms**
- (l) Proof of Purchase of the bid document (Payment Receipt)**

### **3.3 For Joint Venture or Consortiums or Associations;**

- a) A registered Power of Attorney from each member or partner if drawn and signed in Uganda; or a notarised Power of Attorney if drawn and signed outside Uganda, nominating a representative to conduct all business on its behalf during the bid preparation, bidding process and contract execution in case of award of the contract.
- b) The documentation in Section 3.2 for each member or partner and a copy of the Joint Venture / Consortium / Association Agreement which is legally binding on all partners or members stating that:
  - (i) The partners or members shall jointly submit a bid;
  - (ii) One of the parties will be nominated as lead member or partner to act for and on behalf of all members or partners;
  - (iii) The authorized representative of the lead member or partner who was granted power of attorney shall sign the bid;
  - (iv) In the event that the bid is successful, the contract shall be executed in the name of the Joint Venture (JV), Consortium or Association and each member or partner shall sign the contract agreement; and
  - (v) All partners shall be jointly and severally liable for the implementation of the contract in accordance with the contract terms.

## **4. Administrative Compliance Criteria**

The evaluation of Administrative Compliance criteria shall be conducted in accordance with ITB Clause 34.3.

**C. Detailed Evaluation Criteria**

**5. Assessment of Responsiveness**

5.1 The assessment of responsiveness will consider the following criteria:

- (a) **Acceptance of the conditions of the proposed contract.**
- (b) **Acceptable completion schedule.**
- (c) **Acceptability of the proposed program (work method and schedule), including relevant drawings and charts.**
- (d) **Acceptable Environmental, Social, Health and Safety Management Plan.**

**6. Mobilization**

Evaluation of the responsiveness of the bid to the technical requirements will include an assessment of the bidder's 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 6 (Statement of Requirements).

**6.1 Personnel and Equipment**

**A. Personnel**

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

<b>Position</b>	<b>No. Required</b>	<b>Total Experience</b>	<b>Experience in similar works (Number of similar assignments executed)</b>	<b>Minimum Qualifications</b>
Contracts Manager/Resident Engineer	1	10	5	Bachelor's Degree in Civil Engineering or Equivalent.  The Contract Manager Must be registered with a Professional Engineer's Body, preferably <b>Uganda Institute of Professional Engineers (UIPE)</b> and <b>Engineers Registration Board (ERB)</b> evidenced by attachment to the bid both <b>UIPE</b> and <b>ERB Certificates</b> with a current valid Practicing License for 2021.
Site Agent	1	7	4	Bachelor's Degree in Civil Engineering or Equivalent.
Irrigation Engineer	1	7	4	Bachelor's Degree in Civil/Agricultural

## Part 1: Section 3 Evaluation Methodology and Criteria

				Engineering or Equivalent.
Foreman Civil Works	2	5	3	Bachelor's Degree / Higher Diploma in Civil Engineering or Equivalent.
Foreman Plumbing	2	5	3	Diploma in Civil or Water Engineering or Equivalent.
Site Surveyor	1	3	2	Bachelor's Degree in Surveying or Equivalent.
Electro Mechanics Technicians'	1	5	3	Diploma in Electro-Mechanical.
Occupational Safety Officer	1	5	2	Bachelor's Degree in Environmental Engineering, Environmental Health, Public Health, Environmental Management.

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

**The Bidders shall attach signed CVs with Academic Documents and Certificates as proof of qualification, failure to do will lead to automatic disqualification of the bidder.**

### B. Equipment

The bidder must demonstrate that it shall have access to the key equipment listed hereafter **(either by ownership, lease, hire): Attach documentary evidence of ownership, lease, hire such as registration books, agreements or memoranda or purchase order).**

Equipment Type	Minimum Number Required
Tipper Trucks, 7 Tons	2
Pick Up, 1 Ton	2
Concrete Mixers (at least 1 m <sup>3</sup> capacity)	2
Concrete Porker Vibrator	2
Dewatering Pump with associated Tools And Equipment	2set
Butt Welding Equipment	1set
Plumbers Tools	2 Sets
Mobile Electric Generator, 10 Kva	1
Pipeline Pressure Testing Equipment	1
Threading Die	1 set
Electronic Tape Measure	2
Dumpy Level	1
Other (Wheel Barrows, Hoes, Pick Axes)	1set
Plate Compactor	1
Backhoe Excavator	1

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

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The bidder shall provide further details of proposed items of equipment using the relevant Form in Section 4.

## 6.2 Qualification

Factor	1. Historical Contract Non-Performance					
Sub-Factor	Criteria	Bidder				Documentation Required
	Requirement	Single Entity	Joint Venture, Consortium or Association			
			All partners combined	Each partner	At least one partner	
6.2.1 <i>History of non-performing contracts</i>	Non-performance of a contract did not occur within the last <b>5 years</b> prior to the deadline for application submission, based on all information on fully settled disputes or litigation.	Must meet requirement by itself or as partner to past or existing JV	N/A	Must meet requirement by itself or as partner to past or existing JV	N/A	Form 5
6.2.2 <i>Pending Litigation</i>	All pending litigation shall in total not represent more than <b>50 percent (50%)</b> of the Bidder's net worth and shall be treated as resolved against the Bidder.	Must meet requirement by itself or as partner to past or existing JV	N/A	Must meet requirement by itself or as partner to past or existing JV	N/A	Form 5A

Factor	2. Financial Situation					
Sub-Factor	Criteria	Bidder				Documentation Required
	Requirement	Single Entity	Joint Venture, Consortium or Association			
			All partners combined	Each partner	At least one partner	
6.2.3 <i>Historical Financial Performance</i>	Submission of audited accounts or other financial statements acceptable to the Employer, for the last <b>5 (Five) years</b> to demonstrate the current soundness of the bidders financial position and its prospective long term profitability.	Must meet requirement	N/A	Must meet requirement	N/A	Form 6 attachments
6.2.4 <i>Average Annual Turnover</i>	Minimum average annual turnover of <b>UGX 3,000,000,000= (Uganda shillings Three Billion shillings)</b> , calculated as total certified payments received for contracts in progress or completed, <b>within the last 3 years.</b>	Must meet requirement	Must meet requirement	Must meet 100 percent (100%) of the requirement	Must meet 100 percent (100%) of the requirement	Form 7

Factor	2. Financial Situation					
Sub-Factor	Criteria					Documentation Required
	Requirement	Bidder				
		Single Entity	Joint Venture, Consortium or Association			
			All partners combined	Each partner	At least one partner	
6.2.5 <i>Financial Resources</i>	The Bidder must demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other financial means, other than any contractual advance payments to meet: (i) the following cash-flow requirement; <b>UGX 2,000,000,000= (Uganda shillings Two Billion shillings),</b> and (ii) the overall cash flow requirements for this contract and its concurrent commitments.	Must meet requirement	Must meet requirement	Must meet 40 percent (40%) of the requirement	Must meet 60 percent (60 %) of the requirement	Form 8



<i>Factor</i>	<b>3. Experience</b>					
<i>Sub-Factor</i>	<i>Criteria</i>					<i>Documentation Required</i>
	<i>Requirement</i>	<i>Bidder</i>				
		<i>Single Entity</i>	<i>Joint Venture, Consortium or Association</i>			
		<i>All partners combined</i>	<i>Each partner</i>	<i>At least one partner</i>		
6.2.6 General Experience	Experience under contracts in the role of Contractor, sub Contractor, or management Contractor in <b>at least 5 contracts in at least 8 years prior</b> to the bid submission deadline, and with activity in at least <b>6 months</b> in each year.	Must meet requirement	N / A	Must meet requirement	N / A	Form 9
6.2.7 Specific Experience	(a) Participation as contractor, management contractor, or subcontractor, in at least 3 contracts within the last 5 years, each with a value of at least <b>UGX 2,000,000,000=</b> , that have been successfully and substantially completed (at least 70 percent complete) and that are similar to the proposed Works. The similarity shall be based on the physical size, complexity, methods/technology or other	Must meet requirement	Must meet requirements for all characteristics	N / A	Must meet requirement for full characteristic	Form 10

<b>Factor</b>	<b>3. Experience</b>					
<b>Sub-Factor</b>	<b>Criteria</b>					<b>Documentation Required</b>
	<b>Requirement</b>	<b>Bidder</b>			<b>At least one partner</b>	
		<b>Single Entity</b>	<b>Joint Venture, Consortium or Association All partners combined</b>	<b>Each partner</b>		
	characteristics as described in Section VI, Employer's Requirements.					
6.2.8 Specific Experience	b) For the above or other contracts executed during the period stipulated in 6.2.7(a) above, a minimum experience in the following key activities: <ul style="list-style-type: none"> <li>• Construction of Civil works.</li> <li>• Electro-Mechanical works.</li> <li>• Construction of Water Tanks.</li> <li>• Laying Pipes of varied ODs with associated fittings.</li> <li>• Source protection works.</li> <li>• Construction of at least two irrigation schemes</li> </ul>	Must meet requirements	Must meet requirements	N / A	Must meet requirements	Form 10

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

- (a) **Authority to seek references from the bidder's bankers; and**
- (b) **Proposals for subcontracting components of the works amounting to more than 10 percent of the Contract Price.**

**NOTE:**

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

## **D. Financial Comparison Criteria**

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

7.1 The financial comparison shall be conducted in accordance with ITB Clause 37.

The following costs shall be included in the bid price:

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

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

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

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

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

8.2 The PDE will first review the bids that have reached financial comparison to confirm the appropriateness of the classification, and to identify the bid group classification of each based upon bidders' declarations in the Bid Submission Sheet and supporting evidence on ownership/shareholding of the bidders in accordance with ITB 38.2.

8.3 The PDE will then add the following margins to the evaluated bid price of the bid(s) which do not qualify for preference, in accordance with paragraph 8.2 above, for the purpose of further comparison only:

A. For bids classified in Groups A and C:

A preference of seven (7) percent shall be added to the evaluated price of the bids in Group C

B. For bids classified in Groups B and C:

A preference of four (4) percent shall be added to the evaluated price of the bids in Group C

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

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

9.1 Post qualification evaluation will be carried out on the lowest evaluated bidder as specified below: -

Legal Requirements – Due diligence shall be done to verify ownership of the company and its registration with appropriate body in the country of principal business.

(i) Technical Requirements–Due diligence shall be done to:

(a) Verify and validate the bidder’s performance on previous indicated private and public contracts in the bidder’s submission.

(b) Verify and validate current commitments and litigation record of the bidder.

(ii) Financial Requirements - Due diligence shall be done to verify and ascertain the bidder’s financial contracting capacity and bank commitment to provide a credit line to the bidder.

9.2 A bidder not meeting any of the above criteria shall be rejected.

9.3 The bid with the lowest evaluated price, from among those which are eligible, compliant and substantially responsive and have passed the post-qualification shall be the best evaluated bid. If this Bidding Document includes more than one lot, the best evaluated bid shall be determined separately for each lot.

9.4 Notwithstanding paragraph 9.1, if the Bidding Document allows bidders to quote different prices for single lots and for the award to a single bidder of multiple lots, the Procuring and Disposing Entity shall conduct a further financial comparison to apply any conditional discounts. The bid or bids offering the lowest priced combination of all the lots shall be the best evaluated bid or bids.

### **Additional Evaluation Criteria (If applicable)**

*In addition to the evaluation criteria listed in Section 3, the following criteria may apply for the Procuring and Disposing Entities:*

## **10 Multiple Contracts**

If permitted under additional criteria, will be evaluated as follows:

### **10.1 Award Criteria for Multiple Contracts:**

#### **Lots**

Bidders have the option to Bid for any one or more lots. Bids will be evaluated lot-wise, taking into account discounts offered, if any, after considering all possible combinations of lots, the contract(s) will be awarded to the Bidder or Bidders offering the lowest evaluated cost to the Procuring and Disposing Entity for combined lots, subject to the selected Bidder(s) meeting the required qualification criteria for lot or combination of lots as the case may be.

## **12 Alternative Bids for Works**

If permitted under ITB 21, alternative bids will be evaluated as follows: An alternative bid shall be evaluated using the methodology and criteria used to evaluate the main bid to which the alternative bid relates.

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**Part 1: Section 4 Bidding Forms**

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## Part 1: Section 4 Bidding Forms

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

### Bid Submission Sheet

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

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

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

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Document, including Addenda No.: *[insert the number and issue date of each Addenda]*;
- (b) We offer to execute in conformity with the Bidding Document and in accordance with the completion schedule specified in the Statement of Requirements and the terms and conditions of the Bidding Document, the following works *[insert a brief description of the Works]*;
- (c) The total price of our bid, excluding any discounts offered in item (d) below, is \_\_\_\_\_
- (d) The discounts offered and the methodologies for their application are:  
Unconditional discounts. If our bid is accepted, the following discounts shall apply. *[Specify in detail each discount offered (eg amount/percentage) and the specific item of the Statement of Requirements to which it applies.]*  
Methodology of application of the unconditional discounts. The unconditional discounts shall be applied using the following method: *[Specify precisely the method that shall be used to apply the discounts]*;  
Cross discounts. If our bids for more than one lot are accepted, the following discounts shall apply. *[Specify precisely each discount offered (eg amount/percentage) and the conditions for its application.]*  
Methodology of application of the cross discounts. The cross discounts shall be applied using the following method: *[Specify in detail the method that shall be used to apply the discounts]*;
- (e) Our bid shall be valid until the date specified in ITB Sub-Clause 19.1 and it shall remain binding upon us and may be accepted at any time before that date;
- (f) If our bid is accepted, we commit to obtain a Performance Security in accordance with the Bidding Document in the amount of *[insert amount in words and figures of the Performance Security]* for the due performance of the Contract;
- (g) We, including any subcontractors for any part of the contract resulting from this procurement process, are eligible to participate in public procurement in accordance with ITB Clause 4.1;
- (h) We, including any subcontractors for any part of the contract, have nationals from eligible countries *[insert the nationality of the Bidder, including that of all parties that comprise the Bidder, if the Bidder is a joint venture, consortium or association, and the nationality of each subcontractor]*;

## Part 1: Section 4 Bidding Forms

- (i) We are eligible for a Margin of Preference in accordance with ITB Clause 38 and are eligible for inclusion in *[insert Group A or Group B as appropriate]* and enclose documentary evidence of our eligibility;  
*[or]*  
We are not eligible for a Margin of Preference in accordance with ITB Clause 38;
- (j) We have signed and undertake to abide by the Code of Ethical Conduct for Bidders and Providers during the procurement process and the execution of any resulting contract;
- (k) We accept the appointment of *[name proposed in Bid Data Sheet]* as the Adjudicator.  
*[or]*  
We do not accept the appointment of *[name proposed in Bidding Data]* as the Adjudicator, and propose instead that *[name]* be appointed as Adjudicator, whose daily fees and biographical data are attached.
- (l) We are not participating, as bidders, in more than one bid in this bidding process, other than alternative bids in accordance with the Bidding Document;
- (m) We, including any subcontractors, do not have any conflict of interest as stated in ITB 4.4 and are not associated, nor have been associated in the past, directly or indirectly, with the consultant or any other entity that has prepared the design, specifications, and other documents for the Project or that is being proposed as Project Manager for the Contract;
- (n) We, including any subcontractors for any part of the contract, have not been suspended by the Public Procurement and Disposal of Public Assets Authority in Uganda from participating in public procurement;
- (o) We understand that you are not bound to accept the lowest bid or any other bid that you may receive.

Signed: *[signature of person whose name is shown below]*

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

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

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

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



### Code of Ethical Conduct in Business for Bidders and Providers

(Under Section 93 (2) of the Public Procurement and Disposal of Public Assets Act, 2003)

#### 1. Ethical Principles

Bidders and providers shall at all times-

- (a) Maintain integrity and independence in their professional judgement and conduct;
- (b) Comply with both the letter and the spirit of-
  - (i) The laws of Uganda; and
  - (ii) Any executed contract.
- (c) Avoid associations with businesses and organisations which are in conflict with this code.

#### 2. Standards

Bidders and providers shall-

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

#### 3. Conflict of Interest

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

#### 4. Confidentiality and Accuracy of Information

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

#### 5. Gifts and Hospitality

Bidders and providers shall not offer gifts or hospitality directly or indirectly, to staff of a Procuring and Disposing Entity that might be viewed by others as having an influence on a procurement decision of the Entity.

#### 6. Inducements

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

#### 7. Fraudulent Practices

Bidders and providers shall not-

- (a) Collude with other businesses and organisations with the intention of depriving a Procuring and Disposing Entity of the benefits of free and open competition;
- (b) Enter into business arrangements that might prevent the effective operation of fair competition;
- (c) Engage in deceptive financial practices, such as bribery, double billing or other improper financial practices;
- (d) Misrepresent facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring and Disposing Entity; or utter false documents;

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- (e) Unlawfully obtain information relating to a procurement process in order to influence the process or execution of a contract to the detriment of the PDE;
- (f) Withholding information from the PDE during contract execution to the detriment of the PDE.

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

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<b>AUTHORISED SIGNATORY</b>	<b>NAME OF BIDDER<sup>1</sup></b>
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<sup>1</sup> *If the bidder is a JV, Consortium or Association, state the name of the JV, Consortium or Association*

## Part 1: Section 4 Bidding Forms

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

### Form of Bid Security (Bank Guarantee)

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

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

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

Whereas, *[insert complete name of Bidder/Joint Venture/Consortium/Association]* (hereinafter called “the Bidder”) has submitted its bid dated *[insert date (as day, month and year) of bid submission]* for Procurement Reference number *[insert Procurement Reference number]* for the construction of *[insert brief description of the Works]*.

KNOW ALL PEOPLE by these presents that We *[insert complete name of institution issuing the Bid Security]* of *[insert city of domicile and country of nationality]* having our registered office at *[insert full address of the issuing institution]* (hereinafter called “the Guarantor”) are bound unto *[insert complete name of Procuring and Disposing Entity]* (hereinafter called “the Procuring and Disposing Entity”) in the sum of *[specify in words and figures the amount and currency of the Bid Security]* for which the Guarantor binds itself, its successors or assignees to make payment to the Procuring and Disposing Entity.

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

THE CONDITIONS of this obligation are:

- (1) If the bidder withdraws its bid during the period of bid validity specified in the bid submission sheet or as provided in ITB Sub-Clause 19.3 or refuses to accept the correction of its bid price pursuant to ITB Clause 32.5; or
- (2) If the bidder having been notified of the acceptance of its bid by the Procuring and Disposing Entity during the period of bid validity fails or refuses to:
  - (a) Sign the Contract in accordance with the ITB Clause 44.2, if required; or
  - (b) Furnish the Performance Security, in accordance with the ITB Clause 46.2, and, if required, the Environmental and Social (ES) Performance Security, in accordance with the Instructions to Bidders (“ITB”).

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

This security shall remain in force up to and including \_\_\_\_\_ *[insert date, (day, month and year) in accordance with ITB Clause 19.1 or 19.3]* and any demand in respect thereof should be received by the Guarantor no later than the above date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 758, except that sub – article 20 (a) is hereby excluded.

Signed: *[insert signature of person whose name is shown below]*

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

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

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

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

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[Use Bidder's Letterhead]  
[Name of Bidder]  
[Physical Address of Bidder]

### Form of Bid-Securing Declaration

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

Subject of procurement and Ref number.: *[insert reference number of procurement process]*

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

I/We\*, the undersigned, declare as follows:

I/We\* understand that, according to the conditions of the Bidding Document, bids must be supported by a Bid Securing Declaration valid until the date indicated in the Bid Data Sheet (BDS).

I/We\* accept that I/we\* may be suspended by the Authority from being eligible for bidding in any public procurement or disposal process if we are in breach of our obligations under the conditions in the bidding document, because we:

- (a) Have withdrawn our bid during the period of bid validity specified by us in the bid Submission Sheet or as provided in ITB Sub-Clause 19.3 or have refused to accept the correction of our bid price pursuant to ITB Clause 32.5; or
- (b) Having been notified of the acceptance of our bid by the PDE during the period of bid validity, (i) fail or refuse to sign the Contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the ITB 46.2 or and, if required, the Environmental and Social (ES) Performance Security.

I/We\* understand this Bid Securing Declaration shall cease to be valid if I am/we are\* not the successful bidder, upon the earlier of:

- (i) The expiry of the notice of best evaluated bidder without any pending administrative review application; or
- (ii) Twenty eight days after the expiration of the validity of my/our\* bid.

Signed: *[insert signature of person whose name is shown below]* In the capacity of *[insert designation 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 \_\_\_\_\_ (month), \_\_\_\_\_ (year) *[insert date of signing]*

Corporate Seal (where appropriate)

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

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*[Note: In case of a Joint Venture, Consortium or Association the Bid Securing Declaration must be in the name of all partners that submit the bid and signed by the representative duly authorized by the partners.]*

*\*Please delete as appropriate*

**Technical Documentation**

1. Site Organization
2. Method Statement
3. Mobilization Schedule
4. Construction Schedule
5. Environmental and Social Management Plan
6. Code of Conduct for Contractor's Personnel
7. [Insert any other relevant documentation]

**Site Organization**

*Provide a detailed description/illustration of the proposed site organization in terms of personnel, offices, materials storage, workshops etc.*



**Method Statement**

*Provide a detailed description of the proposed method statement to execute the works*

**Mobilization Schedule**

*Provide a detailed description/illustration of the proposed mobilization schedule for materials, equipment, labour etc. including sources.*

**Construction Schedule**

*Provide a detailed description/illustration of the proposed construction schedule.*

**Code of Conduct for Contractor’s Personnel Form**

**Note to the Bidder:**

**The minimum content of the Code of Conduct Form as set out by the Employer shall not be substantially modified.** However, the Bidder may add requirements as appropriate, including to take into account Contract-specific issues/risks.

The Bidder shall initial and submit the Code of Conduct Form as part of its bid.

**CODE OF CONDUCT FOR CONTRACTOR’S PERSONNEL**

We....., [*enter name of Bidder*], undertake that once we are awarded the contract for .....[*enter description of the works*] to be carried out at [*enter the site and other locations where the works will be carried out*] shall implement measures to address environmental and social risks related to the works, including the risks of sexual exploitation and assault and gender-based violence.

This Code of Conduct is part of our measures to deal with environmental and social risks related to the works. It applies to all our staff, labourers and other employees at the Works Site or other places where the works would be carried out. It also applies to the personnel of each subcontractor and any other personnel assisting us in the execution of the Works. All such persons are referred to as “**Contractor’s Personnel**” and are subject to this Code of Conduct.

This Code of Conduct identifies the behavior that we require from all Contractor’s Personnel.

Our workplace is an environment where unsafe, offensive, abusive or violent behavior will not be tolerated and where all persons should feel comfortable raising issues or concerns without fear of retaliation.

**REQUIRED CONDUCT**

Contractor’s Personnel shall:

1. Carry out his/her duties competently and diligently;
2. Comply with this Code of Conduct and all applicable laws, regulations and other requirements, including requirements to protect the health, safety and well-being of other Contractor’s Personnel and any other person;
3. Maintain a safe working environment including by:
  - a. Ensuring that workplaces, machinery, equipment and processes under each person’s control are safe and without risk to health;
  - b. Wearing required personal protective equipment;

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- c. Using appropriate measures relating to chemical, physical and biological substances and agents; and
  - d. Following applicable emergency operating procedures.
4. Report work situations that he/she believes are not safe or healthy and remove himself/herself from a work situation which he/she reasonably believes presents an imminent and serious danger to his/her life or health;
  5. Treat other people with respect, and not discriminate against specific groups such as women, people with disabilities, migrant workers or children;
  6. Not engage in any form of sexual harassment including unwelcome sexual advances, requests for sexual favors, and other unwanted verbal or physical conduct of a sexual nature with other Contractor's or Employer's Personnel;
  7. Not engage in Sexual Exploitation, which means any actual or attempted abuse of position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another.
  8. Not engage in Sexual Assault, which means sexual activity with another person who does not consent. It is a violation of bodily integrity and sexual autonomy and is broader than narrower conceptions of "rape", especially because (a) it may be committed by other means than force or violence, and (b) it does not necessarily entail penetration.
  9. Not engage in any form of sexual activity with individuals under the age of 18, except in case of pre-existing marriage;
  10. Complete relevant training courses that will be provided related to the environmental and social aspects of the contract, including on health and safety matters, and Sexual Exploitation and Assault (SEA);
  11. Report violations of this Code of Conduct; and
  12. Not retaliate against any person who reports violations of this Code of Conduct, whether to us or the Employer, or who makes use of the [Project Grievance [Redress] Mechanism].

### RAISING CONCERNS

If any person observes behavior that he/she believes may represent a violation of this Code of Conduct, or that otherwise concerns him/her, he/she should raise the issue promptly. This can be done in either of the following ways:

1. Contact [*enter name of the Contractor's Social Expert with relevant experience in handling gender-based violence, or if such person is not required under the Contract, another individual designated by the Contractor to handle these matters*] in writing at this address .....[ ] or by telephone at [ ..... ] or in person at [..... ]; or
2. Call [..... ] to reach the Contractor's hotline (*if any*) and leave a message.

The person's identity will be kept confidential, unless reporting of allegations is mandated by the law. Anonymous complaints or allegations may also be submitted and will be given all due and appropriate consideration. We take seriously all reports of possible misconduct and will

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investigate and take appropriate action. We will provide warm referrals to service providers that may help support the person who experienced the alleged incident, as appropriate.

There wil

I be no retaliation against any person who raises a concern in good faith about any behavior prohibited by this Code of Conduct. Such retaliation would be a violation of this Code of Conduct.

**CONSEQUENCES OF VIOLATING THE CODE OF CONDUCT**

Any violation of this Code of Conduct by Contractor’s Personnel may result in serious consequences, up to and including termination and possible referral to legal authorities.

**FOR CONTRACTOR’S PERSONNEL:**

I have received a copy of this Code of Conduct written in a language that I comprehend. I understand that if I have any questions about this Code of Conduct, I can contact ..... [enter name of Contractor’s contact person with relevant experience in handling gender-based violence] requesting an explanation.

Name of Contractor’s Personnel: [insert name]

Signature: \_\_\_\_\_

Date: (day month year): \_\_\_\_\_

Countersignature of authorized representative of the Contractor:

Signature: \_\_\_\_\_

Date: (day month year): \_\_\_\_\_

**Environmental and Social Management Plan**

- a) The Bidder shall submit comprehensive and concise Environment Social Health and Safety Management Plan as required by ITB 15.1 (i) of the Bid Data Sheet. This plan shall describe in detail the actions and management processes etc. that will be implemented by the Contractor, and its subcontractors.*
- b) In developing these strategies and plans, the Bidder shall have regard to the ESHS provisions of the contract including those as may be more fully described in the Statement of Requirements in Section 6.*

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### Forms for Key Personnel

#### Form – 1: Proposed Personnel

Bidders should provide the names of suitably qualified personnel to meet the specified requirements for each of the positions listed in Section 3: Evaluation Methodology and Criteria. The data on their experience should be supplied using the Form below for each candidate.

1.	Title of position
	Name
	Duration of commitment for this position
2.	Title of position
	Name
	Duration of commitment for this position
3.	Title of position
	Name
	Duration of commitment for this position
4.	Title of position:
	Name
	Duration of commitment for this position
5.	Title of position: Environmental Officer
	Name
	Duration of commitment for this position
6.	Title of position: Social Development Officer
	Name
	Duration of commitment for this position
etc.	Title of position
	Name
	Duration of commitment for this position



**Part 1: Section 4 Bidding Forms**

**Form – 2: CV of Proposed Personnel**

The bidder shall provide all the information requested below.

<b>Position</b>	
<b>Personnel Information</b>	Name <span style="float: right;">Date of birth</span>
	Professional qualifications
	Academic qualifications
<b>Present Employment</b>	Name of Employer
	Address of Employer
	Telephone <span style="float: right;">Contact (manager / personnel officer)</span>
	Fax <span style="float: right;">E-mail</span>
	Job title <span style="float: right;">Years with present Employer</span>

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

<b>From</b>	<b>To</b>	<b>Project</b>	<b>Role</b>	<b>Duration in Involvement</b>	<b>Relevance Experience</b>
<i>[Date, Month and Year]</i>	<i>[Date, Month and Year]</i>	<i>[main project details]</i>	<i>[role and responsibilities on the project]</i>	<i>[time in role i.e. Months and Years]</i>	<i>[describe the experience relevant to this position]</i>

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### Declaration

I, the undersigned [*insert name of "Key Personnel"*], certify that to the best of my knowledge and belief, the information in reference to my data contained in the Forms for Key Personnel correctly describes myself, my qualifications and my experience.

I confirm that I am available as certified in the following table and throughout the expected time schedule for this position as provided in the bid:

<b>Commitment</b>	<b>Details</b>
<b>Commitment to duration of contract:</b>	<i>[insert period (start and end dates) for which this Contractor's Key Personnel is available to work on this contract]</i>

I understand that any misrepresentation or omission in this Form may:

1. Be taken into consideration during bid evaluation;
2. Result in my disqualification from participating in the procurement process.

**Name of Key Personnel:** [*insert name*]

Signature: \_\_\_\_\_

Date: (day, month, year): \_\_\_\_\_

**Countersignature of authorized representative of the Bidder:**

Signature: \_\_\_\_\_

Date: (day month year): \_\_\_\_\_

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**Forms for Equipment**

The bidder shall provide adequate information to demonstrate clearly that it has the capability to meet the requirements for the key equipment listed in Section 3: Evaluation Methodology and Criteria. A separate Form shall be prepared for each item of equipment listed, or for alternative equipment proposed by the bidder. The bidder shall provide all the information requested below, to the extent possible:

**FORM 3**

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

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

**FORM 3A**

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

## Part 1: Section 4 Bidding Forms

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### Qualification Forms

To establish its qualifications to perform the contract in accordance with Section 3: Evaluation Methodology and Criteria. The Bidder shall provide the information requested in the corresponding Information Sheets included hereunder:

**Form 4**

**Bidder Information Sheet**

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

Procurement Reference Number:  
\_\_\_\_\_

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

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<sup>1</sup>In case of JV / Consortium / Association, Fill in Form 4A

<sup>2</sup>In case of JV / Consortium / Association, Fill in Form 4A

<sup>3</sup>In case of JV / Consortium / Association, Fill in Form 4A

<sup>4</sup>In case of JV / Consortium / Association, Fill in Form 4A

**Form 4 A**

**Party to JV / Consortium / Association Information Sheet**

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

Procurement Reference Number:  
\_\_\_\_\_

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

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**Form 5**

**Historical Contract Non-Performance**

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

JV/ Consortium / Association Partner Names: \_\_\_\_\_

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

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

**Form 5A**

**Pending Litigation**

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



**FORM 5 B**

**Environmental, Social, Health and Safety Performance Declaration**

<b>Environmental, Social, Health, and Safety Performance Declaration</b> in accordance with Section III, Qualification Criteria, and Requirements			
<input type="checkbox"/> <b>No suspension or termination of contract:</b> An employer has not suspended or terminated a contract and/or called the performance security for a contract for reasons related to Environmental, Social, Health, or Safety (ESHS) performance since the date specified in Section III, Qualification Criteria, and Requirements, Sub-Factor 6.2.3.			
<input type="checkbox"/> <b>Declaration of suspension or termination of contract:</b> The following contract(s) has/have been suspended or terminated and/or Performance Security called by an employer(s) for reasons related to Environmental, Social, Health, or Safety (ESHS) performance since the date specified in Section III, Qualification Criteria, and Requirements, Sub-Factor 6.2.3. Details are described below:			
Year	Suspended or terminated portion of contract	Contract Identification	Total Contract Amount (value, currency, exchange rate and UGX equivalent)
<i>[insert year]</i>	<i>[insert amount and percentage]</i>	Contract Identification: <i>[indicate complete contract name/ number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Reason(s) for suspension or termination: <i>[indicate main reason(s)]</i>	<i>[insert amount]</i>
<i>[insert year]</i>	<i>[insert amount and percentage]</i>	Contract Identification: <i>[indicate complete contract name/ number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Reason(s) for suspension or termination: <i>[indicate main reason(s)]</i>	<i>[insert amount]</i>
...	...	<i>[list all applicable contracts]</i>	...

## Part 1: Section 4 Bidding Forms

<b>Performance Security called by an employer(s) for reasons related to ESHS Performance</b>		
<b>Year</b>	<b>Contract Identification</b>	<b>Total Contract Amount (current value, currency, exchange rate and UGX equivalent)</b>
<i>[insert year]</i>	Contract Identification: <i>[indicate complete contract name/ number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Reason(s) for calling of performance security: <i>[indicate main reason(s)]</i>	<i>[insert amount]</i>

**Form 6**

**Current Contract Commitments / Works in Progress**

*[The following table shall be filled in for the Bidder, each member of a Joint Venture / Consortium / Association]*

Bidder's Name: *[insert full name]*

Date: *[insert day, month, year]*

Joint Venture / Consortium / Association Member's Name: *[insert full name]*

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

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

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

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**FORM 6**

**Financial Situation  
Historical Financial Performance**

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

JV/ Consortium / Association Partner Legal Name: \_\_\_\_\_

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

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

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

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

**Part 1: Section 4 Bidding Forms**

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**Form 7**

**Average Annual Turnover**

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

JV/ Consortium / Association Partner Name: \_\_\_\_\_

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

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

\*Average annual turnover calculated as total certified payments received for work in progress or completed over the number of years specified in Section III, Sub-Factor 6.2.5, divided by that same number of years.

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### Form 8

#### Financial Resources

Specify proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total construction cash flow demands of the subject contract or contracts as indicated in Section 3: Evaluation Methodology and Criteria.

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

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**FORM 9**

**Experience**

**General Experience**

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

JV/ Consortium / Association Partner Name: \_\_\_\_\_

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

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

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



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**Form 10**

**Specific Experience**

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

JV/ Consortium / Association Partner Name: \_\_\_\_\_

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

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

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**Form 10 A (cont.)**

**Specific Experience (cont.)**

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

JV/ Consortium / Association Partner Name: \_\_\_\_\_

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

<b>Similar Contract No. <i>__</i>[insert specific number] of <i>__</i>[insert total number of contracts] required</b>	<b>Information</b>
Description of the similarity in accordance with Sub-Factor 6.2.8a) of Section 3: Evaluation Methodology and Criteria.:	
Amount	_____
Physical size	_____
Complexity	_____
Methods/Technology	_____
Physical Production Rate	_____

**Part 1: Section 4 Bidding Forms**

**Form 10 A (b)**

**Specific Experience in Key Activities**

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

JV/ Consortium / Association Partner Name: \_\_\_\_\_

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

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

**Part 1: Section 4 Bidding Forms**

**Form 10 (b) (cont.)**

**Specific Experience in Key Activities (cont.)**

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

JV/ Consortium / Association Partner Name: \_\_\_\_\_

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

	Information
Description of the key activities in accordance with Sub-Factor 6.2.9 b) of Section III:	

We, the undersigned, declare that the information contained in and attached to these forms is true and accurate as of the date of bid submission:

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

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

Duly authorised to sign the Qualification Form for and on behalf of: *[insert complete name of Bidder or name of Joint Venture/ Consortium / Association]*

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

## **Section 5: Eligible Countries**

**Procurement Reference Number: MWE/WRKS/2021-2022/00010.**

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

A country shall not be eligible if:

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

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

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

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## **Scope of Works**

1. Construction of 01No. pump stations having a pump and guard houses as per the drawings.
2. Installation of a submersible pump into the borehole of capacity  $Q=19\text{m}^3/\text{hr}$  with a head of 150m respectively complete with power cable, DOL starter, delivery pressure gauge, pressure switch, dry run protection, and all accessories.
3. Supply and Installation of 50No. mono crystalline PV Solar panels rated at 280pW 12 Volts DC, include: PV solar panel support structure for mounting solar panels; all electrical accessories
4. Supplying and laying of transmission mains of uPVC pressure pipes to BS3505, with flexible joints to BS4346 all to PN16, OD 75 mm, laid in trench to a length of 1.5 km to the reservoir tank.
5. Construction of a main distribution network of length approximately 4 km and service lines of length approximately 25km consisting of HDPE pipes ranging from OD90mm to OD40mm.
6. Furnishing the necessary labour, materials, equipment and services for installation of drip and sprinkler irrigation systems as per specification and drawings
7. Construct 5 No. double faucet Stand Post complete as in drawing including all earthwork, building work, concrete works, plumbing, drains and soak pit, all relevant fittings.
8. Making 30 No. New Consumer Connections for both domestic and institutional users.
9. Supply and installation of reservoir tank of  $200\text{ m}^3$  on to a steel tower of 15 m high, with just modifications being made to accommodate the transmission and distribution mains vertical pipes and other necessary plumbing.
10. Construction of 1 No. 6 stance water borne toilet.

## **Technical Specifications**

*[In drafting of the Specification, care must be taken when drafting the PDE's Requirements to ensure that the requirements are not restrictive. Recognized international standards should be used as much as possible for the description of goods, materials and workmanship. Where other particular standards are specified, it should be stated that goods, materials and workmanship meeting other authoritative standards and which promise to ensure equal or higher quality than the standards specified, will also be acceptable. Where a brand name of a product is specified it should always be qualified with the terms "or equivalent".]*



**Environmental, Social, Health and Safety Requirements**

*[The PDE shall use the services of suitably qualified environmental, social, health and safety specialists to prepare the specifications for ESHS.*

*The PDE shall attach or refer to the PDE's environmental, social, health and safety policies that will apply to the project. If these are not available, the PDE should use the guidance in the user guide in drafting an appropriate policy for the works].*

**Drawings**

*[Insert here a list of Drawings. The actual Drawings, including site plans, should be attached to this section or annexed in a separate folder].*

**Activity Schedule/ Bills of Quantities**

**Activity Schedule**

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

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

Name of Bidder: *[Insert the name of the Bidder/Joint Venture/Consortium/Association]*

<b>Item number</b>	<b>Activity Description</b>	<b>Amount in Ug. Sh</b>

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

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

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

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

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

**Part 2: Section 6 Statement of Requirements**

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**Bill of Quantities**

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

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

Name of Bidder: *[Insert the name of the Bidder/Joint Venture/Consortium/Association]*

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

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

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

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

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

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

## **Completion Schedule**

**Supplementary Information**

**PART 3 - Contract**  
**Section 7: General Conditions of Contract for the**  
**Procurement of Works**

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**A. General**

**1. Definitions**

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

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

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

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- (hh) “Temporary Works” are works designed, constructed, installed, and removed by the Contractor that are needed for construction or installation of the Works.
- (ii) “Variation” is an instruction given by the Project Manager which varies the Works.
- (jj) “Works” are what the Contract requires the Contractor to construct, install, and turn over to the PDE, as defined in the SCC.
- (kk) “ESHS” means environmental, social (including sexual exploitation and abuse (SEA) and gender based violence (GBV)), health and safety.

### **2. Contract Documents**

- 2.1 The documents forming the Contract shall be interpreted in the following order of priority:
  - (a) Agreement,
  - (b) Contractor’s Bid,
  - (c) Special Conditions of Contract,
  - (d) General Conditions of Contract,
  - (e) Scope of Works,
  - (f) Drawings,
  - (g) Bill of Quantities or Activity Schedule, as appropriate; and
  - (h) any other document listed in the SCC as forming part of the Contract.
- 2.2 Subject to the order of precedence set forth in Sub-Clause 2.1, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary, and mutually explanatory

### **3. Interpretation**

- 3.1 If the context so requires it, singular means plural and vice versa
- 3.2 Contract

The Contract constitutes the whole agreement between the PDE and the Provider and supersedes all communications, negotiations and agreements (written or oral) of parties with respect thereto made prior to the date of Contract.
- 3.3 Amendment

No amendment or other variation of the Contract shall be valid unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorised representative of each party thereto.
- 3.4 Non-waiver
  - (a) Subject to GCC Sub-Clause 32.4(b) below, no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.
  - (b) Any waiver of a party’s rights, powers, or remedies under the Contract must be in

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

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writing, dated, and signed by an authorised representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

### **3.5 Severability**

If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract

### **3.6 These General Conditions of Contract shall apply in their entirety, except where alternative options are specified for different types of contract. Where alternative options are specified:**

(a) Option 1 shall apply to Admeasurement Contracts; and

(b) Option 2 shall apply to Lump Sum Contracts.

### **3.7 For purposes of interpreting these Conditions of Contract, the type of contract is as specified in the SCC.**

### **3.8 If sectional completion is specified in the SCC, references in the Conditions of Contract to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).**

## **4. Language**

### **4.1 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Provider and the PDE, shall be written in English. Supporting documents and printed literature that are part of the Contract may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified, in which case, for purposes of interpretation of the Contract, this translation shall govern.**

### **4.2 The Provider shall bear all costs of translation to the governing language and all risks of the accuracy of such translation.**

## **5. Joint Venture, Consortium or Association**

Unless otherwise specified in the SCC, if the Provider is a JV, consortium, or association, all of the parties shall be jointly and severally liable to the PDE for the fulfilment of the provisions of the Contract and shall designate one party to act as a leader with authority to bind the JV, consortium, or association. The composition or the constitution of the JV, consortium, or association shall not be altered without the prior consent of the PDE.

## **6. Eligibility**

### **6.1 The provider and its subcontractors shall have the nationality of an eligible country. A provider or subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.**

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

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### **7. Notices**

- 7.1 Any notice given by one party to the other pursuant to the Contract shall be in writing to the address specified in the SCC. The term “in writing” means communicated in written form (e.g. by mail, e-mail, fax, including if specified in the BDS, distributed or received through the electronic-procurement system used by the PDE) with proof of receipt.
- 7.2 A notice shall be effective when delivered or on the notice’s effective date, whichever is later.

### **8. Governing Law**

The Contract shall be governed by and interpreted in accordance with the laws of Uganda.

### **9. Scope of the Works**

- 9.1 The works and related services to be provided shall be as specified in the SORs and other provisions of the contract

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

- 10.1 Except where otherwise specifically stated, the Project Manager will decide contractual matters between the PDE and the Contractor in the role representing the PDE.
- 10.2 The Project Manager will obtain the PDE’s approval for any of the decisions specified in the SCC.

### **11. Delegation**

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

### **12. Subcontracting**

- 12.1 Unless otherwise specified in the SCC, the Contractor may subcontract with the approval of the Project Manager, but may not assign the Contract without the approval of the PDE in writing. Subcontracting shall not alter the Contractor’s obligations.
- 12.2 Any further conditions relating to subcontracting shall be as specified in the SCC.

### **13. Other Contractors**

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

### **14. Contractor’s Personnel**

- 14.1 If the Schedule of Key Personnel is specified in the SCC, the Contractor shall employ the key personnel named in the Schedule, or other personnel approved by the Project

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

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Manager, to carry out the functions stated in the Schedule. The Project Manager will approve any proposed replacement of key personnel only if their relevant qualifications and abilities are substantially equal to or better than those of the personnel listed in the Schedule.

- 14.2 The Project Manager may require the Contractor to remove (or cause to be removed) any person employed on the Site or Works, including the Contractor's Representative if applicable, who:
- (a) Persists in any misconduct or lack of care,
  - (b) Carries out duties incompetently or negligently,
  - (c) Fails to conform with any provisions of the Contract,
  - (d) Persists in any conduct which is prejudicial to safety, health, or the protection of the environment, or
  - (e) Based on reasonable evidence, is determined to have engaged in Fraud and Corruption during the execution of the Works.
  - (f) Undertakes behaviour which breaches the Code of Conduct (ESHS) (e.g. spreading communicable diseases, sexual harassment, gender based violence (GBV), sexual exploitation or abuse, illicit activity or crime)."
- 14.3 The Contractor shall ensure that the person leaves the Site within seven days and has no further connection with the work in the Contract. If appropriate, the Contractor shall then appoint (or cause to be appointed) a suitable replacement person.

### **15. PDE's and Contractor's Risks**

- 15.1 The Procuring and Disposing Entity carries the risks which the Contract states are Procuring and Disposing Entity's risks, and the Contractor carries the risks which the Contract states are Contractor's risks.

### **16. PDE's Risks**

- 16.1 From the Start Date until the Defects Correction Certificate has been issued, the following are PDE's risks:
- (a) The risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to:
    - (i) Use or occupation of the Site by the Works or for the purpose of the Works, which is the unavoidable result of the Works; or
    - (ii) Negligence, breach of statutory duty, or interference with any legal right by the PDE or by any person employed by or contracted to him except the Contractor.
  - (b) The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the PDE or in the PDE's design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.
- 16.2 From the Completion Date until the Defects Correction Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is an Procuring and Disposing Entity's risk except loss or damage due to:
- (a) A defect which existed on the Completion Date;

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

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- (b) An event occurring before the Completion Date, which was not itself an PDE's risk; or
- (c) The activities of the Contractor on the Site after the Completion Date.

### **17. Contractor's Risks**

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

### **18. Insurance**

- 18.1 The Contractor shall provide, in the joint names of the PDE and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles stated in the SCC for the following events which are due to the Contractor's risks:
- (a) Loss of or damage to the Works, Plant, and Materials;
  - (b) Loss of or damage to Equipment;
  - (c) Loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract; and
  - (d) personal injury or death.
- 18.2 Policies and certificates for insurance shall be delivered by the Contractor to the Project Manager for the Project Manager's approval before the Start Date. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.
- 18.3 If the Contractor does not provide any of the policies and certificates required, the PDE may effect the insurance which the Contractor should have provided and recover the premiums the PDE has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.
- 18.4 Alterations to the terms of an insurance shall not be made without the approval of the Project Manager.
- 18.5 Both parties shall comply with any conditions of the insurance policies.

### **19. Site Investigation Reports**

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

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

- 20.1 The Project Manager will clarify queries on the SCC.

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

- 21.1 The Contractor shall construct and install the Works in accordance with the

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

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Specifications and Drawings.

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

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

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

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

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

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

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

### **24. Safety and Safety Procedures**

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

24.2 The Contractor shall ensure the safety procedures:

- (a) comply with all applicable safety regulations,
- (b) take care for the safety of all persons entitled to be on the Site,
- (c) use reasonable efforts to keep the Site and Works clear of unnecessary obstruction so as to avoid danger to these persons,
- (d) provide fencing, lighting, guarding and watching of the Works until completion and taking over, and
- (e) provide any Temporary Works (including roadways, footways, guards and fences) which may be necessary, because of the execution of the Works, for the use and protection of the public and of owners and occupiers of adjacent land.

### **25. Discoveries**

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

### **26. Possession of the Site**

26.1 The PDE shall give possession of all parts of the site to the Contractor. If possession of a part is not given by the date stated in the SCC, the PDE will be deemed to have delayed the start of the relevant activities, and this will be a Compensation Event.



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

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### **27. Access to the Site**

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

### **28. Contractor's Equipment**

28.1 The Contractor shall be responsible for all Contractor's Equipment. When brought on to the Site, Contractor's Equipment shall be deemed to be exclusively intended for the execution of the Works. The Contractor shall not remove from the Site any major items of Contractor's Equipment without the consent of the Project Manager. However, consent shall not be required for vehicles transporting Goods or Contractor's Personnel off Site.

### **29. Protection of the Environment**

29.1 The Contractor shall take all reasonable steps to protect the environment (both on and off the Site) and to limit damage and nuisance to people and property resulting from pollution, noise and other results of his operations. The Contractor shall ensure that emissions, surface discharges and effluent from the Contractor's activities shall not exceed the values stated in the Specification or prescribed by applicable Laws.

### **30. Prohibition of Harmful Child Labour**

30.1 The Contractor shall not employ children in a manner that is economically exploitative, or is likely to be hazardous, or to interfere with, the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development. Children below the age of 18 years shall not be employed in dangerous work.

### **31. Health and Safety**

31.1 The Contractor shall at all times take all reasonable precautions to maintain the health and safety of the Contractor's Personnel. The Contractor shall appoint an accident prevention officer at the Site, responsible for maintaining safety and protection against accidents. The Contractor shall maintain records and make reports concerning health, safety and welfare of persons, and damage to property, as the Project Manager may reasonably require.

31.2 The Contractor shall conduct HIV-AIDS awareness programmes to reduce the risk of the transfer of the HIV virus between and among the Contractor's Personnel and the local community, to promote early diagnosis and to assist affected individuals. The Contractor shall throughout the contract: (i) conduct Information, Education and Communication (IEC) campaigns, at least every six month, addressed to all the Site staff and labourers (including all the Contractor's employees, all Subcontractors and any other Contractor's or PDE's personnel employees, and all truck drivers and crew making deliveries to Site for construction activities) and to the immediate local communities, concerning the risks, dangers and impact, and appropriate avoidance behaviour with respect to Sexually Transmitted Diseases (STD) - or Sexually Transmitted Infections (STI) in general and HIV/AIDS.

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

- 32.1 The Contractor shall carry out all instructions of the Project Manager which comply with the applicable laws where the Site is located.
- 32.2 The Contractor shall at all reasonable times allow personnel from PDE to have full access to all parts of the Site and to all places from which natural Materials are being obtained, and during production, manufacture and construction (at the Site and elsewhere), to examine, inspect, measure and test the materials and workmanship, and to check the progress of manufacture of Plant and production and manufacture of Materials.
- 32.3 The Contractor shall permit the Government of Uganda personnel to inspect the Contractor's accounts and records relating to the performance of the Contract and to have them audited by auditors appointed by the Government, if so required by the Government.

### **33. Disputes**

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

### **34. Procedure for Settling Disputes**

- 34.1 Unless otherwise specified in the SCC, the procedure for disputes shall be as specified in GCC 34.2 to 34.4.
- 34.2 Any Adjudicator appointed under the contract shall give a decision in writing within 28 days of receipt of a notification of a dispute, providing that he is in receipt of all the information required to give a decision.
- 34.3 Any Adjudicator appointed under the contract shall be paid by the hour at the rate specified in the SCC, together with reimbursable expenses of the types specified in the SCC, and the cost shall be divided equally between the PDE and the Contractor, whatever decision is reached by the Adjudicator. Either party may refer a decision of the Adjudicator to an Arbitrator within 28 days of the Adjudicator's written decision. If neither party refers the dispute to arbitration within the above 28 days, the Adjudicator's decision will be final and binding.
- 34.4 Any arbitration shall be conducted in accordance with the Arbitration and Conciliation Act 2000 or such other formal mechanism specified in the SCC, and in the place shown in the SCC.

### **35. Replacement of Adjudicator**

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

**B. Time Control**

**36. Program**

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

**37. Extension of the Intended Completion Date**

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

**38. Acceleration**

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

**39. Delays Ordered by the Project Manager**

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

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### **40. Management Meetings**

- 40.1 Either the Project Manager or the Contractor may require the other to attend a management meeting. The business of a management meeting shall be to review the plans for remaining work and to deal with matters raised in accordance with the early warning procedure detailed in GCC 41.
- 40.2 The Project Manager shall record the business of management meetings and provide copies of the record to those attending the meeting and to the PDE. The responsibility of the parties for actions to be taken shall be decided by the Project Manager either at the management meeting or after the management meeting and stated in writing to all who attended the meeting.

### **41. Early Warning**

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

## **C. Quality Control**

### **42. Identifying Defects**

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

### **43. Tests**

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

### **44. Correction of Defects**

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

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### **45. Uncorrected Defects**

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

### **D. Cost Control**

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

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

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

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

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

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

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

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

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

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

### **48. Variations**

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

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

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

- 48.2 All Variations shall be included in updated Programs and Activity Schedules produced

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by the Contractor.

### **49. Payments for Variations**

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

- 49.1 The Contractor shall provide the Project Manager with a quotation for carrying out the Variation when requested to do so by the Project Manager. The Project Manager shall assess the quotation, which shall be given within seven days of the request or within any longer period stated by the Project Manager and before the Variation is ordered.
- 49.2 If the work in the Variation corresponds with an item description in the Bill of Quantities and if, in the opinion of the Project Manager, the quantity of work above the limit stated in Sub-Clause 46.1 or the timing of its execution do not cause the cost per unit of quantity to change, the rate in the Bill of Quantities shall be used to calculate the value of the Variation. If the cost per unit of quantity changes, or if the nature or timing of the work in the Variation does not correspond with items in the Bill of Quantities, the quotation by the Contractor shall be in the form of new rates for the relevant items of work.
- 49.3 If the Contractor's quotation is unreasonable, the Project Manager may order the Variation and make a change to the Contract Price, which shall be based on the Project Manager's own forecast of the effects of the Variation on the Contractor's costs.
- 49.4 If the Project Manager decides that the urgency of varying the work would prevent a quotation being given and considered without delaying the work, no quotation shall be given and the Variation shall be treated as a Compensation Event.
- 49.5 The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning.

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

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

### **50. Payment Certificates**

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

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

### **51. Issue of Interim Payment Certificates**

- 51.1 No amount will be certified or paid until the PDE has received and approved the Performance Security and, if applicable, the ES Performance Security. Thereafter, the Project Manager shall, within 28 days after receiving a Statement and supporting documents, deliver to the PDE and to the Contractor an Interim Payment Certificate which shall state the amount which the Project Manager fairly determines to be due, with all supporting particulars for any reduction or withholding made by the Project Manager on the Statement if any.

An Interim Payment Certificate shall be withheld for any of the following reasons:

- a) if anything supplied or work done by the Contractor is not in accordance with the Contract, the cost of rectification or replacement may be withheld until rectification or replacement has been completed;
- b) if the Contractor was or is failing to perform any work in accordance with the Contract, and had been so notified by the Project Manager, the value of this work may be withheld until the it has been performed and/or
- c) if the Contractor was, or is, failing to perform any ESHS obligations or work under the Contract, the value of this work or obligation, as determined by the Engineer, may be withheld until the work or obligation has been performed, and/or the cost of rectification or replacement, as determined by the Engineer, may be withheld until rectification or replacement has been completed. Failure to perform includes, but is not limited to the following:
  - (i) Failure to comply with any ESHS obligations or work described in the Statements of Requirements which may include: working outside site boundaries, excessive dust, failure to keep public roads in a safe usable condition, damage to offsite vegetation, pollution of water courses from oils or sedimentation, contamination of land e.g. from oils, human waste, damage to archeology or cultural heritage features, air pollution as a result of unauthorized and/or inefficient combustion;
  - (ii) Failure to regularly review Environmental and Social Management Plan and/or update it in a timely manner to address emerging ESHS issues, or anticipated risks or impacts;
  - (iii) Failure to implement the Environmental and Social Management Plan e.g. failure to provide required training or sensitization;
  - (iv) Failing to have appropriate consents/permits prior to undertaking Works or

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related activities;

- (v) Failure to submit the relevant reports of the Environmental and Social Management Plan, or failure to submit such reports in a timely manner;
- (vi) Failure to implement remediation as instructed by the Engineer within the specified timeframe (e.g. remediation addressing non-compliance/s).

51.2 If an amount certified is increased in a later certificate or as a result of an award by the Adjudicator or an Arbitrator, the Contractor shall be paid interest upon the delayed payment as set out in this clause. Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute.

51.3 Unless otherwise stated, all payments and deductions will be paid or charged in the proportions of currencies comprising the Contract Price.

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

### **52. Payments**

52.1 Payments shall be adjusted for deductions for advance payments and retention. The Procuring and Disposing Entity shall pay the Contractor the amounts certified by the Project Manager within 30 days of the date of each certificate. If the PDE makes a late payment, the Contractor shall be paid interest on the late payment in the next payment. Interest shall be calculated from the date by which the payment should have been made up to the date when the late payment is made at the prevailing rate of interest for commercial borrowing for each of the currencies in which payments are made.

### **53. Compensation Events**

53.1 The following shall be Compensation Events:

- (a) The PDE does not give access to a part of the Site by the Site Possession Date stated in the SCC.
- (b) The PDE modifies the Schedule of Other Contractors in a way that affects the work of the Contractor under the Contract.
- (c) The Project Manager orders a delay or does not issue Drawings, Specifications, or instructions required for execution of the Works on time.
- (d) The Project Manager instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects.
- (e) The Project Manager unreasonably does not approve a subcontract to be let.
- (f) Ground conditions are substantially more adverse than could reasonably have been assumed before signing of the Agreement from the information issued to bidders (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site.
- (g) The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the PDE, or additional work required for safety or other reasons.
- (h) Other contractors, public authorities, utilities, or the PDE does not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor.



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- (i) The advance payment is delayed.
- (j) The effects on the Contractor of any of the PDE's Risks.
- (k) The Project Manager unreasonably delays issuing a Certificate of Completion.
- (l) Other Compensation Events described in the SCC or determined by the Project Manager shall apply.

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

53.3 As soon as information demonstrating the effect of each Compensation Event upon the Contractor's forecast cost has been provided by the Contractor, it shall be assessed by the Project Manager, and the Contract Price shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable, the Project Manager shall adjust the Contract Price based on the Project Manager's own forecast. The Project Manager will assume that the Contractor will react competently and promptly to the event.

53.4 The Contractor shall not be entitled to compensation to the extent that the Procuring and Disposing Entity's interests are adversely affected by the Contractor's not having given early warning or not having cooperated with the Project Manager.

### 54. Tax

54.1 The Project Manager shall adjust the Contract Price if taxes, duties, and other levies are changed between the date 28 days before the submission of bids for the Contract and the date of the last Completion certificate. The adjustment shall be the change in the amount of tax payable by the Contractor, provided such changes are not already reflected in the Contract Price or are a result of Clause 56.

### 55. Currencies

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

### 56. Price Adjustment

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

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

in which:

- $\Delta P$  = adjustment amount payable to the Provider.
- $P_0$  = Contract Price (base price).
- $a$  = fixed element representing profits and overheads included in the Contract

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Price and generally in the range of five (5) to fifteen (15) percent.

b = estimated percentage of labour component in the Contract Price.

c = estimated percentage of material component in the Contract Price.

$L_0, L_1$  = labour indices applicable to the appropriate industry in the country of origin on the base date and date for adjustment, respectively.

$M_0, M_1$  = material indices for the major raw material on the base date and date for adjustment, respectively, in the country of origin.

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

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

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

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

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

(a) Price adjustment will be applied only if the resulting increase or decrease is more than \_\_\_\_ percent of the Contract Price.

*[Two (2) percent would be an acceptable percentage.]*

(b) No price adjustment shall be allowed beyond the original delivery dates unless specifically stated in the extension letter. As a rule, no price adjustment shall be allowed for periods of delay for which the Provider is entirely responsible. The PDE will however be entitled to any decrease in the prices of the supplies and services subject to adjustment.

(c) The total adjustment under this clause shall be subject to a ceiling of plus or minus \_\_\_\_ percent of the Contract Price.

*[Ten (10) percent would be an acceptable percentage.]*

(d) If the currency in which the Contract Price  $P_0$  is expressed is different from the currency of origin of the labour and material indices, a correction factor will be applied to avoid incorrect adjustments of the Contract Price. The correction factor shall correspond to the ratio of exchange rates between the two currencies on the base date and the date for adjustment as defined above.

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

56.3 If the value of the index is changed after it has been used in a calculation, the calculation shall be corrected and an adjustment made in the next payment certificate. The index value shall be deemed to take account of all changes in cost due to fluctuations in costs.

### 57. Retention

57.1 If so stated in the SCC, the PDE shall retain from each payment due to the Contractor the proportion stated in the SCC until Completion of the whole of the Works.

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- 57.2 On completion of the whole of the Works, half the total amount retained shall be repaid to the Contractor and half when the Defects Liability Period has passed and the Project Manager has certified that all Defects notified by the Project Manager to the Contractor before the end of this period have been corrected.
- 57.3 On completion of the whole Works, the Contractor may substitute retention money with an “on demand” Bank guarantee.

### **58. Liquidated Damages**

- 58.1 If so stated in the SCC, the Contractor shall pay liquidated damages to the PDE at the rate per day stated in the SCC for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount defined in the SCC. PDE may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor’s liabilities.
- 58.2 If the Intended Completion Date is extended after liquidated damages have been paid, the Project Manager shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate. The Contractor shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rates specified in Sub-Clause 52.1.

### **59. Bonus**

- 59.1 If so stated in the SCC, the Contractor shall be paid a Bonus calculated at the rate per working day stated in the SCC for each day (less any days for which the Contractor is paid for acceleration) that the Completion is earlier than the Intended Completion Date. The Completion Date shall be certified in accordance with GCC 64.1.

### **60. Advance Payment**

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

### **61. Performance Security and ES Performance Security**

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- 61.1 If so stated in the SCC, the Contractor shall, within twenty-one (21) calendar days of signing the contract, provide a Performance Security and, if applicable, an Environmental and Social, (ES) Performance Security for compliance with the Contractor's ESHS obligations for the due performance of the Contract. The Performance Security and the ES Performance Security shall be in the amount specified in the SCC and shall be denominated in the currency in which the Contract Price is payable.
- 61.2 The proceeds of the Performance Security and, if applicable, the ES Performance Security shall be payable to the PDE as compensation for any loss resulting from the Contractor's failure to complete its obligations under the Contract.
- 61.3 The Performance Security and, if applicable, the ES Performance Security shall be in the form stipulated in Section 9 of the bidding document.
- 61.4 The Performance Security and, if applicable, the ES Performance Security to the PDE shall be valid until a date 28 days from intended completion date stated in the SCC.

### **62. Day works**

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

### **63. Cost of Repairs**

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

## **E. Finishing the Contract**

### **64. Completion**

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

### **65. Taking Over**

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

### **66. Final Account**

- 66.1 The Contractor shall supply the Project Manager with a detailed account of the total amount that the Contractor considers payable under the Contract before the end of the

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

### **67. Operating and Maintenance Manuals**

- 67.1 If "as built" Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates stated in the SCC.
- 67.2 If the Contractor does not supply the Drawings and/or manuals by the dates stated in the SCC, or they do not receive the Project Manager's approval, the Project Manager shall withhold the amount stated in the SCC from payments due to the Contractor.

### **68. Termination**

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

For the purposes of this paragraph:

- (a) "corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value, to influence the action of a public official in the procurement process or in contract execution; and

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

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- (b) “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
- (c) “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- (d) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;

68.3 When either party to the Contract gives notice of a breach of Contract to the Project Manager for a cause other than those listed under Sub-Clause 68.2 above, the Project Manager shall decide whether the breach is fundamental or not.

68.4 Notwithstanding the above, the PDE may terminate the Contract for convenience.

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

### **69. Payment upon Termination**

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

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

### **70. Release from Performance**

70.1 If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the PDE or the Contractor, the Project Manager shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all work carried out before receiving it and for any work carried out afterwards to which a commitment was made.

## Section 8: Special Conditions of Contract

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

GCC Clause Reference	Special Conditions
	Procurement Reference No: <b>MoWE/WRKS/2021-2022/00074</b>
<b>GCC 1.1(cc)</b>	The Site is located at <b>Kawumu, Luweero Village</b> and is defined in Drawings.
<b>GCC 1.1(ee)</b>	The Start Date shall be: <b>As communicated in the commencement letter</b>
<b>GCC 1.1(z)</b>	The Project Manager is: <b>Proposed at the start of the project</b>
<b>GCC 2.1</b>	The following documents also form part of the Contract <ul style="list-style-type: none"> <li>• <b>Performance Securities,</b></li> <li>• <b>clarification of information or documentation submitted, request during evaluation of bids,</b></li> <li>• <b>Contracts committee decision on award of contract,</b></li> <li>• <b>Contractor’s bid documents</b></li> <li>• <b>Solicitor general approval of contract</b></li> </ul>
<b>GCC 3.7</b>	This Contract is <b>an Admeasurements Contract.</b>
<b>GCC 3.8</b>	Sectional completion Not permitted.
<b>GCC 7.1</b>	<p>For <b>notices</b>, the PDE’s address shall be:</p> <p>Attention: <b>Permanent Secretary,</b>                      Street Address: <b>Plot 3-7 Kabalega Crescent Road, Luzira</b>                      Town/City: <b>Kampala</b>                      Postal Code/PO Box: <b>20026, Kampala</b>                      Country: <b>Uganda</b>                      Telephone: <b>0414-220229</b>                      Electronic mail address: <b>ps@mwe.go.ug</b></p> <p>For <b>notices</b>, the Contractor’s address shall be:</p> <p>Attention: _____                      Street Address: _____                      Floor/Room number: _____                      Town/City: _____                      P. O. Box: _____                      Country: _____                      Telephone: _____</p>

## Part 3: Section 8 Special Conditions of Contract

GCC Clause Reference	Special Conditions
	Electronic mail address: _____
GCC 9.1	<p>The Works consist of:</p> <ol style="list-style-type: none"> <li>a) Borehole Works</li> <li>b) Transmission Main</li> <li>c) 200m<sup>3</sup> steel Reservoir on a 15m steel tower</li> <li>d) Water Distribution Network</li> <li>e) Drip Irrigation Equipment</li> <li>f) Sprinkler Irrigation Equipment</li> <li>g) Mechanical and Electrical Works</li> <li>h) Guard and Attendant House</li> <li>i) Waterborne Public Toilet</li> <li>j) Consumer Connections</li> </ol>
GCC 10.2	<p>The PDE's specific approval is required for:</p> <ul style="list-style-type: none"> <li>• <b>Variation in the design</b></li> <li>• <b>Time Extensions</b></li> <li>• <b>Variation in the works</b></li> <li>• <b>Source of electro-mechanicals and key pipe fittings</b></li> <li>• <b>Any modality that may lead to an increase in project costs above the contract price. This requirement may be waived in an emergency affecting safety of personnel or the Works or adjacent property.</b></li> </ul>
GCC 12.1	GCC Clause 12.1 on sub-contracting is modified as follows: None
GCC 12.2	<p>The following conditions shall apply to subcontracting: <b>The Contractor shall not impose inequitable or onerous conditions on his appointed subcontractors and shall pay all subcontractors promptly each month, irrespective of the Contractor himself having received payment for work performed by the subcontractor.</b></p>
GCC 13.1	<p>The Schedule of Other Contractors <b>will be</b> part of the Contract. <b>Notwithstanding the aforementioned, in the course of execution of the Contract, the Contractor is expected to obtain permission from various authorities such as Roads Authorities, Local Governments, Environmental Authority, etc.</b></p>
GCC 14.1	The Schedule of Key Personnel will be part of the Contract.
GCC 18.1	<p>The minimum insurance covers shall be:</p> <ol style="list-style-type: none"> <li>(a) The minimum cover for insurance of the Works, Plant and Materials is: <b>15% of Contract Price.</b></li> <li>(b) The maximum deductible for insurance of the Works, Plant and Materials is: <b>Ushs 5 million</b></li> </ol>



## Part 3: Section 8 Special Conditions of Contract

GCC Clause Reference	Special Conditions
	<p>(c) The minimum cover for insurance of Equipment is: <b>inclusive in (a) above</b></p> <p>(d) The maximum deductible for insurance of Equipment is: <b>inclusive in (a) above</b></p> <p>(e) The minimum cover for insurance of property is: <b>Uganda Shillings Fifty Million (Ush 50,000,000)</b></p> <p>(f) The maximum deductible for insurance of property is: <b>Uganda Shillings Five Million only (Ush 5,000,000)</b></p> <p>(g) The minimum cover for personal injury or death insurance is: <b>Uganda Shillings Fifty Million (Ush 50,000,000)</b></p> <p>(h) The maximum deductible for personal injury or death insurance is: <b>Uganda Shillings Five Hundred Thousand only (Ush 500,000)</b></p>
GCC 19.1	Site Investigation Report(s) is not part of the contract.
GCC 22.1	The Intended Completion Date for the whole of the Works shall be: <b>Twenty (20) months from the date of commencement. The contract period shall last up to the end of the defects liability period inclusive of Eight (8) months implementation period, with 1 month test running period and Twelve (12) months of defects liability after substantial completion and technical commissioning of installations.</b>
GCC 26.1	The Site Possession Date shall be: <b>Communicated in the commencement Letter.</b>
GCC 34.1	The procedure for settling disputes shall be according to <b>GCC 34</b>
GCC 34.3	Fees and types of reimbursable expenses to be paid to the Adjudicator: <b>According to UIPE Rates</b>
GCC 34.4	<p>The arbitration shall be conducted in accordance with the Arbitration and Conciliation Act Cap 4, Laws of Uganda, 2000.</p> <p>Arbitration shall take place at: <b>Kampala</b></p>
GCC 35.1	The Appointing Authority for the Adjudicator is: <b>_ The President of the Uganda Institution of Professional Engineers</b>
GCC 36.1	<b>The Contractor shall submit the Program for the Works within 14 days of contract signature.</b>
GCC 36.3	<p>The period between Program updates is <b>30 days.</b></p> <p>The amount to be withheld for late submission of an updated Program is:</p>
GCC 44.1	The Defects Liability Period is <b>365 days.</b>
GCC 50.1	Statements of estimated value of works executed shall be on a Monthly basis.
GCC 53.1(l)	The following events shall also be Compensation Events:

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

GCC Clause Reference	Special Conditions
GCC 56.1	<p>The Contract is <b>Not</b> subject to price adjustment in accordance with Clause 56 of the General Conditions of Contract, and the following information regarding coefficients _____ apply.</p> <p>The coefficients for adjustment of prices are:</p> <p>(a) For currency:</p> <p>(i) _____ percent nonadjustable element (coefficient A).</p> <p>(ii) _____ percent adjustable element (coefficient B).</p> <p>(b) For currency:</p> <p>(i) _____ percent nonadjustable element (coefficient A).</p> <p>(ii) _____ percent adjustable element (coefficient B).</p>
GCC 56.1	<p>The Index I for local currency will be: _____</p> <p>The Index I for the specified international currency will be: _____</p> <p>The Index I for currencies other than the local currency and the specified international currency will be: _____</p>
GCC 57.1	<p>The proportion of payments retained is <b>10</b> percent.</p>
GCC 58.1	<p>The liquidated damages for the whole of the Works are 0.1% of the Final Contract Price per day.</p> <p>The maximum amount of liquidated damages for the whole of the Works is ten percent (10%) of the final Contract Price.</p>
GCC 59.1	<p>The Bonus for the whole of the Works is _____ per day. The maximum amount of Bonus for the whole of the Works is _____ Percent of the final Contract Price. N/A</p>
GCC 60.1	<p>The Advance Payment will be equivalent to <b>30% of Contract Sum</b> and will be paid in the same currencies and proportions as the Contract Price.</p> <p>It will be paid to the Contractor within 60 Days of receipt of request for Advane payment.</p>
GCC 60.3	<p>The Advance Payment will be repaid by deducting amounts from the value of work included in payments due to the Contractor in each statement/certificate during the period starting from when 20% of the works have been executed and ending when 80% of the works have been executed.</p> <p>The formula for advance payment recovery shall be:</p> $Ar = [Wex/CP \times (1/0.8)] \times Ap$ <p>Where: Ar = Cumulative Advance amount recovered  : Wex = Value of work executed  : CP = Contract Price</p>

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

GCC Clause Reference	Special Conditions
	: Ap = Advance payment made
GCC 61.1	<p>A Performance Security <b>Shall</b> be required.</p> <p><b>A Performance Security shall be for 10% of Contract Price.</b></p> <p>An ES Performance Security <b>Shall be</b> required.</p> <p><b>The ES Performance Security shall be for (2% percentage) of the Contract Price:</b></p>
GCC 61.3	The standard form of Performance Security acceptable to the PDE shall be an Unconditional Bank Guarantee in the format presented in Section 9 of the Bidding Documents.
GCC 67.1	<p>The date by which “as built” drawings are required is: <b>Date of Substantial Completion.</b></p> <p>The date by which operating and maintenance manuals are required is: <b>Date of Substantial Completion.</b></p>
GCC 67.2	The amount to be withheld for failing to produce “as built” drawings and/or operating and maintenance manuals by the date required is 5% of Contract Price Uganda Shillings.
GCC 69.1	The percentage to apply to the value of the work not completed, representing the PDE’s additional cost for completing the Works, is: <b>10%</b>

## **Section 9: Contract Forms**

### **Table of Forms**

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# Contract Agreement

Procurement Reference No: **MWE/WRKS/2021-2022/00019**

THIS CONTRACT AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, between \_\_\_\_\_ of \_\_\_\_\_ (hereinafter “the Procuring and Disposing Entity - PDE”), of the one part, and \_\_\_\_\_ of \_\_\_\_\_ (hereinafter “the Contractor”), of the other part.

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

NOW THIS CONTRACT AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Contract Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Contract referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Contract Agreement shall prevail over all other Contract documents.
  - (a) the Contractor’s Bid;
  - (b) the Special Conditions of Contract;
  - (c) the General Conditions of Contracts;
  - (e) the Scope of works;
  - (f) the Drawings; and
  - (g) the completed Schedules.
3. In consideration of the payments to be made by the PDE to the Contractor as indicated in this Contract, the Contractor hereby covenants with the Procuring and Disposing Entity to execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract.
4. The PDE hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein the Contract Price of \_\_\_\_\_ or such other sum as may become payable under the provisions of the Contract, at the times and in the manner prescribed by the Contract.
5. The Contract Price or such other sum as may be payable shall be paid \_\_\_\_\_ in Uganda Shillings, \_\_\_\_\_ in \_\_\_\_\_ and \_\_\_\_\_ in \_\_\_\_\_.

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

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

### Part 3. Section 9. Contract Forms

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

In the presence of:

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

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

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

In the presence of:

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

## **Performance Security**

*[The Performance Security should be on the letterhead of the issuing Financial Institution and should be signed by a person with the proper authority to sign documents that are binding on the Financial Institution. The draft is for an unconditional Security. The amount of the guarantee must represent the percentage of the Contract Price specified in the Contract, and should be denominated either in the currency(ies) of the Contract or in a freely convertible currency acceptable to the Procuring and Disposing Entity].*

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

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

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

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

AND WHEREAS it has been stipulated by you in the aforementioned Contract that the Provider shall furnish you with a demand guarantee issued by a financial institution for the sum specified therein as security for compliance with the Provider’s performance obligations in accordance with the Contract;

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

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

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

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

### Part 3. Section 9. Contract Forms

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This Guarantee shall remain in force up to and including \_\_\_\_\_ \* *[insert date: day, month, year]*

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

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

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

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

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

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

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\* *Insert the date twenty eight (28) days after the intended completion date as stated in SCC 22.1. In the event of an extension of the intended completion date, the Entity shall request for an extension of this guarantee from the contractor. The request for extension shall be in writing and must be made prior to the expiration date stated in the guarantee.*



## **Environmental and Social (ES) Performance Security**

*[The Environmental and Social Performance Security should be on the letterhead of the issuing Financial Institution and should be signed by a person with the proper authority to sign documents that are binding on the Financial Institution. The draft is for an unconditional Security. The amount of the guarantee must represent the percentage of the Contract Price specified in the Contract, and should be denominated either in the currency(ies) of the Contract or in a freely convertible currency acceptable to the Procuring and Disposing Entity].*

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

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

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

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

AND WHEREAS it has been stipulated by you in the aforementioned Contract that the Provider shall furnish you with a demand guarantee issued by a financial institution for the sum specified therein as security for compliance with the Provider’s performance obligations in accordance with the Contract;

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

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

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

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

### Part 3. Section 9. Contract Forms

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This Guarantee shall remain in force up to and including \_\_\_\_\_ \* *[insert date: day, month, year]*

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

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

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

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

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

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

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*\* Insert the date twenty eight (28) days after the intended completion date as stated in SCC 22.1. In the event of an extension of the intended completion date, the Entity shall request for an extension of this guarantee from the contractor. The request for extension shall be in writing and must be made prior to the expiration date stated in the guarantee.*

## **Advance Payment Security**

*[The Advance Payment Security should be on the letterhead of the issuing Financial Institution and should be signed by a person with the proper authority to sign documents that are binding on the Financial Institution. The amount of the security is to be inserted by the Financial Institution and must represent the amount of the Advance Payment and be denominated either in the currency(ies) of the Advance Payment as specified in the Contract, or in a freely convertible currency acceptable to the PDE].*

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

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

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

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

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

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

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

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

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

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

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

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

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