



## **Amendment No. 1 to ITB**

Yerevan, 28<sup>th</sup> March 2014

### **Invitation to Bid (ITB) # ITB-013/14 Reconstruction of the 6.8 km section of the Highway M3 in the Republic of Armenia**

**To all bidders:**

**In reference to the above ITB, UNDP Armenia now wishes to amend the description of the ITB:**

**1) Section 3 Contract for Works (form of), special conditions 4.3 shall be changed to now read as follows:**

4.3 The Performance Guarantee referred to in Clause 10 of the General Conditions shall be submitted by the Contractor for an amount of 10% (ten percent) of the total price of the Contract. The Performance Guarantee shall be valid until Twenty-eight (28) calendar days after the final completion date.

**2) Section 3 Contract for Works (form of), special conditions 4.6 shall be changed to now read as follows:**

4.6 On each payment, UNDP shall withhold a per centum of the invoice amount a (5%) of the total price of the Contract for due performance of execution. Half of this amount (2,5%) shall be returned to the Contractor within Forty (40) calendar days upon the substantial completion and taking-over of the Works, and the remaining (2,5%) will be retained as maintenance guarantee until the end of the one year defects liability period. The retained 2,5% maintenance guarantee can be replaced with unconditional maintenance bank guarantee for the same value and until the end of the defects liability period.

**3) Section 5 Special Conditions, Paragraph Performance Security shall be changed to now read as follow:**


Performance Security	
Applies Yes	<p>a) Within Twenty-one (21) calendar days after signing the resulted contract as issued by the UNDP the successful Bidder shall furnish a Performance Security to UNDP in the amount of Ten (10) percent of the total contract price.</p> <p>b) The Performance Security shall be valid for a period of twenty eight (28) calendar days after the final completion date. The proceeds of the Performance Security shall be payable to the UNDP as compensation for any loss resulting from the Contractors' failure to complete its obligations under the contract.</p> <p>c) The Performance Security shall be denominated in the currency of the contract and shall be in one of the following form of a bank guarantee or irrevocable letter of credit, issued by a reputable bank in the form provided in these Solicitation Documents.</p> <p>d) The Performance Security will be returned to the contractor Twenty Eight (28) calendar days after the issuance by the Engineer of the Certificate of Final Completion, provided that the Contractor shall have paid all money owed to the Employer under the Contract.</p>

**4) Section 5 Special Conditions, Paragraph Payment shall be changed to now read as follow:**

Payments by UNDP	
Applies Yes	<ol style="list-style-type: none"> <li>1. In the case of requesting an advance payment by the Contractor; the UNDP shall pay the Contractor an advance payment up to Ten (10) percent of the contract price upon signature of the contract between the UNDP and the Contractor and submission of the following documents by the latter on behalf of UNDP: <ul style="list-style-type: none"> <li>➤ An irrevocable bank guarantee for the same value of the advance payment valid for Twenty-eight (28) calendar days after the substantial completion date.</li> <li>➤ The required Performance Security as stipulated in this contract.</li> </ul> </li> <li>2. The amount of the advance payment if paid to the contractor shall be subject to a deduction of a <b>Ten (10) percent</b> of the amount accepted for payment until the cumulative amount of the deductions so effected shall equal the amount of the advance payment when Eighty (80) percent of the works are completed. Should the cumulative amount of the deductions so made be lower than the amount of the advance payment after the date of completion of Eighty (80) percent the Works, UNDP may deduct the amount equal to the difference between the advance payment and the cumulative</li> </ol>

	<p>deductions from the payments due after completion or may recover such amount from the bank guarantee.</p> <p>3. On each payment, UNDP shall withhold a per centum of the invoice amount, up to a maximum of <b>5%</b> of the total price of the Contract for due performance in the implementation of the Works. Half of this amount (<b>2.5%</b>) shall be returned to the Contractor within Forty (40) calendar days upon the substantial completion and taking-over of the Works, and the remaining (<b>2.5%</b>) will be retained as maintenance guarantee until the Contractor furnishes the Maintenance Bank Guarantee which to be issued in the amount of 2.5% of the contract price, and to be valid until the end of the one year defects liability period. The said remaining (<b>2.5%</b>) of the contract value shall be returned to the contractor within Forty (40) calendar days as of the date of receipt of the Maintenance Bank Guarantee.</p>
--	---

**Note that all other terms and conditions of the ITB, except as amended herein, shall remain unchanged and shall continue in full force and effect.**



**Hugo Barillas, Procurement Specialist**  
**Date: 28<sup>th</sup> March 2014**



Date: 26th March 2014

**Invitation to Bid (ITB)**

Reference: ITB- 013/2014

Subject: Reconstruction of the 6.8 km section of the Highway M3 in the Republic of Armenia

Dear Sir/Madam,

- 1 We hereby solicit your bid for the above-mentioned works.
- 2 To enable you to submit a bid, please find enclosed:
  - Section 1: Instructions to Bidders
  - Section 2: Bid Data Sheet (BDS)
  - Section 3: Contract for Works (form of)
  - Section 4: General Conditions of Contract for civil Works
  - Section 5: Special Conditions
  - Section 6: Statement of Works – Volume 1. General Works
  - Section 7: Technical specifications - Volume 6. Technical Specifications.
  - Section 8: Drawings – Volume 2. Engineering Survey; Volume 3. Road Design Drawings; Volume 4. Artificial Structure Drawings
  - Section 9: Price Schedules (Bills of Quantities) – Volume 5. Economic Part Bill of Quantities
  - Section 10: Required forms
- 3 The complete set of technical documents of the bid can be downloaded from following site: [http://www.mediafire.com/download/36r6am43d04f6ag/Gogavan\\_road\\_design-Jan.\\_2014.rar](http://www.mediafire.com/download/36r6am43d04f6ag/Gogavan_road_design-Jan._2014.rar)
- 4 Bids must be delivered to the following address on or before **15th May 2014** at **15:00 Armenian time**.

To: UNDP CO Armenia  
14 Petros Adamyan street, Yerevan, Armenia

***Late bids shall be rejected***

- 5 Interested bidders are encouraged (on their own cost and responsibility) to attend the Pre-bid meeting & joint site visit which shall take place as per the following schedule:

Pre-bid meeting Date & Time	Pre-bid meeting Address	Remarks
<b>16th April 2014 10:30 Armenian time</b>	<b>UNDP Armenia 14 Petros Adamyan str., Yerevan</b>	Meeting will take place at the UN Conference Room
Site visit date & Time of gathering	Gathering Site visit address	Remarks
<b>14th April 2014 11:00 Armenian time</b>	<b>Gogavan Border Crossing Point (border between Armenia and Georgia, over M3 highway)</b>	

**Note: No more than two Representatives from each bidder** to attend the pre-bid meeting and site visit on behalf of the bidder.



- 6 Bids will be opened in the presence of Bidders' Representatives, who choose to attend, at **15:15 Armenian time** on 15<sup>th</sup> May 2014 at the following address:

**UNDP Armenia  
UN Conference Room  
14 Petros Adamyan str., Yerevan  
Note: No more than two Representatives from each bidder  
to attend the bid opening**

- 7 This letter is not to be construed in any way as an offer to contract with your firm.
- 8 The pre-bid meeting minutes, and any further enquiries received before **2<sup>nd</sup> May 2014**, will be documented and posted on the UNDP Armenia web site under the Procurement section on **5<sup>th</sup> May 2014**. No inquiries will be accepted after **2<sup>nd</sup> May 2014**.
- 9 This letter is not to be construed in any way as an offer to contract with your firm.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Claire Medina', is written over the official UNDP stamp.

Claire Medina  
Deputy Resident Representative



A handwritten signature in blue ink, located in the bottom right corner of the page.



## **SECTION 1: INSTRUCTIONS TO BIDDERS**



## A. Introduction

1. **General:** The UNDP Armenia invites sealed Bids for “Reconstruction of the 6.8 km section of the Highway M3 in the Republic of Armenia”.

2. **Eligible Bidder**

2.1 Bidders should not be associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by the UNDP to provide consulting services for the preparation of the design specifications, and other documents to be used for the procurement of works under this Invitation to Bids. Bidders shall be legally incorporated entities, or groups formed by such as joint ventures.

2.2 UNDP has not undertaken prequalification of potential bidders, all bidders shall include the information and documents specified in clause 9 of this Instruction to Bidders.

2.3 Joint Venture, Consortium or Association

If the Bidder is a group of legal entities that will form or have formed a joint venture, consortium or association at the time of the submission of the Bid, they shall confirm in their Bid that : (i) they have designated one party to act as a lead entity, duly vested with authority to legally bind the members of the joint venture jointly and severally, and this shall be duly evidenced by a duly notarized Agreement among the legal entities, which shall be submitted along with the Bid; and (ii) if they are awarded the contract, the contract shall be entered into, by and between UNDP and the designated lead entity, who shall be acting for and on behalf of all entities that comprise the joint venture.

After the bid has been submitted to UNDP, the lead entity identified to represent the joint venture shall not be altered without the prior written consent of UNDP. Furthermore, neither the lead entity nor the member entities of the joint venture can:

- a) Submit another Bid, either in its own capacity; nor
- b) As a lead entity or a member entity for another joint venture submitting another Bid.

The description of the organization of the joint venture/consortium/association must clearly define the expected role of each of the entity in the joint venture in delivering the requirements of the ITB, both in the bid and in the Joint Venture Agreement. All entities that comprise the joint venture shall be subject to the eligibility and qualification assessment by UNDP.

Where a joint venture is presenting its track record and experience in a similar undertaking as those required in the ITB, it should present such information in the following manner:

- a) Those that were undertaken together by the joint venture; and
- b) Those that were undertaken by the individual entities of the joint venture expected to be involved in the performance of the services defined in the ITB.

Previous contracts completed by individual experts working privately but who are permanently or were temporarily associated with any of the member firms cannot be claimed as the experience of the joint venture or those of its members, but should only be claimed by the individual experts themselves in their presentation of their individual credentials.





If the Bid of a joint venture is determined by UNDP as the most responsive Bid that offers the best value for money, UNDP shall award the contract to the joint venture, in the name of its designated lead entity, who shall sign the contract for and on behalf of all the member entities.

3. **Cost of Bid:** The Bidder shall bear all costs associated with the preparation and submission of the Bid, and the UNDP will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the solicitation.

## B. Solicitation Documents

4. **Examination of Solicitation Documents:** The Bidder is expected to examine all corresponding instructions, forms, terms and specifications contained in the Solicitation Documents. Failure to comply with these documents will be at the Bidder's risk and may affect the evaluation of the Bid. The Solicitation Documents are those stated below and should be read in conjunction with any Addenda issued in accordance with Clause 6 below.
  - (a) Instructions to Bidders;
  - (b) Bid Data Sheet (BDS);
  - (c) Contract for Works (form of);
  - (d) General Conditions of Contract for Construction Works;
  - (e) Special Conditions.
  - (f) Scope of Works;
  - (g) Bills of Quantities;
  - (h) Specifications;
  - (i) Drawings;
  - (j) Sample forms;
  - (k) Any other document listed **in the BDS** as forming part of the Solicitation Documents.
5. **Clarification of Solicitation Documents:** A prospective Bidder requiring any clarification of the Solicitation Documents may notify UNDP in writing. The response will be made in writing to any request for clarification of the Solicitation Documents that it receives earlier than ten (10) calendar days prior to the Deadline for the Submission of Bids. Written copies of the response (including an explanation of the query but without identifying the source of inquiry) will be posted on <http://operations.undp.am/Procurement/Default.aspx>. All communication connected with this Bid must be directed exclusively to the UNDP person identified as the contact person **in the BDS**.
6. **Amendments of Solicitation Documents:** No later than one week prior to the deadline for Submission of Bids, the UNDP may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Bidder, amend the Solicitation Documents. All amendments will be posted on <http://operations.undp.am/Procurement/Default.aspx>. In order to afford prospective Bidders reasonable time in which to take the amendments into account in preparing their offers, the UNDP may, at its discretion, extend the Deadline for the Submission of Bids.





### C. Preparation of Bids

7. **Language of the Bid:** The Bid prepared by the Bidder and all correspondence and documents relating to the Bid exchanged by the Bidder and the UNDP shall be written in the language indicated in the **BDS**.
8. **Documents Comprising the Bid:**  
The Bidder or the Bidder's authorised agent shall sign the Bid as indicated on the Bid Submission Sheet of this ITB. The Bid must comprise the following documents:
- (a) A Bid Submission form;
  - (b) Bid Security, if required, under clause 13 of Instructions to Bidders and in the form provided in Section 10.
  - (c) Priced Bill of Quantities;
  - (d) Written Power of Attorney, authorising the signatory of the bid to commit the bidder;
  - (e) Technical information as may be required by the BDS;
  - (f) Qualification information in accordance with clause 9.1 of the Instructions to Bidders, if prequalification of bidders has not been carried out.
  - (g) Any additional information required to be completed and submitted by bidders as specified in the **BDS**.

Each continuation sheet or attachment shall bear the bidder's name and the person signing the bid must initial any erasures or other changes.

9. **Documents Establishing Bidder's Eligibility and Qualifications:**

9.1 If bidders have not been pre-qualified and post qualification has been selected to determine eligibility of bidders, then the Bidder shall furnish evidence of its qualification by submitting the following information and documents with their bids, unless otherwise stated in the **BDS**:

- (a) Copies of original documents defining the constitution or legal status, place of registration, and principal place of business of the Bidder; written power of attorney of the signatory of the Bid to commit the Bidder;
- (b) Total monetary value of road construction works performed for each of the last Three years;
- (c) Experience in works of a similar nature and size for each of the last Three years, and details of work under way or contractually committed; and clients who may be contacted for further information on those contracts;
- (d) Major items of construction equipment proposed to carry out the Contract as specified in the **BDS**;
- (e) Qualifications and experience of key site management and technical personnel proposed for the Contract as specified in the **BDS**;
- (f) Reports on the financial standing of the Bidder for the last two years as specified in the BDS. such as profit and loss statements and certified auditor's reports for the past two years;
- (g) Evidence of adequacy of working capital for this Contract (access to line(s) of credit and availability of other financial resources) as specified in the BDS;



- (h) Information regarding any litigation, current or during the last five years, in which the Bidder was/is involved, the parties concerned, and the disputed amounts; and awards;
- (i) Proposals for subcontracting components of the Works amounting to more than 30 percent of the Contract Price. The ceiling for sub contractor's participation is stated **in the BDS**.

9.2 To qualify for award of the Contract, bidders shall meet the following **minimum qualifying criteria**:

- (a) An average annual financial amount of construction work over the period specified **in the BDS**.
- (b) Experience as prime contractor in the construction of at least the number of works of a nature and complexity equivalent to the Works over the period specified **in the BDS** (to comply with this requirement, works cited should be at least 70 percent complete);
- (c) Proposals for the timely acquisition (own, lease, hire, etc.) of the essential equipment listed **in the BDS**;
- (d) Minimum required key personal proposed for the supervision and management of this project as specified in the **BDS**.
- (e) Liquid assets and/or credit facilities, net of other contractual commitments and exclusive of any advance payments which may be made under the Contract, of no less than the amount specified **in the BDS**.

A consistent history of litigation or arbitration awards against the Applicant or any partner of a Joint Venture may result in disqualification.

**10. Documents Establishing Conformity of Equipment Incorporated into the Works:**

Where electrical and mechanical goods and equipment form part of the Works, the Bidder shall also furnish as part of its Bid, documents establishing the conformity to the Bidding Documents of all equipment and related services, which the Bidder proposes to supply under the contract.

The documentary evidence of conformity to the Bidding Documents may be in the form of literature, drawings, and data, and shall consist of:

- (a) A detailed description of the essential technical and performance characteristics of the equipment;
- (b) A list giving full particulars, including available sources and current prices of spare parts, special tools, etc, necessary for the proper and continuing functioning of the equipment for a period specified **in the BDS**, following commencement of the use of the equipment.

**11. Bid Currency/Bid Prices:** All prices must be quoted in the nominated currency **in the BDS**. The Bidder shall indicate on the appropriate Bills of Quantities (or Price Schedule Sheet as appropriate); the unit prices (where applicable) and total Bid Price of civil works it proposes to deliver under the contract.

UNDP is a 0% VAT payable entity. **All Bids must be submitted net of any direct taxes or customs duties.**



12. **Period of Validity of Bids:** Bids shall remain valid for a period after the date of Bid Submission as indicated **in the BDS**. A Bid valid for a shorter period may be rejected as non-responsive pursuant to clause 24 of Instructions to Bidders. In exceptional circumstances, the UNDP may solicit the Bidder's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. Bidders granting the request will not be required nor permitted to modify their Bids.
13. **Bid Security:**  
The bidder shall furnish as part of its bid a Bid Security as specified in the **BDS**. The Bid Security shall be adhered to:
- (a) The Bidder may be requested to furnish at its own cost and expense, as part of its Bid, a Bid Security to the UNDP in the amount as indicated **in the BDS**.
  - (b) The Bid Security is to be sealed in a separate envelope within the main sealed bid
  - (c) The Bid Security is to protect the UNDP against the risk of the Bidder's conduct, which would warrant the security's forfeiture, pursuant to clause 13(h) below;
  - (d) The Bid Security shall be denominated in **EURO** and shall be in the form of a bank guarantee, issued by a reputable bank, and in the form provided in these Solicitation Documents.
  - (e) Any Bid not secured in accordance with clauses **13 a) and 13 d)** above will be rejected by the UNDP as non-responsive.
  - (f) Unsuccessful Bidder's Bid Security will be discharged or returned as promptly as possible but not later than thirty (30) calendar days after the expiration of the period of Bid Validity prescribed by the UNDP pursuant to clause 12 of Instructions to Bidders;
  - (g) The successful Bidder's Bid Security will be discharged or returned upon the Bidder signing the Contract, pursuant to clause 25 of Instructions to Bidders, and furnishing the Performance Security, pursuant to clause 26 of Instructions to Bidders;
  - (h) The Bid Security may be forfeited:
    - 1. If a Bidder withdraws its offer during the period of the Bid Validity specified by the Bidder, in compliance with **BDS**, on the Bid Submission Form, or, refuses to accept the correction of errors in its Bid, or,
    - 2. In the case of a successful Bidder, if the Bidder fails:
      - (i) To sign the Contract Order in accordance with clause 25 of Instructions to Bidders, or,
      - (ii) To furnish Performance Security in accordance with clause 26 of Instructions to Bidders.

#### D. Submission of Bids

14. **Format and Signing of Bid:** The Bidder shall prepare one **original and one Copy** of the Bid, clearly marking each "**Original Bid**" and "**Copy of Bid**" as appropriate. In the event of any discrepancy between them, the original shall govern. The original and copies of the Bid shall be typed or written in indelible ink and shall be signed by the Bidder or a person or persons duly authorized to bind the Bidder to the contract. A Bid shall contain no interlineations, erasures, or overwriting except, as necessary to correct errors made by the Bidder, in which case the person or persons signing the bid shall initial such corrections.



**Electronic version of the BOQ on USB device** shall be submitted along with the signed hard copy thereof. In case of any discrepancy between the soft and the hard copies, the hard copy shall prevail.

**15. Sealing and Marking of Bids:**

- 15.1 The Bidder shall seal the original and each copy of the Bid in separate envelopes, duly marking the envelopes as “ORIGINAL” and “COPY”. The envelopes shall then be sealed in an outer envelope.
- 15.2 The inner and outer envelopes shall:
  - (a) Be addressed to the UNDP at the address given **in the BDS** of these Solicitation Documents; and
  - (b) Make reference to the “subject” indicated in the Letter of Invitation of these Solicitation Documents, and a statement: “DO NOT OPEN BEFORE”, to be completed with the time and the date specified **in the BDS** for Bid Opening pursuant to clause 16 of Instructions to Bidders.
- 15.3 The inner and outer envelopes shall also indicate the name and address of the Bidder to enable the Bid to be returned unopened in case it is declared “late”.
- 15.4 If the outer envelope is not sealed and marked as required by clause 15.2 of Instructions to Bidders, the UNDP will assume no responsibility for the Bid’s misplacement or premature opening.
- 15.5 The Bid Security is to be sealed in a separate envelope within the main sealed bid.

**16. Deadline for Submission of Bids/Late Bids:**

- 16.1 Bids must be delivered to the office on or before the date and time specified in the Letter of Invitation of these Solicitation Documents.
- 16.2 The UNDP may, at its discretion, extend this deadline for the submission of the bids by amending the Bidding Documents in accordance with clause 6 of Instructions to Bidders, in which case all rights and obligations of the UNDP and Bidders previously subject to the deadline will thereafter be subject to the deadline as extended.
- 16.3 Any Bid received by the UNDP after the Deadline for Submission of Bids will be rejected and returned unopened to the Bidder.
- 16.4 If no Bid is to be submitted, the documents should not be returned to UNDP unless so requested. Written advice should be sent to UNDP with reasons for not submitting a bid and as to whether future invitations for the type of Works covered by this request are desired. Failure to comply with the above may result in removal of the name of such recipient from the list for similar type of works covered by this ITB.

- 17. Modification and Withdrawal of Bids:** The Bidders may withdraw its bid after submission, provided that written notice of the withdrawal is received by UNDP prior to the deadline for submission. No Bid may be withdrawn in the interval between the deadline for submission of bids and the expiration of the period of Bid Validity.



## E. Opening and Evaluation of Bids

### 18. Opening of Bids:

- 18.1 The UNDP will open all bids in the presence of Bidders' Representatives who choose to attend, at the time, on the date, and at the place specified **in the BDS**, of this Solicitation Document. The bidders' Representatives who are present shall sign a register evidencing their attendance.
- 18.2 The bidders' names, bid modifications or withdrawals, bid prices, discounts, and the presence or absence of requisite bid security and such other details as the UNDP, at its discretion, may consider appropriate, will be announced at the opening. No bid shall be rejected at bid opening, except for late bids, which shall be returned unopened to the Bidder pursuant to clause 16.3 of Instructions to Bidders.
- 18.3 Bids (and modifications sent pursuant to clause 17 of Instructions to Bidders) that are not opened and read out at Bid Opening shall not be considered further for evaluation, irrespective of the circumstances. Withdrawn Bids will be returned unopened to the Bidders.
- 18.4 UNDP will prepare minutes of the Bid Opening.

19. **Clarification of Bids:** To assist in the examination, evaluation and comparison of Bids the procuring entity of UNDP may at its discretion ask the Bidder for clarification of its Bid. The request for clarification and the response shall be in writing and no change in price or substance of the Bid shall be sought, offered or permitted.

### 20. Preliminary Examination:

- 20.1 Prior to the detailed evaluation, the UNDP will determine the substantial responsiveness of each Bid to the Invitation to Bid (ITB). A substantially responsive Bid is one, which conforms to all the terms and conditions of the ITB without material deviations.
- 20.2 The UNDP will examine the bids to determine whether they are complete, whether any computational errors have been made, whether the documents have been properly signed, and whether the bids are generally in order as specified **in the BDS**.
- 20.3 Arithmetical errors will be rectified on the following basis: 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. If the Bidder does not accept the correction of errors, its Bid will be rejected. If there is a discrepancy between words and figures the amount in words will prevail.
- 20.4 A Bid determined as not substantially responsive will be rejected by the UNDP and may not subsequently be made responsive by the Bidder by correction of the non-conformity. UNDP shall use the criteria as detailed **in the BDS** to establish responsiveness.

21 **Evaluation of Bids:** UNDP will evaluate and compare the bids, which have been determined to be substantially responsive pursuant to clause 20 of Instructions to Bidders. Determination of compliance with the Solicitation Documents is based on the content of the Bid itself without recourse to extrinsic evidence.

The evaluation will take into account the following criteria:

Evaluation Criteria	
1.1	Compliance with pricing conditions set in the ITB.
1.2	Compliance with requirements relating to technical design features.
1.3	Compliance with Special and General Conditions specified by these Solicitation Documents. (bid submission form)
1.4	Demonstrated ability to honour important responsibilities and liabilities allocated to Contractors in this ITB (e.g. performance guarantees, warranties, or insurance coverage, etc).
1.5	Copy of company's registration required by law and issued by authorized agency: This document is mandatory for administrative compliance and starting with technical evaluation of bids.
1.6	Organizations general and specific experience: The organizations general reliability, experience and capacity in implementing similar projects.
1.7	Adequacy of the proposed work plan: The Bidder's approach in responding to the SOW and BOQ by presenting work plan including a time schedule for all activities during the construction period and present clear work plan.
1.8	Key personnel, machinery and capacity to implement: The qualification, competence and experience of the personnel proposed for the various assignments included in this project, and capacity to deliver on time. Submit resumes (CV) for key personnel and detailed descriptions of machineries owned or intended to be purchased or leased for the purpose of executing the contract by the Bidder.
1.9	Reference list and value of project implemented in last three years: Include list of projects with similar scale, completion period and list of equipments engaged in this project. Include name of project, kind of executed works, name, telephone, email of client, value of executed work (use original currency) and duration of executing work (From, Month/year to Month/Year)
1.10	Reference list and value of ongoing projects contracted by bidder: Include list of projects, name of clients, value of contracted works ((use original currency) and dead line for construction works (From, Month/year to Month/Year)
1.11	Price Deviation: Bidders shall quote reasonable bid prices with an acceptable margin of deviation in comparison to the real local market prices at the time of bids preparation. In case of Unbalanced pricing (i.e. despite an acceptable total evaluated price, the price of one or more BoQ line items is significantly over or understated), UNDP had the right to reject the unbalanced bid if it determines that the lack of balance does pose an unacceptable Risk to UNDP.

UNDP reserves the right to undertake a post-qualification exercise, aimed at determining, to its satisfaction the validity of the information provided by the Bidder. Such post-qualification shall be fully documented and, among those that may be listed in the Data Sheet, may include, but need not be limited to, all or any combination of the following :





- a) Verification of accuracy, correctness and authenticity of the information provided by the bidder on the legal, technical and financial documents submitted;
- b) Validation of extent of compliance to the ITB requirements and evaluation criteria based on what has so far been found by the evaluation team;
- c) Inquiry and reference checking with Government entities with jurisdiction on the bidder, or any other entity that may have done business with the bidder;
- d) Inquiry and reference checking with other previous clients on the quality of performance on on-going or previous contracts completed;
- e) Physical inspection of the bidder's plant, factory, branches or other places where business transpires, with or without notice to the bidder;
- f) Testing and sampling of completed goods similar to the requirements of UNDP, where available; and
- g) Other means that UNDP may deem appropriate, at any stage within the selection process, prior to awarding the contract.

## F. Award of Contract

- 22 **Award Criteria:** The UNDP will Issue the Contract to the lowest priced technically responsive Bidder who has also met the qualification criteria. The UNDP reserves the right to accept or reject any Bid, to annul the solicitation process and reject all Bids at any time prior to award of Contract, without thereby incurring any liability to the affected Bidder(s) or any obligation to provide information on the grounds for the UNDP's action.
- 23 **UNDP's Right to Vary Requirements at Time of Award:** The UNDP reserves the right at the time of making the award of contract to increase or decrease items in the Bills of Quantity, if possible, without any change in unit price or other terms and conditions, by the amount indicated **in the BDS**. This shall only be done in a manner that does not affect the overall completion of the Works.
- 24 **Notification of Award:** Prior to the expiration of the period of Bid Validity, the UNDP will send the successful Bidder, the Contract. The Contract may only be accepted by the Contractor signing and returning an Acknowledgement copy of the Contract. Such acceptance shall affect a contract between the parties under which the rights and obligations of the parties shall be governed solely by the terms and conditions of this Contract.
- 25 **Signing of the Contract:** Within Seven (7) calendar days of receipt of the Contract, the successful Bidder shall sign, date and return it to the UNDP.
- 26 **Performance Security:** The successful Bidder shall provide the Performance Security in the form of Performance Security provided for in these Solicitation Documents, within Twenty-one (21) calendar days after signing the resulted contract as issued by the UNDP.

Failure of the successful Bidder to comply with the requirement of clause 25 or clause 26 of Instructions to Bidders shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security, in which event the UNDP may make the award to the next lowest evaluated Bidder or call for new Bids.





**G. Other Requirements:**

- 27 **Time for Completion:** The Time for Completion is specified **in the BDS**. The completion of the Works shall be in accordance with the terms of the resulting Contract as may be issued by UNDP.
- 28 **Material, Labour and Facilities:** No material, labour or facilities will be furnished by UNDP or its clients unless specified in the ITB.
- 29 **Site Visit:** 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. If UNDP has arranged a formal Site Visit as part of this ITB, this shall be stated **in the BDS**.
- 30 **Pre-bid Meeting:** At the discretion of the bidders and at their own cost, UNDP will host a pre-bid meeting as specified in the **BDS**.

**H. Payment:**

- 31 **Time of Payment:** Unless otherwise indicated in the Special Terms and Conditions of this ITB, UNDP will normally effect payment within Thirty (30) calendar days after receipt of a **commercial invoice**, certification of site works and other supporting documents
- 32 **Advance Payment:** It is not the normal policy of UNDP to approve advance payments, unless specifically stated in the payment terms.
- 33 **Currency of Payment:** For foreign companies Payment will be made in the currency in which the Contract is issued. For national companies payment will be made in AMD although the contract will be issued in EURO.



## SECTION 2: BID DATA SHEET (BDS)



### BID DATA SHEET (BDS)

The following specific data for the Works to be procured shall complement, supplement or amend the provisions in the Instructions to Bidders. Whenever there is a conflict, the provisions herein shall prevail.

Category and minimum required classification	Classified by the Ministry of Urban Development of Republic of Armenia with License for construction works in transport (roads) field
--	---

Relevant clause(s) of Instruction Bidders	Specific data complementing, supplementing, or amending instructions to Bidders
Works (clause 1)	Reconstruction of the 6.8 km section of the Highway M3 in the Republic of Armenia.
Clarifications (clause 5)	The contact person of UNDP is: Head of Procurement Unit - Grigor Akhnoyan Email: <a href="mailto:grigor.akhnoyan@undp.org">grigor.akhnoyan@undp.org</a>  Deadline for request of clarification from bidders is 2nd May 2014.
Language of the Bid: (clause 7)	English
Qualification Criteria (Clause 9.1 and 9.2)	All items under this clause are required to be submitted by the bidders including:  (a) Classified by the Ministry of Urban Development of Republic of Armenia with license for construction works in transport (roads) field (b) Valid State & Tax registration (c) List and value of projects performed for the last three years with similar nature and complexity, plus clients who may be contacted for further information on those contracts. A minimum number of 3 contracts of a similar nature and complexity must have been performed by the bidder (to comply with this requirement, works cited should be at least 70 percent complete); (d) List and value of on-going projects with contact details of clients and current percentage completion of each on-going project. (e) Total monetary value of construction works performed for each of the last Three years. The average contract amount per year should be no less than <b>USD 1,500,000</b> (f) Average annual turnover per year for the last 2 years should exceed <b>3,000,000 USD</b> . (g) Independently financial audited accounts for the last two years in English. UNDP Armenia will check the financial accounts to compute the Quick Ratio (QR). QR tests the company's financial strength and liquidity by calculating a company's liquid assets in proportion to its liabilities. If QR is less than 1; UNDP shall verify financial capacity of the bidder and had the authority to seek references from concerned parties & banks on the bidder's financial standing. UNDP has the right to reject any bid if submitted by a bidder where investigation leads to a result that this bidder is not financially capable of performing the contract and/or had serious financial problems.



	<p>(h) Liquid assets and/or credit facilities, net of other contractual commitments and exclusive of any advance payments which may be made under the Contract, of no less than <b>USD 150,000</b> cash or credit line. Proof via an official bank credit letter (An Official letter from bidder's bank certifying the actual approved credit facilities ceiling and balances of all active accounts within the bank) shall be provided by the successful bidder only, upon UNDP's request, and just before contract award)</p> <p>(i) UNDP shall further verify the selected company's financial strength by obtaining third party reference checks from credit rating and reporting agencies (i.e., Dunn and Bradstreet, Moody's Investor Services). UNDP shall contact credit rating and reporting agencies for reports on the company's facilities, financial and management status. The company/Joint Venture (JV) contacted shall cooperate fully, and to the extent needed, with the credit rating and reporting agency.</p> <p>(j) Information regarding any litigation, current or during the last five years, in which the Bidder was/is involved, the parties concerned, and the disputed amounts and awards thereof</p> <p>(k) Tentative work programme. A detailed Work programme has to be provided by the bidder</p> <p>(l) CVs for key personal proposed for this project, as per minimum stated below (Clause 9.1)</p> <p>(m) List of construction equipment owned / Leased and proposed to carry out the contract, with minimum required shown below (including documentary proof of ownership (or ability to lease) the essential equipment's)</p> <p>(n) Excavator (V= 1.0-2.0 m3)- 3 (three)</p> <p>(o) Bulldozer (Power 170-350 h.p.)- 2 (two)</p> <p>(p) Truck (20-25 Ton)-6 (six)</p> <p>(q) Asphalt paving machine – 2 (two)</p> <p>(r) Roller Soil Compactor (20 Ton) -1 (one)</p> <p>(s) Roller Asphalt Compactor (1.5-12 Ton) -4 (four)</p> <p>(t) Grader-2 (two)</p> <p>(u) Generator-2 (two)</p> <p>(v) Loader-2 (two)</p> <p>(w) Water Tank</p> <p>(x) Asphalt (coating) Plant (50-100 Ton/Hour)</p>
Post qualification Actions (UNDP has the right to perform any or all of these actions as deemed necessary for the evaluation process)	<p>X Verification of accuracy, correctness and authenticity of the information provided by the bidder on the legal, technical and financial documents submitted;</p> <p>X Validation of extent of compliance to the ITB requirements and evaluation criteria based on what has so far been found by the evaluation team;</p> <p>X Inquiry and reference checking with Government entities with jurisdiction on the bidder, or any other entity that may have done business with the bidder;</p> <p>X Inquiry and reference checking with other previous clients on the quality of performance on ongoing or previous contracts completed;</p> <p>X Testing and sampling of completed goods similar to the requirements of UNDP, where available; and</p> <p>X Physical inspection of the bidder's plant, factory, branches or other places where business transpires, with or without notice to the bidder;</p>

Documents Comprising the Bid (clause 8):	<p>(a) A Bid Submission form;</p> <p>(b) Bid Security, if required, under clause 13 of Instructions to Bidders and in the form provided in Section 10.</p> <p>(c) Priced Bill of Quantities (duly filled in, signed and stamped);</p> <p>(d) Written Power of Attorney, authorising the signatory of the bid to commit the bidder;</p> <p>(e) Technical information and qualifications documents as required above;</p> <p>(f) Qualification information &amp; documents in accordance with clause 9.1 of the Instructions to Bidders,</p>
Minimum required key personal (Clause 9.1.e and 9.2 d)	<p><b>Project manager (Full time):</b> Master's Degree in civil or structural engineering with at least 7 (five) years' proven experience, including working as project manager for at least Three (3) years. The project manager must be available fulltime and as long as the contract is binding.</p> <p>Note: the owner or the general manager of the company will not be approved as a project manager.</p> <p><b>Two Road Engineers (Full time):</b> University degree in civil or structural engineering with at least Five (5) years' proven experience in roads construction of similar nature. The road engineers must be available fulltime and as long as the contract is binding.</p> <p><b>Two Licensed surveyors:</b> University degree with at least Five (5) years' proven experience, including in similar road works. One surveyor shall be full time, while the other shall be available on site when needed.</p> <p><b>Quality assurance specialist (Full time):</b> University degree with at least Five (5) years' proven experience in roads construction of similar nature.</p> <p>The above listed key personnel are subject to UNDP prior Approval.</p>
Subcontracting (clause 9.1(i) )	<p>Where the contractor is proposing to subcontract in excess of Thirty (30) percent of the total price of the contract, the following details should be submitted by the contractor in the bid submission:</p> <ul style="list-style-type: none"> <li>- BOQ item number to be subcontracted</li> <li>- Value to be subcontracted</li> <li>- Name of subcontractor(s)</li> </ul> <p>Additional information may be requested by UNDP to verify the capacity of the subcontractor(s) to undertake the works.</p>
<b>Joint Venture (JV)</b> (clause 2.3)	<p>All <b>Joint Venture (JV)</b> submissions shall include a tentative JV Agreement specifying the leader of the JV submitting the bid. Detailed, legal binding, JV agreement should be submitted by the <b>successful</b> JV partners before contract award could be made. After contract award, No change in JV Agreement is allowed without the written consent of UNDP</p>
Subcontracting percentage/ceiling restriction (clause 9.1(i) )	<p>Maximum percentage of the contract price which may be subcontracted is <b>thirty (30) percent</b>.</p>



Equipment (clause 10)	<p>Warranty should be provided for a minimum of twenty four (24) months following installation, commissioning and acceptance of any equipment and/or systems by UNDP Engineer.</p> <p>Any manufacturer's names, trade names, brand names or catalogue numbers used in the specifications are for the purpose of describing and establishing general performance and quality levels. Such references are not intended to be restrictive. Bids are invited on these and comparable brands or products provided the quality of the proposed products meet or exceed the quality of the specifications listed for any item.</p>
Bid and Contract Currency (clause 11)	It is mandatory that financial bids (priced BoQ) are submitted in EURO currency;
Bid Validity Period: (clause 12)	120 calendar days
Bid security: (clause 13)	<p>The following security/guarantee should be completed and provided with the bid submission:</p> <p>Bid Security (in the form of unconditional bank guarantee) issued in the amount of <b><u>EURO 50,000 and valid for 120 calendar days from the date of bid closing.</u></b></p> <p>Relevant Template can be found in Section 10.</p>
Performance Security (clause 26)	<p>Contractor Shall submit Performance Security with 10% of contract price within 21 days after signing of Contract and it shall be valid for a period of 28 days after the final completion date.</p> <p>Relevant Template can be found in Section 10.</p>
Advanced Payment (clause 32)	<p>Contractor Shall submit Bank Guarantee for advance payment up to 10% of contract price for the full amount of the advance payment. The said bank guarantee for the advance payment shall be valid for a period of 28 days after the substantial completion date.</p> <p>Relevant Template can be found in Section 10.</p>
Sealed Bids to be received at / Bids to be marked: (clause 15)	<p>From: Contractor Name, focal point, title, address and telephone number.</p> <p>To: UNDP Armenia 14 Petros Adamyan str.- Yerevan Tel: (374 60) 530000 Fax: (374 60) 543811 <b>ITB- 013/2014 "Reconstruction of the 6.8 km section of the Highway M3 in the Republic of Armenia"</b></p> <p><b>DEADLINE: NOT to be opened before 15th May, 2014, local time 15:00</b></p>
Opening of Bids: (clause 18)	<p>Bids will be opened in the presence of Bidders' Representatives, who choose to attend, at <b>15:15 on 15th May, 2014</b> at the following address: UNDP Armenia UN Conference room, 1<sup>st</sup> floor 14 Petros Adamyan street Yerevan, Armenia</p>



Right to Vary Requirements (clause 23)	UNDP's Right to Vary Requirements at time of making the contract award or during execution of contract: In the event of approved by the Engineer, variations in the quantities specified in the "Bill of Quantities", the readjustment in the price will be calculated based on the unit price of the bid and no other adjustment is permitted even if variations exceed Twenty-five percent (25%) of the originally estimated quantities.
Time Completion (clause 27)	for <b>13 calendar months</b> from the date of notice to commence which will be issued by the UNDP after contract signature.
Site Visit (clause 29)	<p><b>14 April, 2014 at 11:00 local time.</b> Meeting location: Gogavan Border Crossing Point (border between Armenia and Georgia, over M3 highway).</p> <p>The bidder is advised to visit and examine the site and its surroundings, and must obtain for himself on his own responsibility all information which may be necessary for preparing the bid and entering into a contract</p> <p><b>No more than two Representatives from each bidder to attend the Site Visit on behalf of the bidder.</b></p>
Pre-bid meeting (clause 30)	<p>Pre-bid meeting will be held in UNDP premises at the conference room on <b>16th April, 2014, 10:30 local time.</b></p> <p>Address: UNDP Armenia; 14 Petros Adamyan street Contact person of UNDP: Mr. Grigor Akhnoyan, Head of Procurement Unit</p> <p><b>No more than two Representatives from each bidder to attend the pre-bid meeting on behalf of the bidder.</b></p>
Alternative & Partial Bids:	Alternative & Partial bids are not permitted /acceptable.





### SECTION 3: CONTRACT FOR WORKS (FORM OF)



**FORM OF  
CONTRACT FOR WORKS**

**Date:** .

Dear Sir,

**Ref.: ITB 013/14** "Reconstruction of the 6.8 km section of the Highway M3 in the Republic of Armenia"

The United Nations Development Programme (hereinafter referred to as "UNDP"), wishes to engage your company, , duly incorporated under the applicable and legally binding local Laws of the Republic of Armenia (hereinafter referred to as the "Contractor") in order to perform "Reconstruction of the 6.8 km section of the Highway M3 in the Republic of Armenia", hereinafter referred to as the "Works"), in accordance with the following Contract:

**1. Contract Documents**

- 1.1 This Contract is subject to the UNDP General Conditions for Works, Revision October 2000, attached hereto as Annex I. The provisions of such Annex shall control the interpretation of this Contract and in no way shall be deemed to have been derogated by the contents of this letter and any other Annexes, unless otherwise expressly stated under section 4 of this letter, entitled "Special Conditions".
- 1.2 The Contractor and UNDP also agree to be bound by the provisions contained in the following documents, which shall take precedence over one another in case of conflict in the following order:
- a) This letter;
  - b) The Technical Specifications and Drawings dated , attached hereto as Annex xx; In the case of an inconsistency between Drawings and Specifications or within either Document not clarified by addendum, the better quality or greater quantity of Work shall be provided in accordance with the UNDP Engineer's interpretation.
  - c) The Contractor's bid including the Priced Bill of Quantities, dated not attached hereto but known to and in the possession of both parties.
  - d) Addendum # \*\* issued on ...
  - e) Safety, health and welfare on construction sites – manuals, attached hereto as Annex xx

The contract documents are complementary. What is required by one part of the contract documents shall be binding as if required by all. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both.

- 1.3 All the above shall form the Contract between the Contractor and UNDP, superseding the contents of any other negotiations and/or agreements, whether oral or in writing, pertaining to the subject of this Contract.



### **Obligations of the Contractor**

- 2.1 The Contractor shall commence work within seven (7) calendar days from the date on which he shall have been given access to the Site and received the notice to commence from the Engineer, and shall perform and substantially complete the Works within 13 calendar months, in accordance with the Contract. The Contractor shall provide all materials, supplies, labour and other services necessary to that end.
- 2.2 The Contractor shall submit to the Engineer the Programme of Work referred to in Clause 13 of the General Conditions within Twenty-eight (28) calendar days upon signature of the Contract by both parties.
- 2.3 The Contractor represents and warrants the accuracy of any information or data provided to UNDP for the purpose of entering into this Contract, as well as the quality of the Works foreseen under this Contract in accordance with the highest industrial and professional standards.

### **3. Price and payment**

- 3.1 The total estimated price of the Contract is contained in the Bill of Quantities and amounts to .
- 3.2 The final price of the Contract will be determined on the basis of the actual quantities of work and materials utilized in the complete and satisfactory performance of the Works as certified by the Engineer and the unit prices contained in the Contractor's financial proposal. Such unit prices are fixed and are not subject to any variation whatsoever.
- 3.3 If the Contractor foresees that the final price of the Contract may exceed the total estimated price contained in 3.1 above, he shall so inform the Engineer without delay, in order for UNDP to decide, at its discretion, to increase the estimated price of the Contract as a result of a larger quantity of work/material or to reduce the quantity of work to be performed or materials to be used. UNDP shall not be responsible for payment of any amount in excess of that stipulated in 3.1 above unless this latter amount has been increased by means of a written amendment of this Contract in accordance with its paragraph (7) below.
- 3.4 Upon signature of this Contract by both parties, the Contractor shall submit invoices for the works performed according to the certificates of payments; and a final invoice before the issuance of the Certificate of Substantial Completion by the Engineer.
- 3.5 UNDP shall effect payment of the invoices after receipt of the certificate of payment issued by the Engineer, approving the amount contained in the invoice. The Engineer may make corrections to that amount, in which case UNDP may affect payment for the amount so corrected. The Engineer may also withhold invoices if the work is not performed at any time in accordance with the terms of the Contract or if the necessary insurance policies or performance security are not valid and/or in order. The Engineer shall process the invoices submitted by the Contractor within Twenty-one (21) calendar days of their receipt.



- 3.6 Payments effected by UNDP to the Contractor shall be deemed neither to relieve the Contractor of its obligations under this Contract nor as acceptance by UNDP of the Contractor's performance of the Works.
- 3.7 Payment of the final invoice shall be effected by UNDP after issuance of the Certificate of Substantial Completion by the Engineer.

#### **4. Special conditions**

- 4.1 The advance payment to be made upon signature of the contract by both parties is contingent upon receipt and acceptance by UNDP the Performance Guarantee mentioned under 4.3 of and another bank guarantee for the full amount of the advance payment issued by a Bank and in a form acceptable to UNDP. The said bank guarantee for the advance payment shall be valid until Twenty-eight (28) calendar days after the substantial completion date. (i.e. contract duration plus one month)
- 4.2 The amount of the advance payment referred to under 4.1 above will be deducted from due payments to Contractor for executed works, at an equal rate, such that the whole sum of the advance payment will be recovered when 80% of the work has been completed.
- 4.3 The Performance Guarantee referred to in Clause 10 of the General Conditions shall be submitted by the Contractor for an amount of 10% (ten percent) of the total price of the Contract. The Performance Guarantee shall be valid until Ninety (90) calendar days after the final completion date.(i.e. contract duration plus 3 months)
- 4.4 Contract Effective Date.
- (a) This Contract shall become effective at such time as all of the following conditions have been met:
- (i) the Contract has been signed by both UNDP and the Contractor;
  - (ii) the Performance Guarantee and Insurance Certificates have been received and accepted by UNDP.
- (b) The Contractor shall from the Effective Date commence mobilization in preparation for performance of the Works under the Contract.
- UNDP shall notify the Contractor of the Effective Date of Contract no later than Fourteen (14) calendar days after the attainment of whichever is the last of (i) or (ii) above.
- 4.5 The advance payment \_\_\_\_\_ **EURO** to be made upon signature of the contract by both parties is contingent upon receipt and acceptance by UNDP of a bank guarantee for the full amount of the advance payment issued by a reputable Bank and in a form acceptable to UNDP.
- 4.6 On each payment, UNDP shall withhold a per centum of the invoice amount, up to a maximum of **5%** of the total price of the Contract for due performance in the implementation of the works. upon the substantial completion and taking-over of the Works, the said amount (5% of contract value) shall be retained as maintenance guarantee until the end of the one year defects liability period. The said retained amount can be replaced with unconditional maintenance bank guarantee for the same value and until the end of the one year defects liability period.



- 4.7 The Contractor shall be responsible for the maintenance of the said works for a period of One Year effective from the day of issuance of the Certificate of Substantial Completion of the Works.
- 4.8 The liability insurance referred to in Clause 23 of the General Conditions shall be taken out by the Contractor for an amount of Fifteen (15) percent of the price of the Contract per occurrence, with number of occurrences unlimited.
- 4.9 According to Clause 45 of the General Conditions, the liquidated damages for delay shall be a sum equivalent to 0.1 percent of the actual contract price per calendar day, up to a maximum of Ten (10) percent of the final price of the Contract. If the liquidation damages payable reaches Ten (10) percent of contract price, UNDP has the right to terminate the contract.
- 4.10 This contract is exempted from Value Added Tax (VAT) and accordingly no Value Added Tax will be paid under this contract. In the event that the Contractor fails to acquire the necessary tax clearances from the Tax Department, UNDP retains the right to en-cash the full amount of the Contractor's advance payment guarantee without prior notice, and if necessary terminate the Contract.
- 4.11 In the event of approved by the Engineer variations in the quantities specified in the "Bill of Quantities", the readjustment in the price will be calculated based on the unit price of the bid and no other adjustment is permitted even if variations exceed Ten (10) percent of the originally estimated quantities.
- 4.12 Any damage by the Contractor on the executed works during the defects liability period should be repaired by the contractor and at his own expense and during a week after receiving a notice in writing from the UNDP; and if the contractor does not repair these damages during the above specified period, then UNDP does these repairs at the expense of the contractor, which shall be deducted from due sums against the Maintenance Guarantee.
- 4.13 As part of project documentation the Contractor shall develop and provide the Engineer with Plan of Environmental Protection during the performance of the construction work. 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.
- 4.14 Within Twenty-one (21) calendar days after the Commencement Date, the Contractor shall submit a document entitled "Health and Safety Plan" and shall be subject to the approval of the Engineer, who will not allow any work on Site to proceed until such time as it has been fully and formally approved. The Contractor shall send, to the Engineer, details of any accident as soon as practicable after its occurrence.
- 4.15 The Contractor shall provide photographic images of construction work. Each month, the Contractor shall in consultation with the Engineer make up to 100 digital color photographs of construction works.



- 4.16 The Contractor's duty is to provide facilities for offices, cloakrooms, toilets and household facilities. Their location and the number shall be indicated in the Works organization Project and approved by the Engineer. The Contractor shall ensure the transportation, installation and maintenance of these facilities during the construction, dismantling and removal from the facility after construction.
- 4.17 The Contractor shall prepare a Quality assurance plan which includes the quality system, applicable within the frameworks of the Contract. The Contractor's Quality assurance along with some additional managerial and technical procedures shall be prepared and submitted to the Engineer within Four (4) weeks since the date the Contract enters into force.
- 4.18 Within Fourteen (14) calendar days after signing the Contract the Contractor shall inform the Engineer about the representative of the Contractor and other key personnel- job descriptions of responsible personnel, contact addresses, phone numbers, fax numbers and email addresses and submit to the Engineer the organizational chart, what is based on the scheme stated in the Tender proposal of the Contractor.
- 4.19 On the ground of the developed during the technical design Plan for the organization of construction works, the Contractor shall prepare a description of the methods of installation and construction of key elements – Program of Works Performance with cash flow projection and submit it to the Engineer for review and approval not later than Twenty-eight (28) calendar days after the Commencement Date.

## **5. Submission of invoices**

- 5.1 One original and one copy of every invoice shall be submitted by mail by the Contractor for each payment under the Contract to the Engineer's address specified in clause 8.1.
- 5.2 Invoices submitted by fax shall not be accepted by UNDP.

## **6. Time and manner of payment**

- 6.1 Invoices shall be paid within Thirty (30) calendar days of the date of their receipt and acceptance by UNDP.
- 6.2 All payments shall be made by UNDP to the following Bank account of the Contractor:

Name of the Bank:  
Bank Account No.:  
Branch:

## **7. Modifications**

- 7.1 Any modification to this Contract shall require an amendment in writing between both parties duly signed by the authorized representatives of the Contractor and UNDP.



**8. Notifications**

- 8.1 For the purpose of notifications under the Contract, the addresses of UNDP and the Contractor are as follows:

**For the UNDP:**

Bradley Busetto  
UNDP Resident Representative  
Tel: + 374 (60) 530000  
Fax: + 374 (10) 543811  
14 Petros Adamyan Str.  
0010 Yerevan, Armenia

Ref.: ITB .../14

**For the Contractor:**

- 8.2 UNDP shall communicate as soon as possible to the Contractor after the signature of the Contract, the address of the Engineer for the purposes of communication with the Engineer under the Contract.

If the above terms and conditions meet with your agreement as typed in this letter and in the Contract Documents, please initial every page of this letter and its attachments and return to this office one original of this Contract, duly signed and dated.

Yours sincerely,

Bradley Busetto  
UNDP Resident Representative

For:

Agreed and Accepted:

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_





## **SECTION 4: GENERAL CONDITIONS OF CONTRACT FOR CIVIL WORKS**



## **General Conditions of Contract for Civil Works**

1. Definitions
2. Singular and Plural
3. Headings or Notes
4. Legal Relationships
5. General Duties/Powers of Engineer
6. Contractor's General Obligations/Responsibilities
7. Assignment and Subcontracting
8. Drawings
9. Work Book
10. Performance Security
11. Inspection of Site
12. Sufficiency of Tender
13. Programme of Work to be Furnished
14. Weekly Site Meeting
15. Change Orders
16. Contractor's Superintendence
17. Contractor's Employees
18. Setting-Out
19. Watching and Lighting
20. Care of Works
21. Insurance of Works, Etc.
22. Damage to Persons and Property
23. Liability Insurance
24. Accident or Injury to Workmen
25. Remedy on Contractor's Failure to Insure
26. Compliance with Statutes, Regulations, Etc.
27. Fossils, Etc.
28. Copyright, Patents and Other Proprietary Rights, and Royalties
29. Interference With Traffic and Adjoining Properties
30. Extraordinary Traffic and Special Loads
31. Opportunities for Other Contractors
32. Contractor to Keep Site Clean
33. Clearance of Site on Substantial Completion
34. Labour
35. Returns of Labour, Plant, Etc.
36. Materials, Workmanship and Testing
37. Access to Site
38. Examination of Work Before Covering Up
39. Removal of Improper Work and Materials



40. Suspension of Work
41. Possession of Site
42. Time for Completion
43. Extension of Time for Completion
44. Rate of Progress
45. Liquidated Damages for Delay
46. Certificate of Substantial Completion
47. Defects Liability
48. Alterations, Additions and Omissions
49. Plant, Temporary Works and Materials
50. Approval of Materials, Etc., Not Implied
51. Measurement of Works
52. Liability of the Parties
53. Authorities
54. Urgent Repairs
55. Increase and Decrease of Costs
56. Taxation
57. Blasting
58. Machinery
59. Temporary Works and Reinstatement
60. Photographs and Advertising
61. Prevention of Corruption
62. Date Falling on Holiday
63. Notices
64. Language, Weights and Measures
65. Records, Accounts, Information and Audit
66. Force Majeure
67. Suspension by the UNDP
68. Termination by the UNDP
69. Termination by the Contractor
70. Rights and Remedies of the UNDP
71. Settlement of Disputes
72. Privileges and Immunities
73. Security
74. Audit and Investigations
75. Anti-Terrorism



## 1. DEFINITIONS

For the purpose of the Contract Documents the words and expressions below shall have the following meanings:

- a) "Employer" means the United Nations Development Programme (UNDP).
- b) "Contractor" means the person whose tender has been accepted and with whom the Contract has been entered into.
- c) "Engineer" means the person whose services have been engaged by UNDP to administer the Contract as provided therein, as will be notified in writing to the Contractor.
- d) "Contract" means the written agreement between the Employer and the Contractor, to which these General Conditions are annexed.
- e) "The Works" means the works to be executed and completed under the Contract.
- f) "Temporary Works" shall include items to be constructed which are not intended to be permanent and form part of the Works.
- g) "Drawings" and "Specifications" mean the Drawings and Specifications referred to in the Contract and any modification thereof or addition thereto furnished by the Engineer or submitted by the Contractor and approved in writing by the Engineer in accordance with the Contract.
- h) "Bill of Quantities" is the document in which the Contractor indicates the cost of the Works, on the basis of the foreseen quantities of items of work and the fixed unit prices applicable to them.
- i) "Contract Price" means the sum agreed in the Contract as payable to the Contractor for the execution and completion of the Works and for remedying of any defects therein in accordance with the Contract.
- j) "Site" means the land and other places on, under, in or through which the Works or Temporary Works are to be constructed.

## 2. SINGULAR AND PLURAL

Words importing persons or parties shall include firms or companies and words importing the singular only shall also include the plural and vice versa where the context requires.



### **3. HEADINGS OR NOTES**

The headings or notes in the Contract Documents shall not be deemed to be part thereof or be taken into consideration in their interpretation.

### **4. LEGAL RELATIONSHIPS**

The Contractor and the sub-contractor(s), if any, shall have the status of an independent contractor vis-à-vis the Employer. The Contract Documents shall not be construed to create any contractual relationship of any kind between the Engineer and the Contractor, but the Engineer shall, in the exercise of his duties and powers under the Contract, be entitled to performance by the Contractor of its obligations, and to enforcement thereof. Nothing contained in the Contract Documents shall create any contractual relationship between the Employer or the Engineer and any subcontractor(s) of the Contractor.

### **5. GENERAL DUTIES/POWERS OF ENGINEER**

- a) The Engineer shall provide administration of Contract as provided in the Contract Documents. In particular, he shall perform the functions hereinafter described.
- b) The Engineer shall be the Employer's representative vis-à-vis the Contractor during construction and until final payment is due. The Engineer shall advise and consult with the Employer. The Employer's instructions to the Contractor shall be forwarded through the Engineer. The Engineer shall have authority to act on behalf of the Employer only to the extent provided in the Contract Documents as they may be amended in writing in accordance with the Contract. The duties, responsibilities and limitations of authority of the Engineer as the Employer's representative during construction as set forth in the Contract shall not be modified or extended without the written consent of the Employer, the Contractor and the Engineer.
- c) The Engineer shall visit the Site at intervals appropriate to the stage of construction to familiarize himself generally with the progress and quality of the Works and to determine in general if the Works are proceeding in accordance with the Contract Documents. On the basis of his on-site observations as an Engineer, he shall keep the Employer informed of the progress of the Works.
- d) The Engineer shall not be responsible for and will not have control or charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Works or the Temporary Works. The Engineer shall not be responsible for or have control or charge over the acts or omissions of the Contractor (including the Contractor's failure to carry out the Works in accordance with the Contract) and of Sub-contractors or any of their



agents or employees, or any other persons performing services for the Works, except if such acts or omissions are caused by the Engineer's failure to perform

- e) his functions in accordance with the contract between the Employer and the Engineer.
- f) The Engineer shall at all times have access to the Works wherever and whether in preparation or progress. The Contractor shall provide facilities for such access so that the Engineer may perform his functions under the Contract.
- g) Based on the Engineer's observations and an evaluation of the documentation submitted by the Contractor together with the invoices, the Engineer shall determine the amounts owed to the Contractor and shall issue Certificates for Payment as appropriate.
- h) The Engineer shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for conformity with the design concept of the Works and with the provisions of the Contract Documents. Such action shall be taken with reasonable promptness so as to cause no delay. The Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component.
- i) The Engineer shall interpret the requirements of the Contract Documents and judge the performance thereunder by the Contractor. All interpretations and orders of the Engineer shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. Either party may make a written request to the Engineer for such interpretation. The Engineer shall render the interpretation necessary for the proper execution of the Works with reasonable promptness and in accordance with any time limit agreed upon. Any claim or dispute arising from the interpretation of the Contract Documents by the Engineer or relating to the execution or progress of the Works shall be settled as provided in Clause 71 of these General Conditions.
- j) Except as otherwise provided in the Contract, the Engineer shall have no authority to relieve the Contractor of any of his obligations under the Contract nor to order any work involving delay in completion of the Works or any extra payment to the Contractor by the Employer, or to make any variations to the Works.
- k) In the event of termination of the employment of the Engineer, the Employer shall appoint another suitable professional to perform the Engineer's duties.
- l) The Engineer shall have authority to reject work which does not conform to the Contract Documents. Whenever, in his opinion, he considers it necessary or advisable for the implementation of the intent of the Contract Documents, he will



have authority to require special inspection or testing of the work whether or not such work be then fabricated, installed or completed. However, neither the Engineer's authority to act nor any reasonable decision made by him in good faith

- m) either to exercise or not to exercise such authority shall give rise to any duty or responsibility of the Engineer to the Contractor, any subcontractor, any of their agents or employees, or any other person performing services for the Works.
- n) The Engineer shall conduct inspections to determine the dates of Substantial Completion and Final Completion, shall receive and forward to the Employer for the Employer's review written warranties and related documents required by the Contract and assembled by the Contractor, and shall issue a final Certificate for Payment upon compliance with the requirements of Clause 47 hereof and in accordance with the Contract.
- o) If the Employer and Engineer so agree, the Engineer shall provide one or more Engineer's Representative(s) to assist the Engineer in carrying out his responsibilities at the site. The Engineer shall notify in writing to the Contractor and the Employer the duties, responsibilities and limitations of authority of any such Engineer's Representative(s).

## **6. CONTRACTOR'S GENERAL OBLIGATIONS/RESPONSIBILITIES**

### **6.1. Obligation to Perform in Accordance with Contract**

The Contractor shall execute and complete the Works and remedy any defects therein in strict accordance with the Contract, with due care and diligence and to the satisfaction of the Engineer, and shall provide all labor, including the supervision thereof, materials, Constructional Plant and all other things, whether of a temporary or permanent nature, required in and for such execution, completion and remedying of defects, as far as the necessity for providing the same is specified in or is reasonably to be inferred from the Contract. The Contractor shall comply with and adhere strictly to the Engineer's instructions and directions on any matter, touching or concerning the Works.

### **6.2 Responsibility for Site Operations**

The Contractor shall take full responsibility for the adequacy, stability and safety of all site operations and methods of construction, provided that the Contractor shall not be responsible, except as may be expressly provided in the Contract, for the design or specification of the Permanent Works or of any Temporary Works prepared by the Engineer.

### **6.3. Responsibility for Employees**





The Contractor shall be responsible for the professional and technical competence of his employees and will select for work under this Contract, reliable individuals who will perform effectively in the implementation of the Contract, respect local customs and conform to a high standard of moral and ethical conduct.

#### **6.4. Source of Instructions**

The Contractor shall neither seek nor accept instructions from any authority external to the Employer, the Engineer or their authorized representatives in connection with the performance of his services under this Contract. The Contractor shall refrain from any action which may adversely affect the Employer and shall fulfill his commitments with fullest regard for the interest of the Employer.

#### **6.5. Officials Not to Benefit**

The Contractor warrants that no official of the Employer has been or shall be admitted by the Contractor to any direct or indirect benefit arising from this Contract or the award thereof. The Contractor agrees that breach of this provision is a breach of an essential term of the Contract.

#### **6.6. Use of Name, Emblem or Official Seal of UNDP or the United Nations**

The Contractor shall not advertise or otherwise make public the fact that he is performing, or has performed services for the Employer or use the name, emblem or official seal of the Employer or the United Nations or any abbreviation of the name of the Employer or the United Nations for advertising purposes or any other purposes.

#### **6.7. Confidential Nature of Documents**

All maps, drawings, photographs, mosaics, plans, reports, recommendations, estimates, documents and all other data compiled by or received by the Contractor under the Contract shall be the property of the Employer, shall be treated as confidential and shall be delivered only to the duly authorized representative of the Employer on completion of the Works; their contents shall not be made known by the Contractor to any person other than the personnel of the Contractor performing services under this Contract without the prior written consent of the Employer.

### **7. ASSIGNMENT AND SUBCONTRACTING**

#### **7.1. Assignment of Contract**



The Contractor shall not, except after obtaining the prior written approval of the Employer, assign, transfer, pledge or make other disposition of the Contract or any part thereof or of any of the Contractor's rights, claims or obligations under the Contract.

## **7.2. Subcontracting**

In the event the Contractor requires the services of subcontractors, the Contractor shall obtain the prior written approval of the Employer for all such subcontractors. The approval of the Employer shall not relieve the Contractor of any of his obligations under the Contract, and the terms of any subcontract shall be subject to and be in conformity with the provisions of the Contract.

## **7.3. Assignment of Subcontractor's Obligations**

In the event of a subcontractor having undertaken towards the Contractor in respect of the work executed or the goods, materials, Plant or services supplied by such subcontractor for the Works, any continuing obligation extending for a period exceeding that of the Defects Liability Period under the Contract, the Contractor shall at any time after the expiration of such Period, assign to the Employer, at the Employer's request and cost, the benefit of such obligation for the unexpired duration thereof.

## **8. DRAWINGS**

### **8.1. Custody of drawings**

The drawings shall remain in the sole custody of the Employer but two (2) copies thereof shall be furnished to the Contractor free of cost. The Contractor shall provide and make at his own expense any further copies required by him. At the completion of the Works, the Contractor shall return to the Employer all drawings provided under the Contract.

### **8.2. One copy of Drawings to be kept on Site**

One copy of the Drawings furnished to the Contractor as aforesaid shall be kept by the Contractor on the Site and the same shall at all reasonable times be available for inspection and use by the Engineer and by any other person authorized in writing by the Engineer.

### **8.3. Disruption of Progress**



The Contractor shall give written notice to the Engineer whenever planning or progress of the Works is likely to be delayed or disrupted unless any further drawing or order, including a direction, instruction or approval, is issued by the Engineer within a reasonable time. The notice shall include details of drawing or order required and of why and by when it is required and of any delay or disruption likely to be suffered if it is late.

## 9. WORK BOOK

The Contractor shall maintain a Work Book at the Site with numbered pages, in one original and two copies. The Engineer shall have full authority to issue new orders, drawings and instructions to the Contractor, from time to time and as required for the correct execution of the Works. The Contractor shall be bound to follow such orders, drawings and instructions.

Every order shall be dated and signed by the Engineer and the Contractor, in order to account for its receipt.

Should the Contractor want to refuse an order in the Work Book, he shall so inform the Employer, through the Engineer, by means of an annotation in the Work Book made within three (3) days from the date of the order that the Contractor intends to refuse. Failure by the Contractor to adhere to this procedure shall result in the order being deemed accepted with no further possibility of refusal.

The original of the Work Book shall be delivered to the Employer at the time of Final Acceptance of the Works. A copy shall be kept by the Engineer and another copy by the Contractor.

## 10. PERFORMANCE SECURITY

- a) As guarantee for his proper and efficient performance of the Contract, the Contractor shall on signature of the Contract furnish the Employer with a Performance Security issued for the benefit of the Employer. The amount and character of such security (bond or guarantee) shall be as indicated in the Contract.
- b) The Performance Bond or Bank Guarantee must be issued by an acceptable insurance company or accredited bank, in the format included in Appendix I to these General Conditions, and must be valid up to twenty-eight days after issuance by the Engineer of the Certificate of Final Completion. The Performance Bond or Bank Guarantee shall be returned to the Contractor within twenty-eight days after the issuance by the Engineer of the Certificate of Final Completion, provided that the Contractor shall have paid all money owed to the Employer under the Contract.



- c) If the surety of the Performance Bond or Bank Guarantee is declared bankrupt or becomes insolvent or its right to do business in the country of execution of the Works is terminated, the Contractor shall within five (5) days thereafter substitute another bond or guarantee and surety, both of which must be acceptable to the Employer.

## **11. INSPECTION OF SITE**

The Contractor shall be deemed to have inspected and examined the site and its surroundings and to have satisfied himself before submitting his Tender and signing the Contract as to all matters relative to the nature of the land and subsoil, the form and nature of the Site, details and levels of existing pipe lines, conduits, sewers, drains, cables or other existing services, the quantities and nature of the work and materials necessary for the completion of the Works, the means of access to the Site, and the accommodation he may require, and in general to have himself obtained all necessary information as to risk contingencies, climatic, hydrological and natural conditions and other circumstances which may influence or affect his Tender, and no claims will be entertained in this connection against the Employer.

## **12. SUFFICIENCY OF TENDER**

The Contractor shall be deemed to have satisfied himself before tendering as to the correctness and sufficiency of his Tender for the construction of the Works and of the rates and prices, which rates and prices shall, except in so far as it is otherwise provided in the Contract, cover all his obligations under the Contract and all matters and things necessary for the proper execution and completion of the Works.

## **13. PROGRAMME OF WORK TO BE FURNISHED**

Within the time limit specified in the Contract, the Contractor shall submit to the Engineer for his consent a detailed Programme of Work showing the order of procedure and the method in which he proposes to carry out the Works. In preparing his Programme of Work the Contractor shall pay due regard to the priority required by certain works. Should the Engineer, during the progress of work, require further modifications to the Programme of Work, the Contractor shall review the said program. The Contractor shall also whenever required by the Engineer submit particulars in writing of the Contractor's arrangements for carrying out the Works and of the Constructional Plant and Temporary Works which the Contractor intends to supply, use or construct as the case may be. The submission of such program, or any modifications thereto, or the particulars



required by the Engineer, shall not relieve the Contractor of any of his duties or obligations under the Contract nor shall the incorporation of any modification to the Programme of Work either at the commencement of the contract or during its course entitle the Contractor to any additional payments in consequence thereof.

#### **14. WEEKLY SITE MEETING**

A weekly site meeting shall be held between the UNDP Project Coordinator or engineer, if any, the representative of the Contractor and the Engineer or the Engineer's Representative, in order to verify that the Works are progressing normally and are executed in accordance with the Contract.

#### **15. CHANGE ORDERS**

- a) The Engineer may instruct the Contractor, with the approval of the Employer and by means of Change Orders, all variations in quantity or quality of the Works, in whole or in part, that are deemed necessary by the Engineer.
- b) Processing of change orders shall be governed by clause 48 of these General Conditions.

#### **16. CONTRACTOR'S SUPERINTENDENCE**

The Contractor shall provide all necessary superintendence during the execution of the Works and as long thereafter as the Engineer may consider necessary for the proper fulfillment of the Contractor's obligations under the Contract. The Contractor or a competent and authorized agent or representative of the Contractor approved in writing by the Engineer, which approval may at any time be withdrawn, shall be constantly on the site and shall devote his entire time to the superintendence of the Works. Such authorized agent or representative shall receive on behalf of the Contractor directions and instructions from the Engineer. If the approval of such agent or representative shall be withdrawn by the Engineer, as provided in Clause 17(2) hereinafter, or if the removal of such agent or representative shall be requested by the Employer under Clause 17(3) hereinafter, the Contractor shall as soon as it is practicable after receiving notice of such withdrawal remove the agent or representative from the Site, and replace him by another agent or representative approved by the Engineer. Notwithstanding the provision of

Clause 17(2) hereinafter, the Contractor shall not thereafter employ, in any capacity whatsoever, a removed agent or representative again on the Site.

#### **17. CONTRACTOR'S EMPLOYEES**



- a) The Contractor shall provide and employ on the Site in connection with the execution and completion of the Works and the remedying of any defects therein:
  - i. Only such technical assistants as are skilled and experienced in their respective callings and such sub-agent foremen and leading hands as are competent to give proper supervision to the work they are required to supervise, and
  - ii. Such skilled, semi-skilled, and unskilled labour as is necessary for the proper and timely execution and completion of the Works.
- b) The Engineer shall be at liberty to object to and require the Contractor to remove forthwith from the Works any person employed by the Contractor in or about the execution or completion of the Works, who in the opinion of the Engineer is misconducting himself, or is incompetent or negligent in the proper performance of his duties, or whose employment is otherwise considered reasonably by the Engineer to be undesirable, and such person shall not be again employed on the Site without the written permission of the Engineer. Any person so removed from the Works shall be replaced as soon as reasonably possible by a competent substitute approved by the Engineer.
- c) Upon written request by the Employer, the Contractor shall withdraw or replace from the Site any agent, representative or other personnel who does not conform to the standards set forth in paragraph (1) of this Clause. Such request for withdrawal or replacement shall not be considered as termination in part or in whole of this Contract. All costs and additional expenses resulting from any withdrawal or replacement for whatever reason of any of the Contractor's personnel shall be at the Contractor's expense.

## 18. SETTING-OUT

The Contractor shall be responsible for the true and proper setting out of the Works in relation to original points, lines and levels of reference given by the Engineer in writing and for the correctness of the position, levels, dimensions and alignment of all parts of the Works and for the provision of all necessary instruments, appliances and labor in connection therewith. If, at any time during the progress of the Works, any error shall appear or arise in the position, levels, dimensions or alignment of any part of the Works, the Contractor, on being required so to do by the Engineer, shall, at his own cost, rectify such error to the satisfaction of the Engineer.





## 19. WATCHING AND LIGHTING

The Contractor shall in connection with the Works provide and maintain at his own cost all lights, guards, fencing and watching when and where necessary or required by the Engineer or by any duly constituted authority for the protection of the Works and the materials and equipment utilized therefor or for the safety and convenience of the public or others.

## 20. CARE OF WORKS

- a) From the commencement date of the Works to the date of substantial completion as stated in the Certificate of Substantial Completion, the Contractor shall take full responsibility for the care thereof and of all Temporary Works. In the event that

any damage or loss should happen to the Works or to any part thereof or to any Temporary Works from any cause whatsoever (save and except as shall be

- b) due to Force Majeure as defined in Clause 66 of these General Conditions), the Contractor shall at his own cost repair and make good the same so that, at completion, the Works shall be in good order and condition and in conformity in every respect with the requirements of the Contract and the Engineer's instructions. The Contractor shall also be liable for any damage to the Works occasioned by him in the course of any operations carried out by him for the purpose of complying with his obligations Clause 47 hereof.
- c) The Contractor shall be fully responsible for the review of the Engineering design and details of the Works and shall inform the Employer of any mistakes or incorrectness in such design and details which would affect the Works.

## 21. INSURANCE OF WORKS, ETC.

Without limiting his obligations and responsibilities under Clause 20 hereof, the Contractor shall insure immediately following signature of this Contract, in the joint names of the Employer and the Contractor (a) for the period stipulated in Clause 20(1) hereof, against all loss or damage from whatever cause arising, other than cause of Force majeure as defined in clause 66 of these General Conditions, and (b) against loss or damage for which the Contractor is responsible, in such manner that the Employer and the Contractor are covered for the period stipulated in Clause 20 (1) hereof and are also covered during the Defects Liability Period for loss or damage arising from a cause occurring prior to the commencement of the Defects Liability Period and for any loss or damage occasioned by the Contractor in the course of any operations carried out by him for the purpose of complying with his obligations under Clause 47 hereof:





- a) The Works, together with the materials and Plant for incorporation therein, to their full replacement cost, plus an additional sum of ten (10) per cent of such replacement cost, to cover any additional costs of and incidental to the rectification of loss or damage including professional fees and the cost of demolishing and removing any part of the Works and of removing debris of whatsoever nature;
- b) The Contractor's equipment and other things brought on to the Site by the Contractor to the replacement value of such equipment and other things;
- c) An insurance to cover the liabilities and warranties of Section 52(4);

Such insurance shall be effected with an insurer and in terms approved by the Employer, which approval shall not be unreasonably withheld, and the Contractor shall, whenever required, produce to the Engineer the policy or policies of insurance and the receipts for payment of the current premiums.

## **22. DAMAGE TO PERSONS AND PROPERTY**

The Contractor shall (except if and so far as the Contract provides otherwise) indemnify, hold and save harmless and defend at his own expense the Employer, its officers, agents, employees and servants from and against all suits, claims, demands, proceedings, and liability of any nature or kind, including costs and expenses, for injuries or damages to any person or any property whatsoever which may arise out of or in consequence of acts or omissions of the Contractor or its agents, employees, servants or subcontractors in the execution of the Contract. The provision of this Clause shall extend to suits, claims, demands, proceedings and liability in the nature of workmen's compensation claims and arising out of the use of patented inventions and devices. Provided always that nothing herein contained shall be deemed to render the Contractor liable for or in respect of or with respect to:

- a) The permanent use or occupation of land by the Works or any part thereof;
- b) The right of the Employer to construct the Works or any part thereof on, over, under, or through any land.
- c) Interference whether temporary or permanent with any right of light, airway or water or other easement or quasi-easement which is the unavoidable result of the construction of the Works in accordance with the Contract.
- d) Death, injuries or damage to persons or property resulting from any act or neglect of the Employer, his agents, servants or other contractors, done or committed during the validity of the Contract.



## **23. LIABILITY INSURANCE**

### **23.1. Obligation to take out Liability Insurance**

Before commencing the execution of the Works, but without limiting his obligations and responsibility under Clause 20 hereof, the Contractor shall insure against his liability for any death, material or physical damage, loss or injury which may occur to any property, including that of the Employer or to any person, including any employee of the Employer by or arising out of the execution of the Works or in the carrying out of the Contract, other than due to the matters referred to in the proviso to Clause 22 hereof.

### **23.2. Minimum Amount of Liability Insurance**

Such insurance shall be effected with an insurer and in terms approved by the Employer, which approval shall not be unreasonably withheld, and for at least the amount specified in the contract. The Contractor shall, whenever required by the Employer or the Engineer, produce to the Engineer the policy or policies of insurance and the receipts for payment of the current premiums.

### **23.3. Provision to Indemnify Employer**

The insurance policy shall include a provision whereby, in the event of any claim in respect of which the Contractor would be entitled to receive indemnity under the policy, being brought or made against the Employer, the insurer shall indemnify the Employer against such claims and any costs, charges and expenses in respect thereof.

## **24. ACCIDENT OR INJURY TO WORKMEN**

- a) The Employer shall not be liable for or in respect of any damages or compensation payable at law in respect or in consequence of any accident or injury to any workman or other person in the employment of the Contractor or any sub-Contractor, save and except an accident or injury resulting from any act or default of the Employer, his agents or servants. The Contractor shall indemnify, hold and save harmless the Employer against all such damages and compensation, save and except as aforesaid, and against all claims, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto.



b) Insurance Against Accident, etc., to Workmen

The Contractor shall insure against such liability with an insurer approved by the Employer, which approval shall not be unreasonably withheld, and shall continue such insurance during the whole of the time that any persons are employed by him for the Works and shall, when required, produce to the Engineer such policy of insurance and the receipt for payment of the current premium. Provided always that, in respect of any persons employed by any subcontractor, the Contractor's obligation to insure as aforesaid under this sub-clause shall be satisfied if the subcontractor shall have insured against the liability in respect of such persons in such manner that the Employer is indemnified under the policy but the Contractor shall require such subcontractor to produce to the Engineer when required such policy of insurance and the receipt for the current premium, and obtain the insertion of a provision to that effect in its contract with the subcontractor.

## **25. REMEDY ON CONTRACTOR'S FAILURE TO INSURE**

If the Contractor shall fail to effect and keep in force any of the insurances referred to in Clauses 21, 23 and 24 hereof, or any other insurance which he may be required to effect under the terms of the Contract, the Employer may in any such case effect and keep in force any such insurance and pay such premium as

may be necessary for that purpose and from time to time deduct the amount so paid by the Employer as aforesaid from any monies due or which may become due to the Contractor, or recover the same as a debt due from the Contractor.

## **26. COMPLIANCE WITH STATUTES, REGULATIONS, ETC.**

- a) The Contractor shall give all notices and pay all fees and charges required to be given or paid by any national or State Statutes, Ordinances, Laws, Regulations or By-laws, or any local or other duly constituted authority in relation to the execution of the Works or of any Temporary Works and by the Rules and Regulations of all public bodies and companies whose property or rights are affected or may be affected in any way by the Works or any Temporary Works.
- b) The Contractor shall conform in all respects with any such Statutes, Ordinances, Laws, Regulations, By-laws or requirements of any such local or other authority which may be applicable to the Works and shall keep the Employer indemnified against all penalties and liabilities of every kind for breach of any such Statutes, Ordinances, Laws, Regulations, By-laws or requirements.



## **27. FOSSILS, ETC.**

All fossils, coins, articles of value or antiquity and structures and other remains or things of geological or archaeological interest discovered on the Site of the Works shall as between the Employer and the Contractor be deemed to be the absolute property of the Employer and the Contractor shall take reasonable precautions to prevent his workmen or any other persons from removing or damaging any such article or thing and shall immediately upon discovery thereof and before removal acquaint the Employer of such discovery and carry out at the expense of the Employer the Engineer's orders as to the disposal of the same.

## **28. COPYRIGHT, PATENT AND OTHER PROPRIETARY RIGHTS, AND ROYALTIES**

- a) The Contractor shall hold harmless and fully indemnify the Employer from and against all claims and proceedings for or on account of infringement of any patent rights, design trademark or name or other protected rights in respect of any Plant, equipment, machine, work or material used for or in connection with the Works or Temporary Works and from and against all claims, demands proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto, except where such infringement results from compliance with the design or Specification provided by the Engineer.
- b) Except where otherwise specified, the Contractor shall pay all tonnage and other royalties, rent and other payments or compensation, if any, for getting stone, sand, gravel, clay or other materials required for the Works or Temporary Works.

## **29. INTERFERENCE WITH TRAFFIC AND ADJOINING PROPERTIES**

All operations necessary for the execution of the Works and for the Construction of any Temporary Works shall, so far as compliance with the requirements of the Contract permits, be carried on so as not to interfere unnecessarily or improperly with the public convenience, or the access to, use and occupation of, public or private roads and footpaths to or of properties whether in the possession of the Employer or of any other person. The Contractor shall hold harmless and indemnify the Employer in respect of all claims, demands, proceedings, damages, costs, charges and expenses whatsoever arising out of or in relation to any such matters in so far as the Contractor is responsible therefor.

## **30. EXTRAORDINARY TRAFFIC AND SPECIAL LOADS**

- a) The Contractor shall use every reasonable means to prevent any of the roads or bridges communicating with or on the routes to the Site from being damaged by any traffic of the Contractor or any of his sub-contractors and, in particular, shall select routes, choose and use vehicles and restrict and distribute loads so that any such extraordinary traffic as will inevitably arise from the moving of plant and



material from and to the Site shall be limited as far as reasonably possible and so that no unnecessary damage may be occasioned to such roads and bridges.

- b) Should it be found necessary for the Contractor to move any load of Constructional Plant, machinery, preconstructed units or parts of units of work, or other thing, over part of a road or bridge, the moving whereof is likely to damage any such road or bridge unless special protection or strengthening is carried out, then the Contractor shall before moving the load on to such road or bridge, save insofar as the Contract otherwise provide, be responsible for and shall pay for the cost of strengthening any such bridge or altering or improving any such road to avoid such damage, and the Contractor shall indemnify and keep the Employer indemnified against all claims for damage to any such road or bridge caused by such movement, including such claim as may be made directly against the Employer, and shall negotiate and pay all claims arising solely out of such damage.

### **31. OPPORTUNITIES FOR OTHER CONTRACTORS**

The Contractor shall in accordance with the requirements of the Engineer afford all reasonable opportunities for carrying out their work to any other contractors employed by the Employer and their workmen and to the workmen of the Employer and of any other duly constituted authorities who may be employed in

the execution on or near the Site of any work not included in the Contract or of any contract which the Employer may enter into in connection with or ancillary to the Works. If work by other contractors of the Employer as above-mentioned involves the Contractor in any direct expenses as a result of using his Site facilities, the Employer shall consider payment to the Contractor of such sum or sums as may be recommended by the Engineer.

### **32. CONTRACTOR TO KEEP SITE CLEAN**

During the progress of the Works, the Contractor shall keep the Site reasonably free from all unnecessary obstruction and shall store or dispose of any Constructional Plant and surplus materials and clear away and remove from the Site any wreckage, rubbish or Temporary Works no longer required.

### **33. CLEARANCE OF SITE ON SUBSTANTIAL COMPLETION**

On the substantial completion of the Works, the Contractor shall clear away and remove from the Site all Constructional Plant surplus materials, rubbish and Temporary Works of every kind and leave the whole of the Site and Works clean and in a workmanlike condition to the satisfaction of the Engineer.



## **34. LABOUR**

### **34.1 Engagement of Labour**

The Contractor shall make his own arrangements for the engagement of all labour local or otherwise.

### **34.2 Supply of Water**

The Contractor shall provide on the Site to the satisfaction of the Engineer an adequate supply of drinking and other water for the use of the Contractor's staff and work people.

### **34.3 Alcoholic Drinks or Drugs**

The Contractor shall comply with Government laws and regulations and orders in force as regards the import, sale, barter or disposal of alcoholic drinks or narcotics and he shall not allow or facilitate such importation, sale, gift, barter or disposal by his sub-contractors, agents or employees.

### **34.4 Arms and Ammunition**

The restrictions specified in clause 34.3 above shall include all kinds of arms and ammunition.

### **34.5 Holiday and Religious Customs**

The Contractor shall in all dealings with labour in his employ have due regard to all holiday, recognized festivals and religious or other customs.

### **34.6 Epidemics**

In the event of any outbreak of illness of an epidemic nature the Contractor shall comply with and carry out such regulations, orders, and requirements as may be made by the Government or the local medical or sanitary authorities for the purpose of dealing with and overcoming the same.

### **34.7 Disorderly Conduct, etc.**

The Contractor shall at all times take all reasonable precautions to prevent any unlawful riotous or disorderly conduct by or amongst his employees and for the preservation of peace and the protection of persons and property in the neighborhood of the Works against the same.



### **34.8 Observance by Sub-Contractors**

The Contractor shall be considered responsible for the observance of the above provisions by his Sub-Contractors.

### **34.9 Legislation applicable to Labour**

The Contractor shall abide by all applicable legislation and regulation with regard to labour.

## **35 RETURNS OF LABOUR, PLANT, ETC.**

The Contractor shall, if required by the Engineer, deliver to the Engineer at his office, a return in detail in the form and at such intervals as the Engineer may prescribe showing the supervisory staff and the numbers of the several classes of labour from time to time employed by the Contractor on the Site and such information respecting Constructional plant as the Engineer may require.

## **36 MATERIALS, WORKMANSHIP AND TESTING**

### **36.1 Materials and Workmanship**

- a) All materials and workmanship shall be of the respective kinds described in the Contract and in accordance with the Engineer's instructions and shall be subjected from time to time to such tests as the Engineer may direct at the place of manufacture or fabrication, or on the Site or at all or any of such places. The Contractor shall provide such assistance, instruments, machines, labour and materials as are normally required for examining, measuring and testing any work and the quality, weight or quantity of any materials used and shall supply samples of materials before incorporation in the Works for testing as may be

selected and required by the Engineer. All testing equipment and instruments provided by the Contractor shall be used only by the Engineer or by the Contractor in accordance with the instructions of the Engineer.

- b) No material not conforming with the Specifications in the Contract may be used for the Works without prior written approval of the Employer and instruction of the Engineer, provided always that if the use of such material results or may result in increasing the Contract Price, the procedure in Clause 48 shall apply.





### **36.2 Cost of Samples**

All samples shall be supplied by the Contractor at his own cost unless the supply thereof is clearly intended in the Specifications or Bill of Quantities to be at the cost of the Employer. Payment will not be made for samples which do not comply with the Specifications.

### **36.3 Cost of Tests**

The Contractor shall bear the costs of any of the following tests:

- a) Those clearly intended by or provided for in the Contract Documents.
- b) Those involving load testing or tests to ensure that the design of the whole of the Works or any part of the Works is appropriate for the purpose which it was intended to fulfill.

## **37 ACCESS TO SITE**

The Employer and the Engineer and any persons authorized by either of them shall, at all times, have access to the Works and to the Site and to all workshops and places where work is being prepared or whence materials, manufactured articles or machinery are being obtained for the Works and the Contractor shall afford every facility for and every assistance in or in obtaining the right to such access.

## **38 EXAMINATION OF WORK BEFORE COVERING UP**

No work shall be covered up or put out of view without the approval of the Engineer and the Contractor shall afford full opportunity for the Engineer to examine and measure any work which is about to be covered up or put out of view and to examine foundations before permanent work is placed thereon. The Contractor shall give due notice to the Engineer whenever any such work or foundations is or are ready or about to be ready for examination and the Engineer shall without unreasonable delay unless he considers it unnecessary and advises the Contractor accordingly attend for the purpose of examining and measuring such work or of examining such foundations.

## **39 REMOVAL OF IMPROPER WORK AND MATERIALS**

### **39.1 Engineer's power to order removal**

The Engineer shall during the progress of the Works have power to order in writing from time to time, and the Contractor shall execute at his cost and expense, the following operations:



- a) The removal from the Site within such time or times as may be specified in the order of any materials which in the opinion of the Engineer are not in accordance with the Contract;
- b) The substitution of proper and suitable materials; and
- c) The removal and proper re-execution (notwithstanding any previous test thereof or interim payment therefore) of any work which in respect of materials or workmanship is not in the opinion of the Engineer in accordance with the Contract.

### **39.2 Default of Contractor in carrying out Engineer's Instructions**

In case of default on the part of the Contractor in carrying out an instruction of the Engineer, the Employer shall be entitled to employ and pay other persons to carry out the same and all expenses consequent thereon or incidental thereto shall be borne by the Contractor and shall be recoverable from him by the Employer and may be deducted by the Employer from any monies due or which may become due to the Contractor.

## **40 SUSPENSION OF WORK**

The Contractor shall on the written order of the Engineer suspend the progress of the Works or any part thereof for such time or times and in such manner as the Engineer may consider necessary and shall, during such suspension, properly protect and secure the Works so far as it is necessary in the opinion of the Engineer. The Employer should be notified and his written approval should be sought for any suspension of work in excess of three (3) days.

## **41 POSSESSION OF SITE**

### **41.1 Access to Site**

The Employer shall with the Engineer's written order to commence the Works, give to the Contractor possession of so much of the Site as may be required to enable the Contractor to commence and proceed with the construction of the Works in accordance with the Programme referred to in Clause 13 hereof and otherwise in accordance with such reasonable proposals of the Contractor as he shall make to the Engineer by notice in writing, and shall from time to time as the Works proceed give to the Contractor possession of such further portions of the Site as may be required to enable the Contractor to proceed with the construction of the Works with due dispatch in accordance with the said Programme or proposals, as the case may be.



#### **41.2 Wayleaves, etc.**

The Contractor shall bear all expenses and charges for special temporary wayleaves required by him in connection with access to the Site. The Contractor shall also provide at his own cost any additional accommodation outside the Site required by him for the purpose of the Works.

#### **41.3 Limits of the Site**

Except as defined below, the limits of the Site shall be as defined in the Contract. Should the Contractor require land beyond the Site, he shall provide it entirely at his own expense and before taking possession shall supply the Engineer with a copy of the necessary permits. Access to the Site is available where the Site adjoins a public road but it is not provided unless shown on the Drawings. When necessary for the safety and convenience of workmen, public or livestock or for the protection of the Works, the Contractor shall, at his own expense, provide adequate temporary fencing to the whole or part of the Site. The Contractor shall not disturb, damage or pull down any hedge, tree or building within the Site without the written consent of the Engineer.

### **42 TIME FOR COMPLETION**

- a) Subject to any requirement in the Contract as to completion of any section of the Works before completion of the whole, the whole of the Works shall be completed, in accordance with the provisions of Clause 46 and 47 hereof, within the time stated in the Contract.
- b) The completion time includes weekly rest days, official holidays, and days of inclement weather.

### **43 EXTENSION OF TIME FOR COMPLETION**

If, subject to the provisions of the Contract, the Engineer orders alterations or additions in the Works in accordance with Clause 48 hereof, or if circumstances constituting force majeure as defined in the Contract have occurred, the Contractor shall be entitled to apply for an extension of the time for completion of the Works specified in the Contract. The Employer shall, upon such application, determine the period of any such extension of time; provided that in the case of alterations or additions in the Works, the application for such an extension must be made before the alterations or additions in the Works are undertaken by the Contractor.



#### 44 RATE OF PROGRESS

The whole of the materials, plant and labour to be provided by the Contractor and the mode, manner and speed of execution and completion of the Works are to be of a kind and conducted in a manner to the satisfaction of the Engineer. Should the rate of progress of the Works or any part thereof be at any time in the opinion of the

Engineer too slow to ensure the completion of the Works by the prescribed time or extended time for completion, the Engineer shall so notify the Contractor in writing and the Contractor shall thereupon take such steps as the Contractor may think necessary and the Engineer may approve to expedite progress so as to complete the Works by the prescribed time or extended time for completion. If the work is not being carried on by day and by night and the Contractor shall request permission to work by night as well as by day, then, if the Engineer shall grant such permission, the Contractor shall not be entitled to any additional payment. All work at night shall be carried out without unreasonable noise and disturbance. The contractor shall indemnify the Employer from and against any claims or liability for damages on account of noise or other disturbance created while or in carrying out the work and from and against all claims, demands, proceedings, costs and expenses whatsoever in regard or in relation to such noise or other disturbance. The Contractor shall submit in triplicate to the Engineer at the end of each month signed copies of explanatory Drawings or any other material showing the progress of the Works.

#### 45 LIQUIDATED DAMAGES FOR DELAY

- a) If the Contractor shall fail to complete the Works within the time for completion prescribed in the Contract, or any extended time for completion in accordance with the Contract, then the Contractor shall pay to the Employer the sum specified in the Contract as liquidated damages, for the delay between the time prescribed in the Contract or the extended time for completion, as the case may be, and the date of substantial completion of the Works as stated in the Certificate of Substantial Completion, subject to the applicable limit stated in the Contract. The said sum shall be payable by the sole fact of the delay without the need for any previous notice or any legal proceedings, or proof of damage, which shall in all cases be considered as ascertained. The Employer may, without prejudice to any other method of recovery, deduct the amount of such liquidated damages from any monies in its hands due or which may become due to the Contractor. The payment or deduction of such damages shall not relieve the Contractor from his obligation to complete the Works or from any other of his obligations and liabilities under the Contract.
- b) If, before the time for completion of the whole of the Works or of a Section of the Works, a Certificate of Substantial Completion has been issued for any part or Section of the Works, the liquidated damages for delay in completion of the remainder of the Works or of that Section may, for any period of delay after the date stated in such Certificate of Substantial Completion, and in the absence of



alternative provisions in the Contract, be reduced in the proportion which the value of the part or Section so certified bears to the total value of the whole of the Works or Section, as applicable. The provisions of this Sub-Clause shall only apply to the rate of liquidated damages and shall not affect the limit thereof.

## **46 CERTIFICATE OF SUBSTANTIAL COMPLETION**

### **46.1 Substantial Completion of the Works**

When the whole of the Works have been substantially completed and have satisfactorily passed any test on completion prescribed by the Contract, the Contractor may give a notice to that effect to the Engineer accompanied by an undertaking to finish any outstanding work during the Defects Liability Period. Such notice and undertaking shall be in writing and shall be deemed to be a request by the Contractor, for the Engineer to issue a Certificate of Substantial Completion in respect of the Works. The Engineer shall, within twenty-one (21) days of the date of delivery of such notice either issue to the Contractor, with a copy to the Employer, a Certificate of Substantial Completion stating the date on which, in his opinion, the Works were substantially completed in accordance with the Contract or give instructions in writing to the Contractor specifying all the work which, in the Engineer's opinion, requires to be done by the Contractor before the issuance of such Certificate. The Engineer shall also notify the Contractor of any defects in the Works affecting substantial completion that may appear after such instructions and before completion of the work specified therein. The Contractor shall be entitled to receive such Certificate of Substantial Completion within twenty-one (21) days of completion, to the satisfaction of the Engineer, of the work so specified and making good any defect so notified. Upon issuance of the Certificate of Substantial Completion of the Works, the Contractor shall be deemed to have undertaken to complete with due expedition any outstanding work during the Defects Liability Period.

### **46.2 Substantial Completion of Sections or Parts of the Works**

In accordance with the procedure in Sub-Clause (1) of this Clause and on the same conditions as provided therein, the Contractor may request the Engineer to issue, and the Engineer may issue, a Certificate of Substantial Completion in respect of any Section or part of the Works which has been substantially completed and has satisfactorily passed any tests on completion prescribed by the Contract, if:

- a) a separate time for completion is provided in the Contract in respect of such Section or part of the Works;
- b) such Section or part of the Works has been completed to the satisfaction of the Engineer and is required by the Employer for his occupation or use.



Upon the issuance of such Certificate, the Contractor shall be deemed to have undertaken to complete any outstanding work during the Defects Liability Period.

## **47 DEFECTS LIABILITY**

### **47.1 Defects Liability Period**

The expression "Defects Liability Period" shall mean the period of twelve (12) months, calculated from the date of completion of the Works stated in the Certificate of Substantial Completion issued by the Engineer or, in respect of any Section or part of the Works for which a separate Certificate of Substantial Completion has been issued, from the date of completion of that Section or part as stated in the relevant Certificate. The expression "the Works" shall, in respect of the Defects Liability Period, be construed accordingly.

### **47.2 Completion of Outstanding Work and Remedying of Defects**

During the Defects Liability Period, the Contractor shall finish the work, if any, outstanding at the date of the Certificate of Substantial Completion, and shall execute all such work of repair, amendment, reconstruction, rectification and making good defects, imperfections, shrinkages or other faults as may be required of the Contractor in writing by the Engineer during the Defects Liability Period and within fourteen (14) days after its expiration, as a result of an inspection made by or on behalf of the Engineer prior to expiration of the Defects Liability Period.

### **47.3 Cost of Execution of Work of Repair, etc.**

All such outstanding work shall be carried out by the Contractor at his own expense if the necessity thereof shall, in the opinion of the Engineer, be due to the use of material or workmanship not in accordance with the Contract, or to neglect or failure on the part of the Contractor to comply with any obligation expressed or implied, on the Contractor's part under the Contract.

### **47.4 Remedy on Contractor's Failure to Carry Out Work Required**

If the Contractor shall fail to do any such work outstanding on the Works, the Employer shall be entitled to employ and pay other persons to carry out the same, and all expenses consequent thereon or incidental thereto shall be recoverable from the Contractor by the Employer, and may be deducted by the Employer from any monies due or which may become due to the Contractor.





## **47.5 Certificate of Final Completion**

Upon satisfactory completion of the work outstanding on the Works, the Engineer shall within twenty eight (28) days of the expiration of the Defects Liability period issue a Certificate of Final Completion to the Contractor. The Contract shall be deemed to be completed upon issuance of such Certificate, provided that the provisions of the Contract which remain unperformed and the Settlement of Disputes provision in the Contract shall remain in force for as long as is necessary to dispose of any outstanding matters or issues between the Parties.

## **48 ALTERATIONS, ADDITIONS AND OMISSIONS**

### **1 Variations**

The Engineer may within his powers introduce any variations to the form, type or quality of the Works or any part thereof which he considers necessary and for that purpose or if for any other reasons it shall, in his opinion be desirable, he shall have power to order the Contractor to do and the Contractor shall do any of the following:

- (a) increase or decrease the quantity of any work under the Contract;
- (b) omit any such work;
- (c) change the character or quality or kind of any such work;
- (d) change the levels, lines, positions and dimensions of any part of the Works;
- (e) execute additional work of any kind necessary for the completion of the Works, and no such variation shall in any way vitiate or invalidate the Contract.

### **2 Variations Increasing Cost of Contract or altering the Works.**

The Engineer shall, however, obtain the written approval of the Employer before giving any order for any variations which may result in an increase of the Contract Price or in an essential alteration of the quantity, quality or character of the Works.

### **3 Orders for Variations to be in Writing**

No variations shall be made by the Contractor without an order in writing from the Engineer. Variations requiring the written approval of the Employer under paragraph (2) of this Clause shall be made by the Contractor only upon written order from the Engineer accompanied by a copy of the Employer's approval. Provided that, subject to the provisions of the Contract, no order in writing shall be required for any increase or decrease in the quantity of any work where such increase or decrease is not the result of an order given under this Clause but is





the result of the quantities exceeding or being less than those stated in the Bill of Quantities.

#### **4 Valuation of Variations**

The Engineer shall estimate to the Employer the amount to be added or deducted from the Contract Price in respect of any variation, addition or omission. In the case of any variation, addition or omission which may result in an increase of the Contract Price, the Engineer shall communicate such estimate to the Employer together with his request for the Employer's written approval of such variation, addition or omission. The value of any variation, addition or omission shall be calculated on the basis of the unit prices contained in the Bill of Quantities.

### **49 PLANT, TEMPORARY WORKS AND MATERIALS**

#### **1 Plant, etc., Exclusive Use for the Works**

All Constructional Plant, Temporary Works and Materials provided by the Contractor shall, when brought on the Site, be deemed to be exclusively intended for the construction and completion of the Works and the Contractor shall not remove the same or any part thereof (save for the purpose of moving it from one part of the Site to another) without the consent in writing of the Engineer which shall not be unreasonably withheld.

#### **2 Removal of Plant, etc.**

Upon completion of the Works the Contractor shall remove from the Site all the said Constructional Plant and Temporary Works remaining thereon and any unused materials provided by the Contractor.

#### **3 Employer not liable for Damage to Plant**

The Employer shall not be at any time liable for the loss of any of the said Constructional plant, Temporary Works or Materials save if such loss results from the act or neglect of the Employer, its employees or agents.

#### **4 Ownership of paid material and work**

All material and work covered by payments made by the Employer to the Contractor shall thereupon become the sole property of the Employer, but this provision shall not be construed as relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work or as waiving the right of the Employer to require the fulfillment of all of the terms of the Contract.



## **5 Equipment and supplies furnished by Employer**

Title to any equipment and supplies which may be furnished by the Employer shall rest with the Employer and any such equipment and supplies shall be returned to the Employer at the conclusion of the Contract or when no longer needed by the Contractor. Such equipment when returned to the Employer, shall be in the same condition as when delivered to the Contractor, subject to normal wear and tear.

## **50 APPROVAL OF MATERIALS ETC., NOT IMPLIED**

The operation of Clause 49 hereof shall not be deemed to imply any approval by the Engineer of the materials or other matters referred to therein nor shall it prevent the rejection of any such materials at any time by the Engineer.

## **51 MEASUREMENT OF WORKS**

The Engineer shall, when he requires any part or parts of the Works to be measured, give notice to the Contractor or the Contractor's authorized agent or representative who shall forthwith attend or send a qualified agent to assist the Engineer in making such measurement and shall furnish all particulars required by either of them. Should the Contractor not attend or neglect or omit to send such agent, then the measurement made by the Engineer or approved by him shall be taken to be the correct measurement of the work. The purpose of measuring is to ascertain the volume of work executed by the Contractor and therefore determine the amount of the monthly payments.

## **52 LIABILITY OF THE PARTIES**

- 1** The Works shall not be considered as completed until a Certificate of Final Completion shall have been signed by the Engineer and delivered to the Employer stating that the Works have been completed and that the Contractor has fulfilled all his obligations under Clause 47 to his satisfaction.
- 2** The Employer shall not be liable to the Contractor for any matter arising out of or in connection with the Contract or the execution of the Works unless the Contractor shall have made a claim in writing in respect thereof before the giving of the Certificate of Final Completion and in accordance with the Contract.
- 3** Unfulfilled Obligations

Notwithstanding the issue of the Certificate of Final Completion, the Contractor shall remain liable for the fulfillment of any obligation incurred under the provisions of the Contract prior to the issuance of the Certificate of Final Completion and which remains unperformed at the time such Certificate is issued. For the purpose of determining the nature and extent of any such obligation the Contract shall be deemed to remain in force between the parties hereto.



#### 4 Contractor Responsible

Notwithstanding any other provisions in the Contract documents, the Contractor shall be totally responsible for and shall bear any and all risks of loss or damage to or failure of the Works or any part thereof for a period of ten years after issuance of the Certificate of Final Completion, provided always that such risks, damage or failure result from acts, defaults and negligence of the Contractor, his agents, employees or workmen and such contractors.

### 53 AUTHORITIES

- 1 The Employer shall have the right to enter upon the Site and expel the Contractor therefrom without thereby voiding the Contract or releasing the Contractor from any of his obligations or liabilities under the Contract or affecting the rights and powers conferred on the Employer and the Engineer by the Contract in any of the following cases:
  - a. If the Contractor is declared bankrupt or claims bankruptcy or court protection against his creditors or if the Contractor is a company or member of a company which was dissolved by legal action;
  - b. If the Contractor makes arrangements with his creditors or agrees to carry out the Contract under an inspection committee of his creditors;
  - c. If the Contractor withdraws from the Works or assigns the Contract to others in whole or in part without the Employer's prior written approval;
  - d. If the Contractor fails to commence the Works or shows insufficient progress to the extent which in the opinion of the Engineer will not enable him to meet the target completion date of the Works;
  - e. If the Contractor suspends the progress of the Works without due cause for fifteen (15) days after receiving from the Engineer written notice to proceed;
  - f. If the Contractor fails to comply with any of the Contract conditions or fails to fulfill his obligations and does not remedy the cause of his failure within fifteen (15) days after being notified to do so in writing;
  - g. If the Contractor is not executing the work in accordance with standards of workmanship specified in the Contract;
  - h. If the Contractor gives or promises to give a present or loan or reward to any employee of the Employer or of the Engineer.

Then the Employer may himself complete the Works or may employ any other contractor to complete the Works and the Employer or such other contractor may



use for such completion so much of Constructional Plant, Temporary Works and Materials, which have been deemed to be reserved exclusively for the construction and completion of the Works under the provision of the Contract as he or they may think proper and the Employer may at any time sell any of the said Constructional Plant, Temporary Works and unused materials and apply the proceeds of sale in or towards the satisfaction of any sums due or which may become due to him from the Contractor under the Contract.

## 2 Evaluation after Re-entry

The Engineer shall as soon as may be practicable after any such entry and expulsion by the Employer notify the Contractor to attend the necessary evaluation of the Works. In the event that for any reason the Contractor does not attend such evaluation the Engineer shall undertake the said evaluation in the absence of the Contractor and shall issue a certificate stating the sum, if any, due to the Contractor for work done in accordance with the Contract up to the time of entry and expulsion by the Employer which has been reasonably accumulated to the Contractor in respect of the Works he has executed in such case in accordance with the Contract. The Engineer shall indicate the value of the materials whether unused or partially used and the value of construction equipment and any part of the Temporary Works.

## 3 Payment After Re-entry

If the Employer shall enter and expel the Contractor under this Clause he shall not be liable to pay the Contractor any money on account of the Contract until the expiration of the Defects Liability Period, and thereafter until the costs of completion and making good

any defects of the Works, damages for delay in completion (if any), and all other expenses incurred by the Employer have been ascertained and their amount certified by the Engineer. The Contractor shall then be entitled to receive only such sum or sums (if any) as the Engineer may certify would have been due to him upon due completion by him after deducting the said amount. But if such amount shall exceed the sum which would have been payable to the Contractor on due completion by him, then the Contractor shall upon demand pay to the Employer the amount of such excess. The Employer in such case may recover this amount from any money due to the Contractor from the Employer without the need to resort to legal procedures.



## **54 URGENT REPAIRS**

If by reason of any accident or failure or other event occurring to, in or in connection with the Works or any part thereof either during the execution of the Works or during the Defects Liability Period any remedial or other work or repair shall in the opinion of the Engineer be urgently necessary for security and the Contractor is unable or unwilling at once to do such work or repair, the Employer may by his own or other workmen do such work or repair as the Engineer may consider necessary. If the work or repair so done by the Employer is work which in the opinion of the Engineer the Contractor was liable to do at his own expense under the Contract, all costs and charges properly incurred by the Employer in so doing shall on demand be paid by the Contractor to the Employer or may be deducted by the Employer from any monies due or which may become due to the Contractor provided always that the Engineer shall as soon after the occurrence of any such emergency as may be reasonably practicable notify the Contractor thereof in writing.

## **55 INCREASE AND DECREASE OF COSTS**

Except if otherwise provided by the Contract, no adjustment of the Contract Price shall be made in respect of fluctuations of market, prices of labour, materials, plant or equipment, neither due to fluctuation in interest rates nor devaluation or any other matters affecting the Works.

## **56 TAXATION**

The Contractor shall be responsible for the payment of all charges and taxes in respect of income including value added tax, all in accordance with and subject to the provisions of the income tax laws and regulations in force and all amendments thereto. It is the Contractor's responsibility to make all the necessary inquiries in this respect and he shall be deemed to have satisfied himself regarding the application of all relevant tax laws.

## **57 BLASTING**

The Contractor shall not use any explosives without the written permission of the Engineer who shall require that the Contractor has complied in full with the regulations in force regarding the use of explosives. However, the Contractor, before applying to obtain these explosives, has to provide well arranged storage facilities. The Engineer's approval or refusal to permit the use of explosives shall not constitute ground for claims by the Contractor.



## 58 MACHINERY

The Contractor shall be responsible for coordinating the manufacture, delivery, erection and commissioning of plant machinery and equipment which are to form a part of the Works. He shall place all necessary orders as soon as possible after the signing of the Contract. These orders and their acceptance shall be produced to the Engineer on request. The Contractor shall also be responsible for ensuring that all sub-contractors adhere to such programs as are agreed and are needed to ensure completion of the Works within the period for completion. Should any sub-contracted works be delayed, the Contractor shall initiate the necessary action to speed up such completion. This shall not prejudice the Employer's right to exercise his remedies for delay in accordance with the Contract.

## 59 TEMPORARY WORKS AND REINSTATEMENT

The Contractor shall provide and maintain all temporary roads and tracks necessary for movement of plant and materials and clear same away at completion and make good all works damaged or disturbed. The Contractor shall submit drawings and full particulars of all Temporary Works to the Engineer before commencing same. The Engineer may require modifications to be made if he considers them to be insufficient and the Contractor shall give effect to such modifications but shall not be relieved of his responsibilities. The Contractor shall provide and maintain weather-proof sheds for storage of material pertinent to the Works both for his own use and for the use of the Employer and clear same away at the completion of the Works. The Contractor shall divert as required, at his own cost and subject to the approval of the Engineer, all public utilities encountered during the progress of the Works, except those specially indicated on the drawings as being included in the Contract. Where diversions of services are not required in connection with the Works, the Contractor shall uphold, maintain and keep the same in working order in existing locations. The Contractor shall make good, at his own expense, all damage to telephone, telegraph and electric cable or wires, sewers, water or other pipes and other services, except where the Public Authority or Private Party owning or responsible for the same elects to make good the damage. The costs incurred in so doing shall be paid by the Contractor to the Public Authority or Private Party on demand.

## 60 PHOTOGRAPHS AND ADVERTISING

The Contractor shall not publish any photographs of the Works or allow the Works to be used in any form of advertising whatsoever without the prior approval in writing from the Employer.





## 61 PREVENTION OF CORRUPTION

The Employer shall be entitled to cancel the Contract and to recover from the Contractor the amount of any loss resulting from such cancellation, if the Contractor has offered or given any person any gift or consideration of any kind as an inducement or reward for doing or intending to do any action in relation to the obtaining or the execution of the Contract or any other contract with the Employer or for showing or intending to show favour or disfavour to any person in relation to the Contract or any other contract with the Employer, if the like acts shall have been done by any persons employed by him or acting on his behalf whether with or without the knowledge of the Contractor in relation to this or any other Contract with the Employer.

## 62 DATE FALLING ON HOLIDAY

Where under the terms of the Contract any act is to be done or any period is to expire upon a certain day and that day or that period fall on a day of rest or recognized holiday, the Contract shall have effect as if the act were to be done or the period to expire upon the working day following such day.

## 63 NOTICES

- 1 Unless otherwise expressly specified, any notice, consent, approval, certificate or determination by any person for which provision is made in the Contract Documents shall be in writing. Any such notice, consent, approval, certificate or

determination to be given or made by the Employer, the Contractor or the Engineer shall not be unreasonably withheld or delayed.

- 2 Any notice, certificate or instruction to be given to the Contractor by the Engineer or the Employer under the terms of the Contract shall be sent by post, cable, telex or facsimile at the Contractor's principal place of business specified in the Contract or such other address as the Contractor shall nominate in writing for that purpose, or by delivering the same at the said address against an authorized signature certifying the receipt.
- 3 Any notice to be given to the Employer under the terms of the Contract shall be sent by post, cable, telex or facsimile at the Employer's address specified in the Contract, or by delivering the same at the said address against an authorized signature certifying the receipt.
- 4 Any notice to be given to the Engineer under the terms of this Contract shall be sent by post, cable, telex or facsimile at the Engineer's address specified in the Contract, or by delivering the same at the said address against an authorized signature certifying the receipt.





## 64 LANGUAGE, WEIGHTS AND MEASURES

Except as may be otherwise specified in the Contract, English shall be used by the Contractor in all written communications to the Employer or the Engineer with respect to the services to be rendered and with respect to all documents procured or prepared by the Contractor pertaining to the Works. The metric system of weights and measures shall be used in all instances.

## 65 RECORDS, ACCOUNTS, INFORMATION AND AUDIT

The Contractor shall maintain accurate and systematic records and accounts in respect of the work performed under this Contract.

The Contractor shall furnish, compile or make available at all times to the UNDP any records or information, oral or written, which the UNDP may reasonably request in respect of the Works or the Contractor's performance thereof.

The Contractor shall allow the UNDP or its authorized agents to inspect and audit such records or information upon reasonable notice.

## 66 FORCE MAJEURE

Force majeure as used herein means Acts of God, war (whether declared or not), invasion, revolution, insurrection or other acts or events of a similar nature or force.

In the event of and as soon as possible after the occurrence of any cause constituting force majeure, the Contractor shall give notice and full particulars in writing to the UNDP and to the Engineer of such force majeure if the Contractor is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under this Contract. Subject to acceptance by the UNDP of the existence of such force majeure, which acceptance shall not be unreasonably withheld, the following provisions shall apply:

- (a) The obligations and responsibilities of the Contractor under this Contract shall be suspended to the extent of his inability to perform them and for as long as such inability continues. During such suspension and in respect of work suspended, the Contractor shall be reimbursed by the UNDP substantiated costs of maintenance of the Contractor's
- (b) equipment and of per diem of the Contractor's permanent personnel rendered idle by such suspension;



- (c) The Contractor shall within fifteen (15) days of the notice to the UNDP of the occurrence of the force majeure submit a statement to the UNDP of estimated costs referred to in sub-paragraph (a) above during the period of suspension followed by a complete statement of actual expenditures within thirty (30) days after the end of the suspension;
- (d) The term of this Contract shall be extended for a period equal to the period of suspension taking however into account any special condition which may cause the additional time for completion of the Works to be different from the period of suspension;
- (e) If the Contractor is rendered permanently unable, wholly or in part, by reason of force majeure, to perform his obligations and meet his responsibilities under the Contract, the UNDP shall have the right to terminate the Contract on the same terms and conditions as provided for in Clause 68 of these General Conditions, except that the period of notice shall be seven (7) days instead of fourteen (14) days, and
- (f) For the purpose of the preceding sub-paragraph, the UNDP may consider the Contractor permanently unable to perform in case of any suspension period of more than ninety (90) days.

## 67 SUSPENSION BY THE UNDP

The UNDP may by written notice to the Contractor suspend for a specified period, in whole or in part, payments to the Contractor and/or the Contractor's obligation to continue to perform the Works under this Contract, if in the UNDP's sole discretion:

- (a) any conditions arise which interfere, or threaten to interfere with the successful execution of the Works or the accomplishment of the purpose thereof, or
- (b) the Contractor shall have failed, in whole or in part, to perform any of the terms and conditions of this Contract.

After suspension under sub-paragraph (a) above, the Contractor shall be entitled to reimbursement by the UNDP of such costs as shall have been duly incurred in accordance with this Contract prior to the commencement of the period of such suspension.

The term of this Contract may be extended by the UNDP for a period equal to any period of suspension, taking into account any special conditions which may cause the additional time for completion of the Works to be different from the period of suspension.



## 68 TERMINATION BY THE UNDP

The UNDP may, notwithstanding any suspension under Clause 67 above, terminate this Contract for cause or convenience in the interest of the UNDP upon not less than fourteen (14) days written notice to the Contractor.

Upon termination of this Contract:

- (a) The Contractor shall take immediate steps to terminate his performance of the Contract in a prompt and orderly manner and to reduce losses and to keep further expenditures to a minimum, and
- (b) The Contractor shall be entitled (unless such termination has been occasioned by the Contractor's breach of this Contract), to be paid for the part of the Works satisfactorily completed and for the materials and equipment properly delivered to the Site as of the date of termination for incorporation to the Works, plus substantiated costs resulting from commitments entered into prior to the date of termination as well as any reasonable substantiated direct costs incurred by the Contractor as a result of the termination, but shall not be entitled to receive any other or further payment or damages.

## 69 TERMINATION BY THE CONTRACTOR

In the case of any alleged breach by the UNDP of the Contract or in any other situation which the Contractor reasonably considers to entitle him to terminate his performance of the Contract, the Contractor shall promptly give written notice to the UNDP detailing the nature and the circumstances of the breach or other situation. Upon acknowledgement in writing by the UNDP of the existence of such breach and the UNDP's inability to remedy it, or upon failure of the UNDP to respond to such notice within twenty (20) days of receipt thereof, the Contractor shall be entitled to terminate this Contract by giving 30 days written notice thereof. In the event of disagreement between the Parties as to the existence of such breach or other situation referred to above, the matter shall be resolved in accordance with Clause 71 of these General Conditions.

Upon termination of this Contract under this Clause the provisions of subparagraph (b) of Clause 68 hereof shall apply.

## 70 RIGHTS AND REMEDIES OF THE UNDP

Nothing in or relating to this Contract shall be deemed to prejudice or constitute a waiver of any other rights or remedies of the UNDP.

The UNDP shall not be liable for any consequences of, or claim based upon, any act or omission on the part of the Government.



## 71 SETTLEMENT OF DISPUTES

In the case of any claim, controversy or dispute arising out of, or in connection with this Contract or any breach thereof, the following procedure for resolution of such claim, controversy or dispute shall apply.

### 1 Notification

The aggrieved party shall immediately notify the other party in writing of the nature of the alleged claim, controversy or dispute, not later than seven (7) days from awareness of the existence thereof.

### 2 Consultation

On receipt of the notification provided above, the representatives of the Parties shall start consultations with a view to reaching an amicable resolution of the claim, controversy or dispute without causing interruption of the Works.

### 3 Conciliation

Where the representatives of the Parties are unable to reach such an amicable settlement, either party may request the submission of the matter to conciliation in accordance with the UNCITRAL Rules of Conciliation then obtaining.

### 4 Arbitration

Any claim, controversy or dispute which is not settled as provided under clauses 71.1 through 3 above shall be referred to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining. The Parties shall be bound by the arbitration award rendered in accordance with such arbitration as the final adjudication of any such controversy or claim.

## 72 PRIVILEGES AND IMMUNITIES

Nothing in or relating to this Contract shall be deemed a waiver of any of the privileges and immunities of the United Nations of which the UNDP is an integral part.

## 73 SECURITY

The Contractor shall:

- (a) put in place an appropriate security plan and maintain the security plan, taking into account the security situation in the country where the services are being provided;
- (b) assume all risks and liabilities related to the Contractor's security, and the full implementation of the security plan.



UNDP reserves the right to verify whether such a plan is in place, and to suggest modifications to the plan when necessary. Failure to maintain and implement an appropriate security plan as required hereunder shall be deemed a breach of this contract. Notwithstanding the foregoing, the Contractor shall remain solely responsible for the security of its personnel and for UNDP's property in its custody as set forth in paragraph 4.1 above.

## 74 AUDIT AND INVESTIGATIONS

Each invoice paid by UNDP shall be subject to a post-payment audit by auditors, whether internal or external, of UNDP or the authorized agents of the UNDP at any time during the term of the Contract and for a period of three (3) years following the expiration or prior termination of the Contract. The UNDP shall be entitled to a refund from the Contractor for any amounts shown by such audits to have been paid by the UNDP other than in accordance with the terms and conditions of the Contract. Should the audit determine that any funds paid by UNDP have not been used as per contract clauses, the company shall reimburse such funds forthwith. Where the company fails to reimburse such funds, UNDP reserves the right to seek recovery and/or to take any other action as it deems necessary.

The Contractor acknowledges and agrees that, at anytime, UNDP may conduct investigations relating to any aspect of the Contract, the obligations performed under the Contract, and the operations of the Contractor generally. The right of UNDP to conduct an investigation and the Contractor's obligation to comply with such an investigation shall not lapse upon expiration or prior termination of the Contract. The Contractor shall provide its full and timely cooperation with any such inspections, post-payment audits or investigations. Such cooperation shall include, but shall not be limited to, the Contractor's obligation to make available its personnel and any documentation for such purposes and to grant to UNDP access to the Contractor's premises. The Contractor shall require its agents, including, but not limited to, the Contractor's attorneys, accountants or other advisers, to reasonably cooperate with any inspections, post-payment audits or investigations carried out by UNDP hereunder.

## 75 ANTI-TERRORISM

The Contractor agrees to undertake all reasonable efforts to ensure that none of the UNDP funds received under this Contract are used to provide support to individuals or entities associated with terrorism and that the recipients of any amounts provided by UNDP hereunder do not appear on the list maintained by the Security Council Committee established pursuant to resolution 1267 (1999). The list can be accessed via <http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>. This provision must be included in all sub-contracts or sub-agreements entered into under this Contract.



## **SECTION 5: SPECIAL CONDITIONS**



### SPECIAL CONDITIONS

The following Special Conditions shall complement, supplement, or amend the General Conditions. Whenever there is a conflict, the provisions herein shall prevail over those in the General Conditions.

<b>Warranty/Guarantee</b>	
Applies Yes	The Contractor shall be responsible for the maintenance of the subject works for a period of One Year effective from the day of issuance of the Certificate of Substantial Completion of the Works.
<b>Liquidated damages</b>	
Applies Yes	If the contractor fails to deliver the specified works within the time period(s) stipulated by the Contract, UNDP shall, without prejudice to its other remedies under the contract, deduct from the payments due to the Contractor, as liquidated damages, a sum equivalent to EURO 833.00 per calendar day up to a maximum deduction of Ten (10) percent of the contract price. Once the maximum limit is reached, UNDP may consider termination of the Contract.
<b>Performance Security</b>	
Applies Yes	<p>a) Within Twenty-one (21) calendar days after signing the resulted contract as issued by the UNDP the successful Bidder shall furnish a Performance Security to UNDP in the amount of Ten (10) percent of the total contract price.</p> <p>b) The Performance Security shall be valid until twenty eight (28) calendar days after the final completion date. The proceeds of the Performance Security shall be payable to the UNDP as compensation for any loss resulting from the Contractors' failure to complete its obligations under the contract.</p> <p>c) The Performance Security shall be denominated in the currency of the contract and shall be in one of the following form of a bank guarantee or irrevocable letter of credit, issued by a reputable bank in the form provided in these Solicitation Documents.</p> <p>d) The Performance Security will be returned to the contractor within Twenty Eight (28) calendar days after substantial completion date <b>and</b> after receipt of the unconditional maintenance bank guarantee (in the amount of 5% of the contract value and valid for 12 months from substantial completion date), including any warranty obligation and provided that the Contractor shall have paid all money owed to the Employer under the Contract.</p>
<b>Liability Insurance</b>	
Applies Yes	<p>The liability insurance referred to in Clause 23 of the General Conditions shall be taken out by the Contractor for an amount of Fifteen (15) percent of the price of the Contract per occurrence, with number of occurrences unlimited. The liability insurance shall be submitted by the Contractor within 7 calendar days of receipt of the letter of Intent, and before contract signature, and shall be valid until end of defects liability period.</p> <p>The required insurance policies shall fully comply with the local relevant applicable laws/regulations of the country</p>



Defects Liability	
Applies Yes	Any damage resulted from defect in execution by the Contractor on the executed works during the defects liability period should be repaired by the Contractor and at his own expense and during a week after receiving a notice in writing from the Employer; and if the contractor does not repair these damages during the above specified period, then UNDP will do these repairs at the expense of the Contractor, which shall be deducted from due sums against the Maintenance Guarantee or retained monies.
Value Added Tax (VAT)	
Applies Yes	This contract is exempted from Value Added Tax (VAT) and accordingly no Value Added Tax will be paid under this contract. In the event that the Contractor fails to acquire the necessary tax clearances from the Tax Department, UNDP retains the right to encash the full amount of the Contractor's advance payment guarantee and performance guarantee without prior notice, and if necessary terminate the Contract.
Payments by UNDP	
Applies Yes	<ol style="list-style-type: none"> <li>1. In the case of requesting an advance payment by the Contractor; the UNDP shall pay the Contractor an advance payment up to Ten (10) percent of the contract price upon signature of the contract between the UNDP and the Contractor and submission of the following documents by the latter on behalf of UNDP: <ul style="list-style-type: none"> <li>➤ An irrevocable bank guarantee for the same value of the advance payment valid for until Twenty-eight (28) calendar days after the substantial completion date. ( i.e. contract duration plus one month)</li> <li>➤ The required Performance Security as stipulated in this contract.</li> </ul> </li> <li>2. The amount of the advance payment if paid to the contractor shall be subject to a deduction of a <b>Ten (10) percent</b> of the amount accepted for payment until the cumulative amount of the deductions so effected shall equal the amount of the advance payment when Eighty (80) percent of the works are completed. Should the cumulative amount of the deductions so made be lower than the amount of the advance payment after the date of completion of Eighty (80) percent the Works, UNDP may deduct the amount equal to the difference between the advance payment and the cumulative deductions from the payments due after completion or may recover such amount from the bank guarantee</li> <li>3. On each payment, UNDP shall withhold a per centum of the invoice amount, up to a maximum of <b>5%</b> of the total price of the Contract for due performance in the implementation of the works. upon the substantial completion and taking-over of the Works, the said amount (5% of contract value) shall be retained as maintenance guarantee until the end of the one year defects liability period The said retained amount can be replaced with unconditional maintenance bank guarantee for the same value and until the end of the one year defects liability period.</li> </ol>

Safety, Health & Welfare Plan	
Applies Yes	<p>Upon contract award, the contractor should provide, as part of his contractual commitments, a detailed Safety, Health &amp; Welfare plan, being part of the overall program of works, subject to the UNDP Engineer's approval. The Contractor will bear all the costs associated with implementation of the said Safety, Health &amp; Welfare plan.</p> <p>The said Safety, Health &amp; Welfare plan shall be based on the "Safety, health and welfare on construction sites. A training manual", issued by: International Labour Office.</p> <p>The manual can be found at the following link: <a href="http://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_PUBL_9221091821_EN/lang--en/index.htm">http://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_PUBL_9221091821_EN/lang--en/index.htm</a></p> <p>The above mentioned Safety manuals shall be an integral part of the tender and contract documents and the contractor is obligated to fully comply with the guidelines and instructions contained in the said manuals, all to the satisfaction of the UNDP Engineer.</p> <p>Important: The contractor shall also implement fully the applicable Safety measures contained in the approved Safety plan during mobilization stage before actual works start.</p>
Special Requirements	
Applies Yes	<p><b>Miscellaneous</b></p> <p><b>a) Time Schedule:</b> Within Twenty-eight (28) calendar days upon signature of the Contract by both parties, the contractor has to submit a time schedule (detailed Work programme) for the different activities of the project and the sequence of work activities using MS-Project software. This time schedule should be revised and approved by the Engineer. The contractor has to update it and do all modifications deemed necessary to work activities as per the instructions of the Engineer. The contractor shall carry out quantity verification to be executed before the start-up of work activities. Written approval on the scope of works shall be obtained prior to implementation process.</p> <p><b>b) Schedule of material supply</b> No delays are accepted due to delay in or insufficient material supply for works in the local market. Hence, a schedule for material supply is needed before starting up work activities. The schedule of works should include the dates and quantities of material supply as well as the equipment supply to assure proper planning of work activities.</p> <p><b>c) Work plan</b> The contractor has to submit a written work plan that illustrates the methodology to be followed in implementation of the work activities.</p> <p><b>d) Samples and catalogues:</b> The contractor has to submit all samples and /or catalogues for all materials to be used on the project to verify their compliance with the</p>

	<p>technical specifications as follows:</p> <p>*The samples will be handed along with the request of material approval as per the schedule of material supply such that one week is allowed to obtain approval before order of material supply is placed.</p> <p>*The sample and catalogue should show the data of technical specification. In case there is no possibility to obtain a sample, the catalogue might be accepted after the Engineer's approval.</p> <p><b>e) Cash – Flow:</b> The contractor has to submit a cumulative cash flow chart (S-curve) expected during implementation. Updates should be carried out on regular basis to adapt the actual expenditure on the project.</p> <p><b>f) Monthly reports and photographs.</b> The contractor has to submit monthly reports (in English and Armenian) in three copies reflecting the actual progress of works in percentage, executed work activities, difficulties faced and photos showing such progress.</p> <p><b>g) Contract documents:</b> All tender documents stipulated in the ITB should be submitted, signed and stamped. It is deemed that all mentioned in the Technical Specification (General and Specific), Drawings, Bills of Quantities, pre-bid meeting notes and/or any addendum thereof are included in the unit prices of the items and no extra charges will be paid in that respect.</p> <p><b>2) WORKMANSHIP:</b> The contractor has to engage competent workers to achieve the workmanship stated in the tender documents. It is expected that best local practices be utilized in case no specific workmanship is identified.</p> <p><b>3) DRAWINGS:</b></p> <p>a) The contractor has to abide to any additional detail or general drawings issued by the Engineer and will be considered as part of the contract.</p> <p>b) The contractor will develop shop drawings for all work activities and submit to the Engineer for approval. No activity can be started unless the Engineer approves the relevant shop drawing.</p> <p>c) The contractor should submit three copies of the shop drawings a week ahead of the required approval. In case of changes required, the contractor will resubmit the drawings with changes and obtain the Engineer's approval before the execution of the works.</p> <p><b>4) As-Built Drawings:</b> The contractor is responsible to submit as-built drawings before the substantial completion in two hard copies (A3 size or other sizes that ensure clear and easy reading) and two CD's. The drawings should show all details (architectural, structural, mechanical, and electrical along with services, routes, trenches, manholes, and levels ...etc)</p> <p><b>5) Discrepancies and mistakes in the tender documents:</b></p> <p>a) In case there is a discrepancy in the tender documents, the Engineer will verify the correct specification of any item in the tendering stage.</p> <p>b) The existence of discrepancies or missing information in the contract documents or improper description of details of the items, though reviewed and approved by the Engineer, doesn't relieve the contractor</p>
--	---



	<p>from carrying out the item in the most correct manner as if identified and properly described in the original tender documents.</p> <p>c) The contractor has to acknowledge/inform to the Engineer in case of omission, discrepancy or mistakes in the tender documents in the tendering stage and price according to the Engineer's answer.</p> <p><b>6) INSPECTION OF SITE:</b> The contractor is deemed to have visited and investigated the site and identified all site conditions in terms of ground nature, accessibility to site, availability of services like water &amp; electricity and all factors affecting execution of work activities before submitting his offer. All such factors are deemed to be taken into consideration while pricing.</p> <p><b>7) SUB-CONTRACTORS:</b> Sub- contractors are dealt with according to General Conditions of Contract. The main contractor should submit to the Engineer; the certified agreement between him and the subcontractor prior to commencement of the work.</p> <p><b>8) SITE MEETINGS:</b> Weekly site meetings will be carried out and the contractor or duly authorized delegate should attend these meetings.</p> <p><b>9) TESTING:</b> The contractor at his own expenses shall provide any test as requested by the Engineer's Representative for any materials supplied, installed, or stored in the site according to the stipulated tests in the general specifications. The contractor has to secure devices and equipment that are necessary to test sanitary and electrical works as requested by the Engineer.</p> <p><b>10) SPECIFICATIONS:</b> Specifications are the approved American, Britain, Russian and Armenian Specifications.  In case there is no clear or missing specification of items, it is deemed that the contractor has based his prices on high quality materials and best practice in implementation.</p> <p><b>11) TAKE OFF QUANTITIES AND PRICING:</b></p> <p>a) Description of items The tender documents are complementary and self-explanatory and what is deemed necessary in one is deemed necessary in all. Accordingly, the item specification is not limited to item description in the Bills of Quantities (BoQs), but rather to the tender documents as a whole.</p> <p>b) Quantities</p> <p>i) Net measurements of quantities as executed or erected in place will be used in the project ignoring losses and overlapping parts.</p> <p>ii) Quantities are based on actual measurements on site.</p> <p>iii) The contractor shall reveal attachments and supporting documents for all finished quantities with each payment to the Engineer for review.</p> <p>iv) The quantities in the Bills of Quantities (BoQs) are only estimated quantities. Actual quantities will be measured on site and approved by the Engineer.</p> <p>v) The contractor should inform the Employer and the Engineer about any increase in the quantities prior to execution in a written form. In case extra quantities are executed without informing the Employer or the Engineer and obtaining their approval on the</p>
--	--

	<p>implementation these quantities will not be accounted as payable quantities.</p> <p>c) Pricing:</p> <p>i) Description of items: The contractor is deemed to understand all items within the BoQs and include all required expenses for permanent or temporary activities and components inclusive but not limited to overhead, profit, fees for services, materials, samples, losses in materials, equipment's, etc, to achieve and maintain the works in first grade quality and in the correct form. No claims will be accepted for comprehensiveness in pricing.</p> <p>ii) The contractor shall not include price of an item in another one. All prices of items should be adequate to execute the relevant task individually.</p> <p>iii) The cost of any item in the BoQs shall include all prices of the raw material, workmanship cost, profits, and all direct and indirect implicated costs of the implementation of the project.</p> <p>iv) Any un-priced item in the BoQs is eventually included in the other items and the contractor has no right to price it later on or to cancel it.</p> <p>v) The contractor is deemed to base his price according to proper breakdown of cost. Hence, he is expected to submit such price analysis within his offer upon UNDP's request.</p> <p>vi) The unit rates should not include VAT. All payments will be processed according to Zero VAT invoices and according to Armenian rules and regulations in that respect. The contractor has to include all expenses that might occur in his overhead expenses and no claims will be accepted regarding this issue.</p> <p>vii) Price shall include fees of tests according to specification and the Engineer's instruction. UNDP has the right to change the testing laboratory from time to time.</p> <p>viii) The contractor has to submit valid income and VAT tax clearance issued by the Ministry of finance along with the tender.</p> <p><b>12) PROJECT SIGN BOARDS:</b></p> <p>a) The contractor has to supply and install two project sign boards. they will be made up of painted steel sheet 200cmX350cm including painted steel pipes 3" in diameter to hold the sign and fixed in place by concrete footings 50 cm x50 cm x50 cm before the start-up of work activities. All information and logos that have to be included on the board will be handed by the engineer during the mobilization period.</p> <p><b>13) Assistance To The Engineer's Representative</b></p> <p>a) The Contractor shall give such assistance and supply such labor as may be required by the Engineer in connection with the contract when required.</p> <p>b) Such labour to be hired and employed by the Contractor, but shall operate and perform their duties under the direction of the Engineer's Representative.</p> <p><b>14) Temporary installations during implementation</b></p> <p>All these facilities implemented before the start and during the project works shall be at the expenses of the contractor and by the end of the Substantial Completion, should be removed by the Contractor. In case of any delaying by the contractor in establishing of such buildings or any part thereof and removal of thereof, the Engineer's Representative and Employer have a right to establish the remainder and removal thereof at the end of the project and</p>
--	---



	<p>reduce the amounts disbursed from the account of the contractor without any objection to the action or cost.</p> <p><b>15) Offices of the contractor</b> The offices shall be installed / built before starting of work on the project according to the Contractor's requirements, and should also meet the operational needs of the contractor to respond to the contract and Engineer various requirements.</p> <p><b>16) warehouses</b> The contractor shall establish stores and warehouses to store all the building materials, especially cement and the like and ensure the conditions necessary for the protection of stored materials from damage caused by exposure to influences.</p>
--	---



## SECTION 6: STATEMENT OF WORKS – VOLUME 1. GENERAL WORKS

(Can be downloaded from):

[http://www.mediafire.com/download/36r6am43d04f6ag/Gogavan\\_road\\_design-Jan.\\_2014.rar](http://www.mediafire.com/download/36r6am43d04f6ag/Gogavan_road_design-Jan._2014.rar)

Contractor should **not** submit a copy of the **Technical Specifications\*** along with his bid

Required data sheets of proposed equipment/goods should be submitted with the bid





## **FOR RECONSTRUCTION OF THE 6.8 km SECTION OF THE HIGHWAY M3 IN THE REPUBLIC OF ARMENIA**

### **Modernization of Bagratashen, Bavra and Gogavan Border Crossing Points of the Republic of Armenia (MBBG BCPs) Project**

#### **1. INTRODUCTION**

- 1.1. Under the Armenia-EU European Neighborhood Policy Action Plan, Republic of Armenia undertook to increase its share of responsibility for international cooperation in the field of border management in the South Caucasus and bring the level of interagency cooperation between border management agencies represented at the state border crossing points in compliance with European standards. Armenia's commitment to the EU standards and best practices implies establishment of a modern integrated border management systems to ensure Armenia's strengthened border security and to facilitate the movement of people and goods across the borders. On 3 November 2010 the President of Armenia signed a decree on the adoption of the "Strategy of Border Security and Integrated State Border Management of the Republic of Armenia". On 21 April 2011, the Government of Armenia adopted the Decree # 482 on approval of IBM Action Plan. On 21 April 2011, the Government of Armenia adopted the 2011-2015 Action Plan and Timetable for the Implementation of Strategy of Border Security and Integrated State Border Management of the Republic of Armenia. The 2011-2015 IBM Action Plan suggests a series of activities to be implemented by all actors involved in the field of border management and a key prerequisite is the modernization of existing border crossing point infrastructure of Armenia. Armenian authorities have prioritized Bagratashen, Bavra and Gogavan border crossing points in the north of Armenia to be modernized in line with international standards and requirements.
- 1.2. The European Investment Bank (EIB) is providing a EUR 30.3 million loan to the Republic of Armenia to finance the construction and modernisation of three BCP-s on the Armenian side of the border with Georgia, and the improvement of the access roads in their vicinity and associated infrastructure, including a new bridge at Bagratashen and the reconstruction of the 6.8 km main road leading to the Gogavan BCP.
- 1.3. With the funding provided by the Government of Armenia, UNDP Country Office in Armenia implements the "Modernisation of Bagratashen, Bavra and Gogavan border crossing points of the Republic of Armenia" Project (MBBG BCPs). One of the activities of the MBBG Project is the reconstruction of the approximately 6.8 km section of the Highway M3 in the Republic of Armenia to Georgian border. To facilitate movement of goods across the border, the Government of Armenia decided to allocate funds for the reconstruction of this road. At the same time, the Government of Armenia in cooperation with UNDP Country Office in Armenia will coordinate and encourage the Georgian authorities to undertake the reconstruction of Guguti-Bolnisi road section.



## 2. OBJECTIVE

- 2.1. The overall objective of the project is to rehabilitate the access road to Gogavan Border Crossing Point (BCP) of the Republic of Armenia, including two small bridges, with the ultimate goal to enhance the movement of persons and goods through Gogavan BCP onwards to Georgia.
- 2.2. The objective of this project and the TOR is to identify a Contractor, which is capable to implement the reconstruction of access road to Gogavan border crossing point.
- 2.3. The subject of this TOR is to provide construction services of 6.8 km of state highway M3 Margara-Vanadzor-Tashir-Georgian border in the Republic of Armenia, in compliance with the Building Codes of Armenia (SNIP # IV-11.05.02-99 "Automotive roads", # 2.05.03-84 "Bridges and culverts"), other national building codes of the Republic of Armenia and international standards.

## 3. OBJECT DESCRIPTION

This road, which is part of the Highway called "M3 Margara-Vanadzor-Tashir-Georgian border" in the Republic of Armenia, is of national importance that provides access to the Gogavan Border Crossing Point (BCP). The designed road section is situated near the villages Mihailovka, Norashen, Dzoramut and Gogavan in Lori region (Marz) of the Republic of Armenia. The road is located in a mountainous location. Average existing width of the road is 7.2 m, the width during the stretch of road is changing – the borders of the road are not clearly identified. That is why it is hard to perceive the driving trajectory. The coating of the road – outworn asphalt concrete is at the state of collapse. Along all stretch of the road, the asphalt concrete layer is not suited for comfortable traffic, which leads the drivers to use the road shoulders for movement. The shoulders of road are worn out and have irregular width. The road provides local and transit movement. The movement of the road is organized in two directions with one line in each direction. The main junctions of the road are M-3 with H-184 and M-3 with road to village Dzoramut. These junctions are connected to the M-3 at an oblique angle that does not provide good vision of the main road. Existing road parameters are not suited for the permitted speed limit because the minimal stop visibility distance is not provided. Water drainage is provided to the adjacent territory. The water drainage is provided only partially, road lacks side ditches. At the lower points of the surface there are culverts that drain water further over the terrain. At the stretch of the road from PK 182+950 to PK 183+610 formation of a landslide is possible.

The total length of the designed road is 6606.84m. The section of the designed road M-3 starts at PK 177+502 and at the end of the section the road connects with the Gogavan BCP at PK 184+108.85.

The Design of road reconstruction is based on Armenian standard CHPA IV-11.05.02-99.

The road complies with the II road category. The designed road is located in the III road climate zone. According to the category the chosen road width is 13.80 m that consists of two lanes each 3.60 m wide and two road shoulders each 3.30 m wide. Total width of asphalt wearing course is 8.40 m, which consists of 2 x 3.60 m (7.20 m) driving lanes and 2 x 0.60 m (1.20 m) side lanes (part of road shoulders).

The design speed of the road from PK 177+502 to PK 180+920.00 is 90 km/h and the rest of the road section from PK 180+920.00 to the end of the section at 184+108.85 the speed according to the terrain is 60 km/h.



During the design it is intended to replace the existing culverts. Existing bridges at 178+102.10 and PK 184+080.97 are intended to demolish and substitute with assembled type metal culverts. 12 culverts are designed to transfer storm water through the road section. 5 culverts are designed for storm water transfer through road exits. Existing reinforced concrete culverts PK 183+630.02 (Ø1.2m) and PK 183+665.85 (Ø1.2m) must be cleaned in all their length. Traffic of vehicles and pedestrians are organized using road signs, horizontal and vertical road markings and their installation must be in accordance with GOST 52289-3004.

#### 4. SCOPE OF WORKS

##### 4.1. General requirements:

- The Contractor shall perform all the works necessary to achieve the objectives of the assignment and shall at all times utilize the most economical, effective and internationally accepted engineering and construction concepts in his work.
- In carrying out the work the Contractor shall cooperate with UNDP who will act as the Employer and administer the design, supervision and construction contracts, the Government and in particular with Ministry of Transport and Communication and other agencies related to the project.
- The Contractor shall coordinate his work in accordance with design solutions and proposed work performance program with the Consultant developing Design and Built contract for reconstruction of Gogavan Border crossing point within MBBG Project.

##### 4.2. Particular requirements

The reconstruction works shall include:

- improvement of the quality of sub base and base;
- widening of the road shoulder where necessary;
- widening and stabilizing of embankments;
- improvements and replacement of culverts;
- repair/reconstruction of bridges along the section of the road;
- improvement of side drainage;
- renovation of exits to settlements and intersections with other roads;
- renovation of road signs and road markings;
- improvement of traffic features in order to ensure safety and security of the road;
- installation of roadway width: 7.2m (2 lanes 3.6m+3.6m);
- installation of the shoulders of Minimum width: 3.3m;
- Cover type: asphalt-concrete. The pavement structure and thicknesses of the layers (sub-base, base and a/c) should be in accordance with developed design solutions.

The Contractor shall:

- ensure that the construction works are accomplished in accordance with the technical specification and other Contract Documents and namely;
- The Consultant shall be guided by the Armenian Building Codes (SNIP IV-11.05.02-99).



## SECTION 7: TECHNICAL SPECIFICATIONS – VOLUME 6. TECHNICAL SPECIFICATIONS

(Can be downloaded from):

[http://www.mediafire.com/download/36r6am43d04f6ag/Gogavan\\_road\\_design-Jan.\\_2014.rar](http://www.mediafire.com/download/36r6am43d04f6ag/Gogavan_road_design-Jan._2014.rar)

Contractor should **not** submit a copy of the **Technical Specifications\*** along with his bid

**Required data sheets of proposed equipment/goods should be submitted with the bid**



**SECTION 8: DRAWINGS. VOLUME 2. ENGINEERING SURVEY;  
VOLUME 3. ROAD DESIGN DRAWINGS; VOLUME 4. ARTIFICIAL  
STRUCTURE DRAWINGS**

**(Can be downloaded from):**

[http://www.mediafire.com/download/36r6am43d04f6ag/Gogavan\\_road\\_design-Jan.\\_2014.rar](http://www.mediafire.com/download/36r6am43d04f6ag/Gogavan_road_design-Jan._2014.rar)

Contractor should **not** submit a copy of the **DRAWINGS** along with his bid



## **SECTION 9: PRICE SCHEDULES (Bills of Quantities) – VOLUME 5. ECONOMIC PART BILL OF QUANTITIES**

**(Can be downloaded from):**

[http://www.mediafire.com/download/36r6am43d04f6ag/Gogavan\\_road\\_design-Jan.\\_2014.rar](http://www.mediafire.com/download/36r6am43d04f6ag/Gogavan_road_design-Jan._2014.rar)

**Electronic version on USB of the BOQs shall be submitted along with the signed hard copy thereof. In case of any discrepancy between the soft and the hard copies, the hard copy shall prevail.**



## SECTION 10:

### Required Forms

*This form should be submitted for all submissions:*

- (1) Bid Submission Form
- (2) Bid Security Form
- (3) Performance Bank Guarantee
- (4) Bank Guarantee for Advance Payment





## Bid Submission Form

To: The procuring entity

Dear Sir / Madam,

Having examined the Bidding Documents, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to execute the Project of \_\_\_\_\_  
in conformity with the said bidding documents for the sum of:

\_\_\_\_\_

*[total bid amount in words and figures]* as may be ascertained in accordance with the Price Schedule attached herewith and made part of this Bid.

We undertake, if our Bid is accepted, to execute in accordance with the delivery schedule specified in the Schedule of Requirements.

We agree to abide by this Bid for a period of \_\_\_\_\_ calendar days from the date fixed for opening of Bids in the Invitation to Bid, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

If requested, we also agree to furnish the UNDP with Bank reference(s) to confirm availability of the required credit facility.

We understand that you are not bound to accept any Bid you may receive.

Dated this . . . . . day of . . . . . [year].

.....  
Signature

.....  
[in the capacity of]

Duly authorized to sign the Bid for and on behalf of .....



## Bid Security Form

To: The procuring entity,

Whereas [*name of contractor*] (hereinafter called the "Contractor") has submitted its bid dated [*date submission of proposal*] for the provision of works for [*description of works*] (hereinafter called Bid).

KNOW ALL PEOPLE by these presents that WE [*name of bank*], having our registered office at [*address of bank*] (hereinafter called "the Bank"), are bound unto [*name of Purchaser*] (hereinafter called "the Purchaser") in the sum of for which payment well and truly to be made to the said Purchaser, the Bank binds itself, its successors, and assigns by these presents. Sealed with the Common seal of the said Bank this .....day of.....2000.

THE CONDITIONS of this obligation are:

1. If the Contractor withdraws its Bid during the period of bid validity specified by the Contractor on the Proposal Submission Form: or
2. If the Contractor, having been notified of the acceptance of its Bid by the Purchaser during the period of validity of the proposal:

(a) fails or refuses to execute the Contract Form, or

(b) fails or refuses to furnish the Performance Security, in accordance with the Instructions to Contractors;

we undertake to pay to the Purchaser up to the above amount upon receipt of its first written demand, without the Purchaser having to substantiate its demand, provided that in its demand the Purchaser will note that the amount claimed by it is due to it, owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

This guarantee will remain in force up to and including thirty (30) calendar days after the period of validity of the proposal, and any demand in respect thereof should reach the Bank not later than the above date.

.....  
**Article I. Signature of the Bank**



## Performance Bank Guarantee

We [Bank name] have been informed that the United Nations Development Programme (hereinafter called "the UNDP") which has its Headquarter in New York concluded on date \_\_\_\_\_ a contract [contract title and No.] with [Name of the company] hereinafter refereed to as "the Contractor" whom has its headquarter in \_\_\_\_\_ at a total price of \_\_\_\_\_ EURO ( \_\_\_\_\_), to execute [Insert title of contract and brief description of works].

Whereas it has been stipulated in the Contract that the Contractor shall furnish the UNDP with a Bank Guarantee by a recognized Bank for the sum specified thereafter as security for compliance with his obligations in accordance with the Contract,

Whereas we have agreed to give the UNDP such a Bank Guarantee

Now therefore, this being stated, we, [BANK NAME] [BANK BRANCH], irrespective of the validity and the legal effect of the above mentioned contract and waiving all rights of objection and defense arising therefrom, hereby irrevocably affirm we are the Guarantor and responsible to you, and on behalf of the Contractor undertake to pay you, upon your first written demand and without cavil or argument any sum or sums within the limits of [INSERT AMOUNT OF GUARANTEE IN FIGURES AND IN WORDS] as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

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

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

This guarantee shall be valid until twenty-eight calendar days after issuance of the Certificate of Final Completion.

This guarantee is revocable only with the written consent of the UNDP.

Parties hereby agree on the terms of this bank's guarantee letter.

SIGNATURE AND SEAL: \_\_\_\_\_  
Name of Bank/ Financial

Institution: \_\_\_\_\_  
Adresse: \_\_\_\_\_  
Sate: \_\_\_\_\_



## Advanced Payment Guarantee<sup>1</sup>

***(This must be finalized using the official letterhead of the Issuing Bank. Except for indicated fields, no changes may be made on this template)***

\_\_\_\_\_ *[Bank's Name, and Address of Issuing Branch or Office]*

**Beneficiary:** \_\_\_\_\_ *[Name and Address of UNDP]*

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

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

We have been informed that *[name of Company]* (hereinafter called "the Contractor") has entered into Contract No. *[reference number of the contract]* dated *[insert: date]* with you, for the provision of *[brief description of Services]* (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum of *[amount in words]* (*[amount in figures]*) is to be made against an advance payment guarantee.

At the request of the Contractor, we *[name of Bank]* hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[amount in words]* (*[amount in figures]*)<sup>2</sup> upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation under the Contract because the Contractor has used the advance payment for purposes other than toward providing the Services under the Contract.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Contractor on its account number \_\_\_\_\_ at *[name and address of Bank]*.

<sup>1</sup> This Guarantee shall be required if the Contractor will require advanced payment of more than 20% of the contract amount, or if the absolute amount of the advanced payment required will exceed the amount of USD 30,000, or its equivalent if the price offer is not in USD, using the exchange rate stated in the Data Sheet. The Contractor's Bank must issue the Guarantee using the contents of this template.

<sup>2</sup> The Guarantor Bank shall insert an amount representing the amount of the advanced payment and denominated either in the currency/ies of the advanced payment as specified in the Contract.



The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Contractor as indicated in copies of certified monthly statements which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of the monthly payment certificate indicating that the Consultants have made full repayment of the amount of the advance payment, or on the \_ day of \_\_\_\_\_, 2\_\_\_\_,3 whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

---

*[signature(s)]*

*Note: All italicized text is for indicative purposes only to assist in preparing this form and shall be deleted from the final product.*

---

<sup>3</sup> Insert the expected expiration date. In the event of an extension of time for Completion of the Contract, the Contractor would need to request an extension of this Guarantee from the Guarantor Bank. Such request must be in writing and must be made prior to the expiration date established in the Guarantee. In preparing this Guarantee, the Contractor might consider adding the following text to the form at the end of the penultimate paragraph : “The Guarantor Bank agrees to a one-time extension of this Guarantee for a period not to exceed [six months] [one year], in response to the Contractor’s written request for such extension, such request to be presented to the Guarantor Bank before the expiry of the Guarantee.