

# STANDARD BIDDING DOCUMENT

## Procurement of Small Works

(Upto Nu. 5 million)



Royal Government of Bhutan  
Ministry of Finance  
2023

## **PREFACE**

One of the principal mandates and powers of the Ministry of Finance, as provided under section 104 (i) of the Public Finance (amendment) Act of Bhutan 2012 is to issue rules, manuals, directives, instructions or notifications ensuring an equitable, transparent, competitive and cost-effective procurement system in the country for which this Standard Bidding Document (SBD) for the Procurement of Small Works (up to Nu. 5 million) 2023 is drafted as implementing document of Procurement Rules and Regulation 2023.

This SBD is the revision of Standard Bidding Document for the Procurement of Works (Up to Nu. 5 million) 2019 with the inclusion of provisions amended vide various notifications and fiscal measures proven to be effective in achieving basic principles of public procurement.

Ministry of Finance in the exercise of the power conferred by the section 104 (i) of the Public Finance (amendment) Act of Bhutan 2012 hereby adopts SBD for the Procurement of Small Works (up to Nu. 5 million) 2023 vide 141<sup>st</sup> Policy and Planning Coordination Meeting on 20th February, 2023 which shall come into effect from 1<sup>st</sup> July 2023.

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## **Notes on the Use of the Standard Bidding Document for Small Works**

*(This note should be deleted while preparing the Bidding Document)*

This guidance notes have been prepared by the Procurement Management and Development Division (PMDD) to assist a Procuring Agency in the preparation and using of Standard Bidding Document (SBD), for the procurement of small works. The Procuring Agency should also refer to the Procurement Rules and Regulations and the circulars and Notifications issued from time to time to supplement the Regulations.

The use of SBD applies for the Open Bidding Method and also for the Limited Bidding Method, whereby Bids are invited from a list of Bidders. The SBD small work should only be used for Contracts of short duration and of low risk/value.

This SBD has 9 Sections, of which Section 1: (Instruction to Bidders) and Section 5: (General Conditions of Contract) must not be altered or modified under any circumstances.

The Procuring Agency shall address specific needs through the Bidding Data Sheet (BDS) and the Special Conditions of Contract (SCC), as well as in the detailed requirements of the procurement in the Schedule of Works and/or the Drawings/specifications.

The following briefly describes the Sections of SBD and how a Procuring Agency should use These when preparing a particular Bidding Document.

### **Section 1. Instructions to Bidders (ITB)**

This Section provides relevant information to help Bidders prepare their Bids. Information is also provided on the submission, opening, and evaluation of Bids and on the award of Contract.

This Section also contains the criteria to be used by the Procuring Agency in order to determine the best evaluated Bid and the qualifications of the Bidder to perform the Contract. The text of the clauses in this Section shall not be modified.

### **Section 2. Bidding Data Sheet (BDS)**

This Section consists of provisions that are specific to each procurement and supplements information or requirements included in Section 1: Instructions to Bidders.

### **Section 3. Evaluation and Qualification Criteria**

This section contains all the criteria that the Procuring Agency shall use to evaluate Bids and qualify Bidders if the Bidding was not preceded by a prequalification exercise and post qualifications are applied. The Bidder shall provide all the information requested in the forms included in Section 4 (Bidding Forms).

#### **Section 4. Bidding Forms**

This Section provides the standard format for the Bid Form; Bid Securing Declaration and qualification information forms that are to be submitted by the Bidder.

#### **Section 5. General Conditions of Contract (GCC)**

This Section provides the General Conditions of Contract that will apply to the Contract for which the Bidding Document is issued. The text of the clauses in this Section shall not be modified.

#### **Section 6. Special Conditions of Contract (SCC)**

This Section provides clauses specific to the Special Conditions to a particular Contract. This can be modified according to requirements specific to the contract.

#### **Section 7. Contract Forms**

This section contains forms which, once completed, will form part of the Contract. The forms for Performance Security and Advance Payment Security, when required, shall only be completed by the successful Bidder after Contract award.

#### **Section 8. Bill of Quantities**

This Section provides the items and estimated quantities of Works and Related Services to be performed, as well as the detailed Technical Specifications that describe the Works to be procured and must be carefully prepared by a Procuring Agency for each procurement.

#### **Section 9. Drawings**

This Section contains any Drawings that supplement the Schedule of Works including Specifications for the Works and Related Services to be procured.

## **INVITATION FOR BID (IFB)**

ROYAL GOVERNMENT OF BHUTAN  
..... PROJECT

INVITATIONS FOR BIDS (IFB)  
*(Required in case of open tender)*

**NATIONAL COMPETITIVE BIDDING**

Date: Bid No.:

1. The [insert complete name of Procuring Agency] invites Bids for (insert the brief description of the works).
2. Bidding Documents may be purchased from the office of.....  
..from to ....., for a non-refundable fee of Nu..... in the form of cash or Demand Draft in favour of.....Interested Bidders may obtain further information at the same address. The Bidding Documents may be downloaded free of cost from the purchaser's website (insert the name of web site).
3. Bids must be accompanied by a Bid Securing Declaration In lieu of Bid Security.
4. Bids must be delivered to..... on or before ..... hours on ..... (date) and will be opened on the same day at ..... hours, in the presence of the Bidders who wish to attend.

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## SECTION 1: INSTRUCTIONS TO BIDDER (ITB)

### A. General

#### 1. Scope of Tender

- 1.1. The Procuring agency, as indicated in the BDS issues this Bidding Document for the procurement of Works. The name, identification and identification of this Bidding are provided in the BDS.
- 1.2. The successful Bidder will be required to complete the Works within the Time for Completion stated in the Special Conditions of Contract (SCC).
- 1.3. Throughout this Bidding Documents;
  - (a) The term “in writing means communicated in written form with proof of receipt”;
  - (b) If the context so requires, singular means plural and vice versa; and
  - (c) “day” means calendar day.

#### 2. Corrupt, Fraudulent, Collusive or Coercive Practices

- 2.1. The Royal Government of Bhutan requires that Procuring Agency and the Bidders shall observe the highest standard of ethics during the implementation of procurement proceedings and the execution of Contracts under public money.
- 2.2. In pursuance of this requirement, the Procuring Agency shall
  - (a) exclude the Bidder from participation in the procurement proceeding concerned or reject a proposal for award; and
  - (b) declare a Bidder in eligible, either in definitely or for a stated period of time, from participation in procurement proceedings under public money; If it, at any time, determines that the Bidder has engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a Contract under the public money.
- 2.3. The Government defines, for the purposes of this provision, the terms set forth below as follows:
  - (a) “corrupt practice”<sup>1</sup> is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
  - (b) “fraudulent practice”<sup>2</sup> is any intentional act or omission including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
  - (c) “collusive practice”<sup>3</sup> is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;

<sup>1</sup>Another party refers to a public official acting in relation to the procurement process or contract execution.

<sup>2</sup>A 'party' refers to a public official; the term 'benefit' and 'obligation' relate to the procurement process or contract execution; and the 'act or omission' is intended to influence the procurement process or contract execution.

<sup>3</sup>'parties' refers to participations in the procurement process including public officials attempting to establish bid prices at artificial, non-competitive levels.

(d) “Coercive practice”<sup>4</sup> is impairing or harming or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party.

2.4. The Bidder shall be aware of the provisions on fraud and corruption stated in GCC Clause 3 and GCC Sub-Clause 36.2(d).

2.5. The RGoB requires that the Procuring Agency’s personnel have an equal obligation not to solicit, ask for and/ or use coercive methods to obtain personal benefits in connection with the said proceedings.

### **3. Eligible Bidders**

3.1. Bidders of the categories **specified in the BDS** are eligible to participate in this Bidding process.

### **4. Site Visit**

4.1. The Bidders, at their own responsibility and risk, is encouraged to visit and examine the Site and obtain all information that may be necessary for preparing the Bid and entering into a Contract for performance of the Works. The costs of visiting the Site shall be at the Bidder’s own expense.

## **B. Content of Bidding Document**

### **5. Contents of Bidding Documents**

5.1. The sections comprising the Bidding Document are listed below and should be read in conjunction with any amendment issued in accordance with ITB Clause 7:

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

- Section1: Instructions to Bidders (ITB)
- Section2: Bidding Data Sheet (BDS)
- Section3: Evaluation and Qualification Criteria
- Section4: Bidding forms
- Section5: General Conditions of Contract (GCC)
- Section6: Special Conditions of Contract (SCC)
- Section7: Contract Forms
- Section8: Bill of Quantities & Specifications
- Section9: Drawings

<sup>4</sup>A ‘party’ refers to a participant in the procurement process or contract execution.

5.2. The Procuring Agency is not responsible for the completeness of the Bidding Document and any addendum, if they were not obtained directly from the source stated by the Procuring Agency in the Invitation for Bids.

5.3. The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Documents. Failure to furnish all information or documentation required by the Bidding Documents may result in the rejection of the Bid.

**6. Clarification of Bidding Documents**

6.1 A prospective Bidder requiring any clarification of the Bidding Document shall contact the Procuring Agency in writing at the Procuring Agency's address indicated in the BDS.

**7. Amendment of Bidding Documents**

7.1 At any time prior to the deadline for submission of Bid, the Procuring Agency may amend the Bidding Document by issuing addenda and extend the deadline for the submission of Bids at its discretion. Any amendment issued shall become an integral part of the Bidding Document and shall be communicated in writing to all those who have purchased the Bidding Document.

**C. Preparation of Bids**

**8. One Bid per Bidder**

8.1 A Bidder shall submit only one (1) Bid. A Bidder who submits or participates in more than one (1) Bid shall cause all the proposals with the Bidder's participation to be disqualified.

**9. Bid Preparation Costs**

9.1 The Bidder shall bear all costs associated with the preparation and submission of its Bids, and the Procuring Agency shall in no case be responsible or liable for those costs, regardless of the conduct or outcome of the Bidding process.

**10. Language of Bid**

10.1 All documents relating to the Bid shall be in the language specified in the BDS.

**11. Documents comprising the Bid**

11.1. The original and copy(ies) of Bid submitted by the Bidder shall comprise the following:

(a) The Bid form (in the format indicated in Section 4);

(b) License and certificate;

(c) Bid Securing Declaration in accordance with ITB 19;

(d) Priced Bill of Quantities;

(e) Qualifications: documentary evidence in accordance with ITB 17 establishing

the Bidder's qualifications to perform the Contract;

- (f) Written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB sub-clause 20.2; and
- (g) and any other materials required to be completed and submitted by Bidders, as specified in the BDS.

11.2. The Instruction to Bidders, Bidding Data Sheet, General Conditions of Contract, Special Conditions of Contract, Specifications and drawings are for the information of the Bidders and is not required to be submitted by the Bidder.

## **12. Form of Bid**

12.1 The Form of Bid, Schedules, and all documents listed under Clause 11, shall be prepared using the relevant forms in Section 4 (Bidding Forms). The forms must be completed without any alterations to the text, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested.

## **13. Alternative Bid**

13.1 Alternative Bid shall not be considered in small works.

## **14. Bid Price and Discount**

14.1. The prices and discounts quoted by the Bidder in the form of Bid and in the Schedules shall confirm to the requirements specified in ITB 14.2 and 14.3.

14.2. The Bidder shall submit a Bid for the whole of the works described in ITB 1.1 by filling in prices for all items of the Works, as identified in Section 4, Bidding Forms. In case of admeasurements contracts, the Bidder shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items against which no rate or price is entered by the Bidder will not be paid by the Procuring Agency when executed and shall be deemed to covered by the rates for other items and prices in the Bill of Quantities.

14.3. The Bid price shall take into account the cost of materials, transportation, labour, taxes, levies, overheads and profit and any other cost. The Bid price shall be applicable for the whole works described in the Drawings, Specifications and Schedule of Works.

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

15.1 All prices shall be quoted in Bhutanese Ngultrum (BTN) and shall be paid in BTN.

**16. Documents comprising the Technical Proposal**

16.1 The Bidder shall furnish a work plan in simple bar chart and other information if provided in BDS, to demonstrate the adequacy of the Bidders' proposal to meet the work requirements and the completion time.

**17. Documents establishing the Qualification of the Bidder**

17.1 To establish its qualification to perform the Contract in accordance with Section 3 (Evaluation and Qualification Criteria) the Bidder shall provide the information requested in the corresponding information sheets included in Section 4 (Bidding Forms).

**18. Bid Validity**

18.1 Bids shall remain valid up to the date specified in the BDS. Any Bids which does not meet the validity requirement shall be rejected by the Procuring Agency as non-responsive.

**19. Bid Security**

19.1. In lieu of Bid Security, the Bidder shall furnish as a part of its Bid, a Bid-Securing Declaration using the form included in Section 4, Bidding Forms. The Bid-Securing Declaration shall be agreed to by the bidder before submission of a bid.

19.2. Any Bid not accompanied by a Bid-Securing Declaration in the prescribed format shall be rejected by the Procuring Agency as non-responsive.

19.3. The Bid-Securing Declaration shall be executed:

(a) If the Bidder withdraws the Bid after Bid opening during the period of Bid validity;

(b) If the Bidder does not accept the correction of the Bid price, pursuant to ITB 30;  
or

(c) In the case of a successful Bidder, if the bidder fails within the specified time limit to sign the Agreement; or furnish the required Performance Security.

19.4. In case Bid Securing Declaration is executed in pursuant to ITB sub- clause 19.3 the Bidder shall deposit the Bid Security amount specified in the BDS within five (5) days from date of notification by Procuring Agency.

19.5. In case the Bidder fails to comply with ITB sub-clause 19.4, Bidder shall be debarred from being eligible for Bidding or submitting Bid with all government procuring agencies for a period prescribed in Debarment Rules.

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

- 20.1. The Bidder shall prepare one (1) original of the documents comprising the Bid as described in ITB Clause 11 and clearly mark it "ORIGINAL." In addition, the Bidder shall prepare the number of copies of the Bid, as specified in the BDS and clearly mark each of them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.
- 20.2. The original and each copy of the Bid shall be typed or written in indelible ink and shall be signed by the person duly authorized to sign on behalf of the Bidder.
- 20.3. Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person(s) signing the Bid.

## **D. Submission and Opening of Bids**

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

- 21.1. The Bidder shall enclose the original in one (1) envelope and all the copies of the bid in another envelope, duly marking the envelopes as "ORIGINAL" and "COPY." These two (2) envelopes shall then be enclosed in one (1) single outer envelope.
- 21.2. The inner envelopes shall:
  - (a) Be signed across the seals by the person authorised to sign the Bid on behalf of the Bidder;
  - (b) Be marked "ORIGINAL" and "COPY"; and
  - (c) Bear the name and address of the Bidder.
- 21.3. The outer envelope shall;
  - (a) Be sealed with adhesive or other sealant to prevent reopening;
  - (b) be addressed to the Procuring agency at the address specified in the BDS; bear a statement "DO NOT OPEN BEFORE. ...." the time and date for Bid opening as specified in the BDS.
- 21.4. If all or any envelopes are not sealed and marked as required by ITB Sub-Clause 21, the Procuring Agency shall not reject the Bids but assume no responsibility for the misplacement or premature opening of the Bid

**22. Bid Submission Deadline**

- 22.1. Bids must be received by the Procuring Agency at the address and no later than the date and time specified in the BDS.
- 22.2. Bids may be hand delivered, posted by registered mail or sent by courier.
- 22.3. The Procuring Agency may, at its discretion, extend the deadline for the submission of Bids by amending the Bidding Document in accordance with ITB Clause 7, in which case all rights and obligations of the Procuring agency and Bidders previously subject to the deadline shall thereafter be subject to the new deadline as extended.

**23. Late Bids**

- 23.1. Late Bids shall not be considered and shall be returned unopened.

**24. Modification, Substitution or Withdrawal of Bids**

- 24.1. A Bidder may modify, substitute or withdraw their Bids after it has been submitted by sending a written notice before the deadline for submission of Bids.

**25. Bid Opening**

- 25.1. The Procuring Agency shall open the Bids in the presence of the Bidders attending the Bid opening, including modifications or substitutions made pursuant to ITB Clause 24. Bidders or their representatives shall be allowed to attend and witness the Bid opening and shall sign a register evidencing their attendance.
- 25.2. The name of the Bidder, Bid modifications, substitutions or withdrawals, total amount of each Bid, number of corrections, discounts, and the presence or absence of Bid Securing Declaration, and such other details as the Procuring Agency, at its discretion, may consider appropriate, shall be read out aloud and recorded.
- 25.3. The Procuring Agency shall prepare minutes of the Bid opening. The minutes shall include, as a minimum, the name of the Bidders and whether there has been a withdrawal, substitution or modification; the Bid Price including any discounts and the presence or absence of a Bid Securing Declaration, if required.

## **E. Tender Opening and Evaluation**

### **26. Confidentiality**

- 26.1. After the opening of Bids, information relating to the examination, clarification, and evaluation of Bids and recommendations for award shall not be disclosed to Bidders or other persons not officially concerned with the evaluation process until after the issuance of Letter of Intent to award the Contract.

### **27. Clarification**

- 27.1. The Procuring Agency may ask Bidders for clarification of their Bids in order to facilitate the examination and evaluation of Bids. The request for clarification and the response shall be in writing, and any changes in the prices or substance of the Bid shall not be sought, offered or permitted, except to confirm the correction of arithmetical errors discovered by the Procuring Agency in the evaluation of the Bids, in accordance with ITB Clause 30.

### **28. Bidder Contacting the Procuring Agency**

- 28.1. Following the opening of Bids and until the letter of Intent to award the Contract is issued no Bidder shall make any unsolicited communication to the Procuring Agency or try in any way to influence the Procuring Agency's examination and evaluation of Bids which may result in the rejection of Bids. If any Bidder wishes to contact the Procuring Agency on any matter related to the Bidding process, it should do so in writing.

### **29. Determination of Responsiveness**

- 29.1. Prior to detailed evaluation of Bids, the Procuring Agency shall determine whether each Bid (a) meets the eligibility criteria defined in ITB clause 3; (b) has been properly signed; (c) is accompanied by the Bid Securing Declaration; and (d) is substantially responsive to the requirements of the Bidding Documents.
- 29.2. A substantially responsive Bid is one that conforms in all respects to the requirements of the Bidding Document without material deviation, reservation or omission. A material deviation, reservation or omission is one that:
- a) affects in any substantial way the scope, quality, or performance of the Works specified in the Contract;
  - b) limits in any substantial way, or is inconsistent with the Bid Document, the Procuring Agency's rights or the Bidder's obligations under the Contract; or
  - c) if rectified would unfairly affect the competitive position of other Bidders presenting substantially responsive Bids.

29.3. If a Bid is not substantially responsive to the Bidding Document it shall be rejected by the Procuring Agency and shall not subsequently be made responsive by the Bidder by correction of the material deviation, reservation or omission.

**30. Non-Conformities, Errors and Omissions**

30.1. The Procuring Agency may regard a Bid as responsive even if it contains minor deviations that do not materially alter or depart from the characteristics, terms, conditions and other requirement set forth in the Bidding Document or if it contains errors or oversights that are capable of being corrected without affecting the substance of the Bid.

30.2. Where there is a discrepancy between the amounts in figures and words, the amount in words will govern. If a Bidder refuses to accept the correction, its Bids shall be rejected. The Procuring Agency shall correct arithmetical errors on the following basis:

(a) if there is a discrepancy between the unit price and the line item total, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Procuring Agency there is an obvious misplacement of the decimal point in the unit price, in which case the total price, as quoted, shall govern and the unit price shall be corrected.

**31. Evaluation of Bids**

31.1. The Procuring Agency shall evaluate and compare only those Bids determined to be substantially responsive to the requirements of the Bidding Document.

31.2. To evaluate a Bid, the Procuring Agency shall consider the following:

(a) making appropriate adjustments to reflect discounts if any;

(b) Correction of arithmetic errors; and

(c) Where applicable, using the evaluation factors specified in Section 3, Evaluation and Qualification Criteria.

31.3. An affirmative determination of qualification shall be a prerequisite for award of the Contract to the Bidder. A negative determination shall result in disqualification of the Bid, in which event the Procuring Agency may proceed to the next substantially responsive Bid which offers the best evaluated Bid to make a similar determination of that Bidder's qualifications to perform satisfactorily.

### **32. Abnormally Low Bids**

- 32.1. An Abnormally Low Bid is one where the Bid price, in combination with other constituent elements of the Bid, appears unreasonably low to the extent that the Bid price raises material concerns as to the capability of the Bidder to perform the Contract for the offered Bid price. Before proceeding to further analysis, the Procuring Agency shall revisit their departmental estimate to ensure its realistic compared to the prevailing market rates.
- 32.2. After revisiting the departmental estimate as provided in clause 32.1, if the Procuring Agency determines that the Bid offered by the Bidder is 20% below or above the agency estimate, the Procuring Agency shall eliminate the Bid(s) before proceeding towards Bid evaluation.

### **33. Seriously unbalanced Bids or Front Loaded**

- 33.1. If the Bid that is evaluated as the lowest evaluated cost is, in the Procuring Agency's opinion, seriously unbalanced or front loaded the Procuring Agency may require the Bidder to provide written clarifications. Clarifications may include detailed price analyses to demonstrate the consistency of the Bid prices with the scope of works, proposed methodology, schedule and any other requirements of the Bidding Document.
- 33.2. After the evaluation of the information and detailed price analyses presented by the Bidder, the Procuring Agency may as appropriate:
- (a) accept the Bid and increase the performance security from ten percent (10%) up to maximum of 30% of the initial contract price/ Alternatively, the Procuring Agency may ask the successful Bidder to deposit the difference between departmental estimate and contract amount in the form of cash warrant in addition to 10% performance security. However, the total performance security amount shall be limited to maximum of 30% of initial contract price; or
  - (b) reject the Bid.

### **34. Procuring Agency's Right to Accept or Reject any or all Bids**

- 34.1. The Procuring Agency reserves the right to accept any Bid, to annual the Bid proceedings, or to reject any or all Bids, at any time prior to Contract award, without thereby incurring any liability to Bidders but the Bidder(s) should be informed with the justified reason(s) for cancellation.

## **F. Contract Award**

### **35. Award Criteria**

- 35.1. The Procuring Agency shall award the Contract to the Bidders whose offer is substantially responsive to the Bidding Document and that has been determined to be the best evaluated Bid, provided that the Bidder is determined to be qualified to perform the Contract and upon fulfilment of works in hand ceiling prescribed by the Bhutan Construction and Transport Authority or any other competent authority.

**36. Letter of Intent to Award the Contract/ Letter of Acceptance**

- 36.1. The Procuring Agency shall notify the concerned Bidder whose Bid has been selected in accordance with ITB 35.1 in writing (in the format in Section 4- hereafter called the "Letter of Intent to Award) that the Procuring Agency has intention to accept its Bid and the copy of the Letter of Intent shall be given to all other Bidders who submitted the Bid. Such notification should be communicated in writing, including by cable, facsimile, telex or electronic mail to all the Bidders on the same day of dispatch. The Procuring Agency shall ensure that the same information is uploaded on their website on the same day of dispatch.
- 36.2. If no Bidder submits an application pursuant to ITB 38 within a period of five (5) days of the notice provided under ITB 36.1, prior to the expiration of Bid validity, the Procuring Agency shall notify the successful Bidder, in writing that its Bid has been accepted. Until a formal contract is prepared and executed, the Letter of Acceptance shall constitute a binding Contract.
- 36.3. Within fifteen (15) days of the receipt of the Letter of Acceptance from the Procuring Agency, the successful Bidder shall furnish the Performance Security, in the amount specified in the BDS.
- 36.4. The Performance Security provided by the successful Bidder in the form of a Bank Guarantee shall be issued, at the Bidder's option, by a financial institution registered within Bhutan.
- 36.5. Within fifteen (15) days of receipt to the Letter of Acceptance, the successful Bidder shall sign the contract, date and return it to the Procuring Agency.

**37. Debriefing by Procuring Agency**

- 37.1. On receipt of the Procuring Agency's Notification of Intention to Award referred to in ITB 36.1, an unsuccessful Bidder has three (3) working Days to make a written request to the Procuring Agency for a debriefing. The Procuring Agency shall provide a debriefing to all unsuccessful Bidders whose request is received within this deadline.
- (a) point-by-point comparisons with another Bid; and
  - (b) information that is confidential or commercially sensitive to other Bidders.
- 37.2. Where a request for debriefing is received within the deadline, the Procuring Agency shall provide a debriefing within five (5) working days.
- 37.3. The Procuring Agency shall discuss only such Bid and not the Bids of other competitors. The debriefing shall not include:
- 37.4. The Purpose of debriefing is to inform the aggrieved Bidder of the reasons for lack of success, pointing out the specific shortcomings in its Bid without disclosing contents of other Bids.

### **38. Complaints**

- 38.1. The Bidder shall submit the complaint in writing within five (5) days from the date of Letter of Intent to award the contract pursuant to ITB 36.1 to the Procuring Agency.
- 38.2. The Head of Agency shall, within seven (7) days after the submission of the complaint, issue a written decision.
- 38.3. The Bidder may appeal to the Independent Review Body within five (5) days of the decision of the Head of the Procuring Agency or, where no such decision has been taken, within 15 days of the original complaint and the copy of the appeal shall be given to Procuring Agency on the same day.
- 38.4. Once the appeal copy is received by the Procuring agency, it shall not proceed further with the procurement process until receipt of notification from the Independent Review Body Secretariat.

## **SECTION 2 - BIDDING DATA SHEET**

Instructions for completing the Bidding Data Sheet are provided, as needed, in the notes in italics mentioned for the relevant ITB Clauses

### **A. General**

ITB Clause	Amendment of, and Supplements to, Clauses in the Instructions to Bidders
ITB 1.1	The Procuring Agency is [insert complete name] The Name and Identification of the Contract is/are [insert name and identification number of contracts] The Works are [insert brief description of the work]
ITB 3.1	The category of contractor is: [specify the license and the category of the contractor eligible to Bid for this tender]

### **B. Bidding Documents**

ITB 6.1	For clarification of Tenders purposes only, the Procuring Agency's Address is: Attention: [insert full name of person, if applicable] Address: [insert full official address] Mobile/Telephone: [insert telephone number including area code] Facsimile number: [insert telephone number including area code] Electronic mail address: [insert email address, if applicable]
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### **C. Preparation of Bids**

ITB 14.3	The Bid price shall or shall not be adjustable: [choose appropriately]
ITB 16.1	A simple bar chart is required or not required [delete which is not appropriate]
ITB 18.1	The Bid shall be valid up to: [specify the date up to which Bid shall be valid] [normally the Bid validity is 60 days]
ITB 19.5	The Bid Security Amount is Nu. [insert the amount between range of 1-2% of the departmental estimate to be forfeited pursuant to ITB clause 19.4]
ITB 20.1	In addition to the original, [insert number of Bid copies required] copies shall be submitted. [Usually one copy but Procuring Agencies may ask more if required].

### **D. Submission and Opening of Bids**

ITB 21.3	The outer envelopes shall be addressed to: [specify the Procuring Agency address to whom the Bid should be submitted]
ITB 21.3(b)	The Bid opening shall take place on the same day as the closing day of the Bid submission at: [insert precise address including room #]  Date: [insert date]; Time: [insert time]

ITB 22.1	For Bid submission purposes only, the Procuring Agency's Address is: Attention: Address: The deadline for the submission of Tenders is: Time & Date
<b>E. Award of Contract</b>	
ITB 36.3	The amount of Performance Security shall be [insert percentage] percent of the Contract Price. [It should be ten percent (10%) of the Contract Price of the Works].

## SECTION 3 – EVALUATION AND QUALIFICATION CRITERIA

This section contains all the criteria that the Procuring Agency shall use to evaluate Bids and qualify Bidders. The Procuring Agency may apply basic minimum technical qualification requirement (key personnel and equipment) if there is a project specific need.

### 1. Evaluation

- 1.1. Evaluation shall be done to determine if the bidders meet the required qualifications to be considered for award of work.

### 2. Qualification Criteria

[Where applicable the following qualification criteria may be specified and delete if not required]

#### 2.1. Key Personnel

[Procuring Agency may specify requirements for each position as applicable]

No.	Position	Qualification	Number of years of relevant experience
1			
2			
3			
4			
5			

Note:

- Mandatory to commit and deploy the minimum experienced personnel of each Position specified by a Procuring Agency.

#### 2.2. Equipment

[Procuring Agency may specify requirements for each equipment as applicable]

No.	Equipment Type	Number required
1		
2		
3		
4		
5		
6		
7		

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

Section 4, forms of Bid & Qualification information to fulfil the above requirements.

**Note:**

- Mandatory to commit and deploy the minimum number(s) of equipment for each Equipment specified by a Procuring Agency.

2.3. Add any other criteria

## SECTION 4: BIDDING FORMS

### Table of Standard Forms

Form of Bid
Bid Securing Declaration
Qualification Information
Letter of Intent

## Form of Bid

*Notes on Form of Bid:*

*The Bidder shall fill in and submit this bid form with the Bid. If Bidders do not fill in the Contract Price and does not sign this Bid form, the Bids will be rejected.*

[date]

To \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

We offer to execute the contract for construction of “\_\_\_\_\_” in accordance with the Conditions of Contract accompanying this Bid for the Contract Price of \_\_\_\_\_ [amount in figures] ( \_\_\_\_\_ ) [amount in words] \_\_\_\_\_ [name of currency].

The contract shall be paid in Ngultrum (Nu.)

This Bid and your written acceptance of it shall constitute a binding Contract between us. We understand that you are not bound to accept the lowest or any Bid you receive. We here by confirm that this Bid complies with the Bid validity and Bid Securing Declaration required by the Bidding Documents and specified in the Bidding Data Sheet.

Authorized Signature:

### **(Affix Legal Stamp)**

Name and Title of Signatory: \_\_\_\_\_

Name of Bidder: \_\_\_\_\_

Address: \_\_\_\_\_

## Bid-Securing Declaration

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

IFB No.: \_\_\_\_\_

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

We, the undersigned, declare that:

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

We accept that we are required to pay the Bid Security amount specified in the Bidding Data Sheet within 5 days of your instruction and failure to do so will automatically debar us from being eligible for Bidding in any contract with the government Procuring Agencies from being eligible for Bidding for the period prescribed in the Debarment Rules, if we are in breach of our obligation(s) under the Bid conditions, because we:

- (a) Have withdrawn our Bid during the period of Bid validity specified by the Bidder in the Form of Bid;
- (b) Having not accepted the correction of errors in accordance with the Instructions to Bidders ITB 30.2; or
- (c) Having been notified of the acceptance of our Bid by the Procuring Agency during the period of Bid validity, (i) fail or refuse to furnish the performance security in accordance with the ITB, or (ii) fail or refuse to execute the Contract in accordance with the ITB 36.

We understand this Bid-Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of (i) our receipt of your notification to us of the name of the successful Bidder; or (ii) thirty (30) days after the expiration of our Bid.

Signed: \_\_\_\_\_

In the capacity of \_\_\_\_\_

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

Duly authorized to sign the Bid for and on behalf of: \_\_\_\_\_

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
Corporate Seal (where appropriate)

Affix Legal Stamp

## Qualification Information

*Notes on Form of Qualification Information: The following information is to be filled in by Bidders which will be used for purposes of evaluation*

### 1. Individual Bidders

1.1. Constitution of legal status of Bidder: [attach copy]

Place of registration:

Principal place of business:

1.2. Power of attorney of signatory of Bid [attach copy]

### Forms for Key Personnel

#### Form – 1A: Proposed Key Personnel

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

1.	Title of position
	Name
2.	Title of position
	Name
3.	Title of position
	Name

#### Form -1B: CV of Proposed Manpower

The Bidder shall provide all the information requested below. Fields with asterisk (\*) shall be used for evaluation.

Position*		
Personnel information	Name *	Date of birth
	Qualifications:	
Present employment	Name of Procuring Agency:	
	Address of Procuring Agency:	

Experience		
From	To	Company, Project, Position, and Relevant Technical and Management Experience

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

**Documents Required:**

The Bidder shall provide following supporting documents for the above the proposed manpower:

1. Original signed CVs of technical manpower committed.
2. Copies of Citizenship ID Cards or work permit/ Passport/ Election/Voter ID cards (for foreign workers) of all manpower committed.
3. Copies of contract agreements with all personnel if they have been hired on contract by the contractor.

**1.3. Forms for Equipment**

The Bidder shall provide adequate information to demonstrate clearly that it has the capability to meet the requirements for the key equipment listed in Section 3 (Evaluation and Qualification Criteria).

Sl.No	Equipment Name & Type	Total No. committed
1.		
2.		
3.		
4.		

**Documents Required:**

The Bidder shall provide following supporting documents for the above proposed equipment:

1. Copy of the registration certificate of each equipment committed.
2. Copy of Insurance policy for each equipment where applicable.
3. In case of hiring, copy of the lease agreement in addition to 1 & 2 above.

4. In case of equipment that do not require registration with BCTA, copy of cash memos/invoice stamped by RRCO if newly imported (within 1 year from the date of purchase) or verification letter issued by a Government Engineer or Competent institution.

**Letter of Intent**  
*(Letterhead of the Procuring Agency)*

Notes on standard form of letter of Intent  
This issuance of Letter of Intent (always before letter of acceptance) is the information of the selection of the Bid of the successful Bidder by the Procuring Agency and for providing information to other unsuccessful Bidders who participated in the Bid as regards the outcome of the procurement process.

The Procuring agency shall allow five (5) days as described in ITB 36 between this Letter of Intent and Letter of Acceptance to allow aggrieved Bidders to challenge your decision if they feel they have treated unfairly.

*(Insert date)*

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

*This is to notify you that, it is our intention to award the contract for your Bid dated-----*

*[Insert date] for execution of the-----*

--

----- *[Insert name of the contract and identification number, as given in the BDS/ SCC] for the Contract Price of-----*

--

----- *[Insert amount in figure and words and name of currency] as corrected and modified [if any corrections] in accordance with the Instructions to Bidders.*

*Authorized Signature: -----*

*Name and Title of Signatory:-----*

*Name of Agency:-----*

**CC:**

*[Insert name and address of all other Bidders who submitted the Bid]*

## **SECTION 5. GENERAL CONDITIONS OF CONTRACT**

### **1. Definitions**

- 1.1. The following words and expressions shall have the meaning hereby assigned to them. Boldface type is used to identify the defined terms:
- (a) Completion Certificate means the Certificate issued by the Project Manager as evidence that the Contractor has executed the Works in all respects as per drawing, specifications, and Conditions of Contract.
  - (b) The Completion Date is the date of completion of the Works as certified by the Procuring agency, in accordance with GCC Clause 18.
  - (c) Contract means the Agreement entered into between the Procuring Agency and the Contractor to execute, complete and maintain the Works.
  - (d) Contractor means the person or corporate body who's Tender to carry out the Works has been accepted by the Procuring Agency and is named as such in the SCC.
  - (e) Contract Price is the price stated in the Letter of Acceptance and thereafter as adjusted in accordance with the provisions of the Contract.
  - (f) The Contractor's Bid is the completed Bid Document including the priced offer submitted by the Contractor to the Procuring Agency.
  - (g) Days mean calendar days.
  - (h) A Defect is any part of the Works not completed in accordance with the Contract.
  - (i) The Intended Completion Date is the date specified in the SCC on which the Contractor shall complete the Works and may be revised if extension of time or an acceleration order is issued by the Project Manager.
  - (j) The Procuring Agency is the party named in the SCC who employs the Contractor to carry out the Works.
  - (k) The Project Manager is the person named in the SCC (or any other competent person appointed by the Procuring Agency and notified to the Contractor, to act in replacement of the Procuring Agency) who is responsible for supervising the execution of the Works and administering the Contract.
  - (l) The Site is the area defined as such in the SCC.
  - (m) A Variation is an instruction given by the Project Manager which varies the Works.

- (n) The Works are what the Contract requires the Contractor to construct, install, and hand over to the Procuring Agency, as defined in the SCC.

## **2. Interpretation & Documents forming the Contract**

- 2.1 In interpreting the GCC, singular also means plural, male also means female or neuter, and the other way around. Headings in the GCC shall not be deemed part thereof or be taken into consideration in the interpretation of the Contract. Words have their normal meaning under the language of the Contract unless specifically defined.
- 2.2. The following documents forming the Contract shall be interpreted in the following order of priority:
  - (a) The signed Contract Agreement;
  - (b) The Letter of Acceptance;
  - (c) The completed Bid form as submitted by the Bidder;
  - (d) The Special Conditions of Contract;
  - (e) The General Conditions of Contract;
  - (f) Specification;
  - (g) The Drawings; and
  - (h) Any other document listed in the SCC as forming part of the Contract.

## **3. Corrupt, Fraudulent, Collusive or Coercive Practices**

- 3.1. The Government requires that Procuring Agency, as well as Contractors shall observe the highest standard of ethics during the implementation of procurement proceedings and the execution of Contracts under public money.
- 3.2. In pursuance of this requirement, the Procuring Agency shall
  - (a) exclude the Contractor from participation in the procurement proceedings concerned or reject a proposal for award; and
  - (b) declare a Contractor ineligible, either indefinitely or for a stated period of time, from participation in procurement proceedings under public money;

If at any time, determines that the bidder has engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a Contract under the public money.

3.3. The Government defines, for the purposes of this provision, the terms set forth below as follows:

- a) Corrupt practice<sup>5</sup> is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value<sup>6</sup> to influence improperly the actions of another party;
- b) “fraudulent practice”<sup>7</sup> is any intentional act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
- c) “collusive practice”<sup>8</sup> is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party; and
- d) “Coercive practice”<sup>9</sup> is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party.

3.4. The Government requires that the Client’s personnel have an equal obligation not to solicit, ask for and/or use coercive methods to obtain personal benefits in connection with the said proceedings.

#### **4. Governing Language and Law**

4.1 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Contractor and the Procuring Agency, shall be written in English unless otherwise stated in the SCC. The Contract shall be governed by and interpreted in accordance with the laws of the Kingdom of Bhutan.

#### **5. Project Manager’s Decision**

5.1 Except where otherwise specifically stated in the SCC, the Project Manager will decide Contractual matters between the Procuring Agency and the Contractor in the role as representative of the Procuring Agency.

#### **6. Delegation**

6.1 The Project Manager may delegate any of his duties and responsibilities to his representative, after notifying the Contractor, and may cancel any delegation, without retroactivity, after notifying the Contractor.

<sup>5</sup>“Another party” refers to a public official acting in relation to the procurement process or contract execution. In this context, “public official” includes staff and employees of any organizations (including any institutions providing finance for the Works) taking or reviewing procurement decisions.

<sup>6</sup>“anything of value” includes, but is not limited to, any gift, loan, fee, commission, valuable security or other asset or interest in an asset; any office, employment or contract; any payment, discharge or liquidation of any loan, obligation or other liability whatsoever, whether in whole or in part; any other services, favour or advantage, including protection from any penalty or disability incurred or apprehended or from any action or proceeding of a disciplinary or penal nature, whether or not already instituted and including the exercise or the forbearance from the exercise of any right or any official power or duty.

<sup>7</sup>A “party” refers to a public official; the terms “benefit” and “obligation” relate to the procurement process or contract execution; and the “act or omission” is intended to influence the procurement process or contract execution.

<sup>8</sup>“Parties” refers to participants in the procurement process (including public officials) and an “improper purpose” includes attempting to establish bid prices at artificial, non-competitive levels.

<sup>9</sup>a “party” refers to a participant in the procurement process or contract execution.

## **7. Communications and Notices**

- 7.1 Communications between Parties pursuant to the Contract shall be in writing to the address specified in the SCC. A notice shall be effective when delivered or on the notice's effective date, whichever is later.

## **8. Sub-Contracting**

- 8.1 The Procuring Agency may define the mechanism for Sub-Contracting of parts of works to Specialized firms registered with Bhutan Construction and Transport Authority or any other competent authority for specialized categories of works provided in the guidelines for registration of such firms.
- 8.2 Payments shall be made directly to the principal contractor, not to the Specialized firms unless explicitly agreed otherwise between the Procuring Agency and the principal contractor with the specific mechanism to do so.
- 8.3 The principal contractor shall execute a contract with the Specialized firm which shall bind the parties throughout the contract including the defect liability period.

## **9. Contractor's Personnel & Equipment**

- 9.1 The Contractor shall employ the key personnel named in the Schedule of Key Personnel, as referred in the SCC, to carry out the functions stated in the Schedule, or other personnel approved by the Project Manager. Similarly, the contractor shall deploy all committed equipment at site as and when required by the Procuring Agency.

## **10. Welfare of Labourers & Child Labour**

- 10.1 The Contractor shall provide proper accommodation to his labourers and arrange proper water supply, conservancy and sanitation arrangements at the site in accordance with relevant regulations, rules and orders of the government.
- 10.2 The Contractor shall comply with the applicable minimum age, labour laws and requirements of (including applicable treaties which have been ratified by) the Government of Bhutan regarding hazardous forms of child labour.

## **11. Safety Security and Protection of the Environment**

- 11.1 The Contractor and the procuring agency shall comply with Occupational Health and Safety related regulations for the safety of all activities on the Site.
- 11.2 The Contractor shall comply with all applicable safety regulations for the adequacy and safety of site operations and methods of construction and he shall adopt measures to prevent injuries to persons or damage to properties or utilities. He shall avoid undue interference with private business, public travel, or with the work of other contractors. He shall take steps to protect the environment and to minimize noise, pollution or other undesirable effects resulting from his method of operation.

## **12. Access to the Site**

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

## **13. Documents & Information**

13.1 The Contractor shall furnish to the Project manager all information, schedules, calculations and supporting documents that may be requested.

## **14. Property**

14.1 All materials on the Site, Plant, Equipment, Temporary Works and Works are deemed to be the property of the Procuring Agency if the contract is terminated because of a Contractor's default:

(a) Plants and equipment will be released after due payment of compensations prescribed in GCC clause 37.1.

## **15. Insurance**

15.1 The Contractor shall provide, in the joint names of the Procuring Agency and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles stated in the SCC for the following events which are due to the Contractor's risks:

(a) loss of or damage to the Works, Plant and Materials to be built into the works.

15.2 The Contractor shall deliver policies and certificates of insurance to the Project Manager, for the Engineer's approval, before the Start Date. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred. Payments received from insurers shall be used for the rectification of loss or damage.

15.3 If the Contractor does not provide any of the policies and certificates required, the Procuring Agency may affect the insurance which the Contractor should have provided and recover the premiums the Procuring Agency had paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.

## **16. Possession of the Site**

16.1 The Procuring Agency shall give possession of the Site, or parts of the Site, to the Contractor on the date(s) specified in the SCC.

## **17. Commencement of Works**

17.1 The Contractor may commence execution of the Works on the Start Date, or other such date as specified in the SCC, and shall carry out the Works in an expeditious manner.

17.2 If the Contractor fails to commence the works within the above stated period, the Procuring Agency may, at his sole discretion, terminate the Contract and may use the proceeds of the Performance Security to compensate for any losses thereof, if any.

**18. Completion of Works**

18.1 The Contractor shall complete the Works within the number of days stated in the SCC from the date of commencing the Works on the Site.

**19. Programme of Works**

19.1 Within the time stated in the SCC, which shall not be more than fifteen (15) days, after the date of the Letter of Acceptance, the Contractor shall submit to the Project Manager for approval of a Work Plan showing the general methods, arrangements, order and timing for all the activities in the Works. Contractor shall submit to the Project Manager for approval an updated Programme at intervals no longer than the period stated in the SCC.

**20. Early Warning**

20.1 Contractor shall warn the Project Manager at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work result in increase to the Contract Price or delay in the execution of the Works.

**21. Compensation Events**

21.1 The following shall be Compensation Events:

(a) the Procuring Agency does not give access to the Site or part of the Site by the Site Possession Date stated in the SCC clause 15; and

(b) if the payment is delayed pursuant to Clause 24.1.

21.2 If a Compensation Event would prevent the work being completed before the Intended Completion Date, the Intended Completion Date shall be extended, as appropriate, by the Engineer.

**22. Non-Scheduled Items of Works**

22.1 The Contractor shall be paid for non-scheduled items of works only when the Project Manager approves such works at the rates and in the manner stated in the SCC.

**23. Schedule of Works**

23.1 The Schedule of Works will contain rates for all items for the construction including temporary works, installation, testing, and commissioning work to be done by the Contractor.

23.2 The Contractor shall be paid for the quantity of the work done at the rate in the Contract Agreement for each item.

23.3. The Contractor shall be entirely responsible for all taxes, duties, license fees, and other such levies imposed outside and inside Bhutan.

## **24. Payment Certificates**

- 24.1 The Contractor shall submit to the Project Manager monthly statements of the estimated value of the work executed less the cumulative amount certified previously. The Project Manager shall check the Contractor's monthly statement and certify the amount to be paid to the Contractor latest by twenty five (25) days from the date of receipt of contractor's monthly statement in correct and complete form.
- 24.2 The value of work executed shall be determined by the Project Manager.
- 24.3 The value of work executed shall comprise the value of the quantities of the items in the Schedule of Works completed.
- 24.4 The value of work executed shall include the valuation of Variations, Certified Day works and Compensation Events.
- 24.5 The Project Manager may exclude any item certified in previous certificates or reduce the proportion of any item previously certified in any certificate in the light of later information.

## **25. Payments**

- 25.1 The Procuring Agency shall pay the Contractor the amounts certified by the Project Manager within ten (10) days of the date of each payment certificate issued by the Project Manager.
- 25.2 The Procuring Agency shall make Advance Payment (mobilization and secured advance) to the Contractor of the amounts and by the dates stated in the SCC. The mobilization advance shall be backed up by equivalent amount of unconditional Bank Guarantee (Form 4).
- 25.3 The Contractor is to use the advance payment only to pay for Equipment, Plant, Materials, and mobilisation expenses required specifically for the execution of the Contract. The Contractor shall demonstrate that the advance payment has been used in this way by submitting copies of invoices or other documents to the Procuring Agency.
- 25.4 The advance payment shall be recovered by deducting proportionate amounts from payments due to the Contractor, following the schedule of completed percentages of the Works on a payment basis. No account shall be taken of the advance payment or its repayment in assessing valuations of work done, variations, claims or any amount payable due to failure to complete the works.

## 26. Changes in Quantities<sup>10</sup>

- 26.1 If the final quantity of the work done differs from the quantity in the Bill of Quantities for the particular item by more than twenty percent (20%), provided the cost of variation beyond twenty percent (20%) limit exceeds one percent (1%) of the Initial Contract Value the Procuring Agency shall adjust the quoted rate up or down to allow for the change. Only when both conditions are met then the quoted rate shall be changed:
- (a) If the quantity of work executed exceeds the quantity of the item in BOQ beyond the higher specified limit the Procuring Agency shall fix the market rate (which may be lower or higher than the quoted rate) to be applied for the additional quantity of the work executed; and
  - (b) If the quantity of work executed is less than the quantity of the item in BOQ lesser than the lower specified limit, the Procuring Agency shall fix the market rate based on the submission of the contractor (which may be lower/higher than the quoted rate) to be applied for whole of the quantity of the work so executed for that particular item.
- 26.2 The rates shall not be adjusted from changes in quantities if thereby the Initial Contract Price is exceeded by more than five percent (5%), except with the prior approval of the Procuring Agency in consultation with the Tender Committee.
- 26.3 For works up to Nu. 50 M, when quantity deviation exceeds twenty percent (20%) from the quantity in BOQ and the total cost of such deviations exceeds twenty percent (20%) of the initial contract price, the Procuring Agency shall seek prior approval of the Competent Authority (Finance Committee constituted in their respective Agency).
- 26.4 If requested by the Project Manager, the Contractor shall provide the Project Manager with a detailed cost break down of any rate in the Bill of Quantities.

<sup>10</sup>In lump sum contracts, delete "Bill of Quantities" and replace with "Activity Schedule," and replace entire Clause 26 with new Sub- Clause 26.1, as follows:

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

## 27. Variations

- 27.1 The Project Manager shall order any variation of the form, quality Or quantity of the Works or any part thereof that may, in his opinion, be necessary. Each variation may include, but is not limited to, any of the following:
- (a) increase or decrease in the quantity of any work included in the Contract;
  - (b) omission of any item of work;
  - (c) change in the character or quality or kind of any such work;
  - (d) change in the levels, lines, position and dimensions of any part of the works;
  - (e) additional work of any kind (not exceeding twenty percent (20%) of the original contract amount, or the maximum threshold value for the use of Limited Tender whichever is lower); or
  - (f) change in any specified sequence or timing of construction activities.
- 27.2 All Variations shall be included in updated Programs produced by the Contractor.
- 27.3 The Contractor shall provide the Project Manager with a quotation for carrying out the Variation when requested to do so by the Project Manager. The Project Manager shall assess the quotation, which shall be given within seven (7) days of the request or within any longer period stated by the Project Manager and before the Variation is ordered.
- 27.4 If the Contractor's quotation is unreasonable, the Project Manager may order the Variation and make a change to the Contract Price, which shall be based on the Project Manager's own forecast of the effects of the Variation on the Contractor's costs.
- 27.5 If the Project Manager decides that the urgency of varying the work would prevent a quotation being given and considered without delaying the work, no quotation shall be given and the Variation shall be treated as a Compensation Event.
- 27.6 The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning.

- 27.7 If the work in the Variation corresponds to an item description in the Bill of Quantities and if, in the opinion of the Project Manager, the quantity of work above the limit stated in Sub-Clause 25.1 or the timing of its execution do not cause the cost per unit of the quantity to change, the rate in the Bill of Quantities shall be used to calculate the value of the Variation. If the cost per unit of quantity changes, or if the nature or timing of the work in the Variation does not correspond with items in the Bill of Quantities, the quotation by the Contractor shall be in the form of new rates for the relevant items of work.
- 27.8 For works up to Nu. 50 Million, if the value of additional work exceeds twenty percent (20%) of the initial contract price, the Procuring Agency shall seek prior approval of the Competent Authority (Finance Committee Constituted in respective Agencies).

## **28. Retention**

- 28.1 The Procuring Agency shall retain from each payment due to the Contractor the proportion stated in the SCC until the completion of the whole of the Works.
- 28.2 The Retention Money shall be returned to the contractor on completion of Defect Liability Period.
- 28.3 Withstanding GCC 27.2, in case of contracts of duration more than 12 months, fifty percent (50%) of the Retention Money may be returned to the contractor upon completion of work against the submission of an unconditional guarantee issued by a reputed financial institution and acceptable to the Procuring Agency. Such a guarantee shall be valid until the issue of a No Defects Liability Certificate.
- 28.4 If the contractor fails to remedy any reported defect within the Defects Liability Period, the Procuring Agency shall withhold the payment or realize claims from the guarantee, of an amount, which in the opinion of the Procuring Agency, represent the cost of the defects to be remedied.
- 28.5 Subject to GCC 27.4, the Retention Money or the balance of it shall be discharged and returned to the contractor within 14 days of the issue of the No Defects Liability Certificate.
- 28.6 Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defect liability period shall be remedied by the Contractor at the Contractor's cost, if the loss or damage arises from the Contractor's act or omission.

## 29. Liquidated Damages

- 29.1 The Contractor shall pay liquidated damages to the Procuring Agency at the rate per day stated in the SCC for each day that the Completion Date is later than the Intended Completion date for the works or for any part thereof.

## 30. Performance Security

- 30.1 Upon receipt to Letter of Acceptance, a Performance Security shall be provided to the Procuring Agency in the amount and form stated in the Contract Forms (Form 3). The Performance Security shall be valid until a date thirty (30) days from the date of issue of the Certificate of Completion.
- 30.2 The proceeds of the Performance Security shall be payable to the Procuring Agency unconditionally upon first written demand as compensation for any loss resulting from the Contractor's failure to complete its obligations under the Contract.

## 31. Price Adjustment

- 31.1 The price adjustments shall be mandatorily applicable for contract duration of more than twelve (12) months. No price adjustments shall be allowed within first twelve (12) months of any contract.
- 31.2 The adjustment shall be based on the cost of materials as Reflected by the Material Index Numbers published by the National Statistical Bureau<sup>11</sup> (NSB), calculated for every successive period of 3 months after the 12th month of the Contract using the following formulae.

$$V = W \times 0.80 \times 0.75 \times (M - M0) / M0$$

Where:

V = amount of variation for materials payable to/recoverable from the contractor for the period under review;

W = value of the work done during the period under review minus (amount of secured advance recovered in the same period + value of works executed under variations for which the variations are paid in the new rate);

M0 = Material Index for the month in which the tender was submitted;

M = the average value of the above Index Number for the 3 months period under review; Price adjustment formula for Labour shall be calculated as follows:

$$VL = W \times 0.80 \times 0.25 \times (L - L0) / 5 \times L0$$

V = amount of variation for labour payable to/recoverable from the contractor for the period under review;

<sup>11</sup>Until NSB comes up with the Material Index for the Royal Government of Bhutan, the Wholesale Price- Index (all commodities) for Materials shall be used for the purpose of this clause. Visit [www.eaindustry.nic.in](http://www.eaindustry.nic.in) for the Wholesale Price Index.

W = value of the work done during the period under review minus (amount of secured advance recovered in the same period + value of works executed under variations for which the variations are paid in the new rate);

L0= Nu. 275.83 (Average labour rate in latest BSR);

L= Nu. 544.54 (Average labour rate in latest BSR).

- 31.3 Price Adjustment shall apply only for work carried out within the stipulated time or extensions granted by the Procuring Agency and shall not apply to work carried out beyond the stipulated time for reasons attributable to the Contractor.

### **32. Completion**

- 32.1 The Contractor shall request the Project Manager to issue a Certificate of Completion of the Works, and the Project Manager shall do so upon deciding that the work is completed. After completion certificate is issued by the Project Manager, the contract will formally end and the work shall be updated as completed in relevant systems.

### **33. Correction of Defects**

- 33.1 The Project Manager shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion, and is defined in the SCC. The Defects Liability Period shall be extended for as long as the Defects remain to be corrected.
- 33.2 If the Contractor has not corrected a Defect within the time specified in the Project Manager's notice, the Project Manager will assess the cost of having the Defect corrected, and the Contractor will pay this amount.

### **34. Taking Over**

- 34.1 The Procuring Agency shall take over the Site and the Works within seven (7) days of the Engineer issuing a Certificate of Completion.

### **35. Final Account**

- 35.1 The Contractor shall supply the Project Manager a detailed account of the total amount that the Contractor considers payable under the Contract. The Project Manager shall certify any final payment that is due to the Contractor within fifteen (15) days of receiving the Contractor's account if it is correct and complete.
- 35.2 The Procuring Agency shall effect payment of the final account within ten (10) days from the date of certification by the Project Manager.

### **36. Termination**

- 36.1 The Procuring Agency or the Contractor by giving thirty (30) days written notice of default to the other party may terminate the Contract in whole or in part if the other party causes a fundamental breach of Contract.
- 36.2 Fundamental breaches of the Contract shall include, but shall not be limited to, the following:

- (a) The Contractor stops work for more than thirty (30) days when no stoppage of work is shown on the current Programme and the stoppage has not been authorised by the Project Manager;
- (b) the Project Manager gives notice that failure to correct a particular defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Project Manager;
- (c) the Contractor has delayed the completion of the Works by the number of days for which the maximum amount of Liquidated Damages can be paid;
- (d) the Contractor, in the judgment of the Procuring Agency, has engaged in corrupt or fraudulent practices, as defined in GCC Clause 3, in competing for or in executing the Contract; and
- (e) a payment certified by the Project Manager is not paid to the Contractor by the Procuring agency within sixty (60) days of the date of the Project Manager's certificate.

36.3 The Procuring Agency and the Contractor may at any time terminate the Contract by giving notice to the other party if either of the parties becomes bankrupt or otherwise insolvent. In such event, termination will be without compensation to any party provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue to the other party.

36.4 Notwithstanding the above, the Procuring Agency may terminate the Contract for convenience.

36.5 If the Contract is terminated, the Contractor is to stop work immediately, make the Site safe and secure and hand over the Site to the Procuring Agency as soon as reasonably possible.

36.6 Following the termination of contract, the Procuring Agency may retender or execute the works departmentally.

### **37. Payment upon Termination**

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

37.2 If the Contract is terminated for the Procuring Agency's convenience or because of a fundamental breach of Contract by the Procuring Agency, the Contractor shall be entitled to payments for completed works and the materials that have been brought to the site for the purpose of the works, but not used as certified by the Engineer after adjusting any payments received by the Contractor.

### **38. Release from Performance**

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

### **39. Force Majeure**

39.1 For the purpose of this Contract, "Force Majeure" means an exceptional event or circumstance:

- (a) which is beyond a Party's control;
- (b) which such Party could not reasonably have provided against before entering into the Contract
- (c) which, having arisen, such Party could not reasonably have avoided or overcome; and
- (d) which is not substantially attributable to the other Party.

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

- (a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies;
- (b) rebellion, terrorism, sabotage by persons other than the Contractor's Personnel, revolution, insurrection, military or usurped power, or civil war;
- (c) riot, commotion, disorder, strike or lockout by persons other than the Contractor's Personnel;
- (d) munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity; and
- (e) natural catastrophes such as earthquake, Glacial Lake Outburst Floods, hurricane, typhoon or volcanic activity.

- 39.3 However, force majeure shall not include the following unless determined as exceptional event or circumstances;
- (a) rainfall;
  - (b) snowfall;
  - (c) strikes in other countries;
  - (d) non-availability of labourer and materials such as timbers, boulders, sand, and other material; and/or
  - (e) difficulty and risky terrain and remoteness of site.
- 39.4 The exceptional event or circumstances provided in GCC clause 39.1 which do not come within purview of Force Majeure requires approval of the Tender committee with justification for the approval of compensation.

#### **40. Settlement of Disputes**

- 40.1 The Procuring Agency and the Contractor shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.
- 40.2 Any dispute between the parties to the Contract that may not be settled amicably will be referred to Arbitration at the initiative of either of the parties.
- 40.3 The Arbitration shall be conducted in accordance with the prevailing Alternative Dispute Resolution Act of the Kingdom of Bhutan and its implementing rules and regulations in force or any other law of arbitration specified in the contract.
- 40.4 The dispute resolution shall not prohibit continuation of execution of the work unless injunction order is issued by the court of law.

## SECTION 6. SPECIAL CONDITIONS OF CONTRACT

Instructions for completing the Special Conditions of Contract are provided, as needed, in the notes in italics mentioned for the relevant GCC Clauses.3	
Clause Ref	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
GCC 1.1(d) GCC 1.1(i) GCC 1.1(j) GCC 1.1(k) GCC 1.1(l) GCC 1.1(m)	<p>The Contractor is [name, address and name of authorised representative].</p> <p>The Procuring Agency is [name, address and name of authorised representative].</p> <p>The Project Manager is [name and address of the Project Manager].</p> <p>The Intended Completion Date for the whole of the Works shall be [insert date].</p> <p>The Site is located at [enter location of Site].</p> <p>The Works are [enter the name of the Works]</p>
GCC 2.2(h)	The additional documents forming part of this Contract are: [if there are no additional documents state “No additional documents”.]
GCC 5.1	The Project Manager shall obtain specific approval of the Procuring Agency before taking any of the following actions:
GCC 7.1	The addresses for Communications shall be: For the Procuring Agency: [insert name, address and contact details] For the Contractor:
GCC 9.1	The Key Personnel of the Contractor are: [specify only for higher value work] The equipment are: [specify the equipment to be deployed at site]
GCC 15.1	For insurance purposes the type of cover required shall be: The contractor shall be responsible for the insurance [modify as appropriate]
GCC 16.1	Possession of the site shall be within [ ] days from the date of signing of the Contract.
GCC 17.1	Commencement of work shall be within [ ] days from the date of handing over possession of the Site.
GCC 18.1	Completion of works shall be within [ ] days from the date of commencing the works on the site.
GCC 19.1	The Contractor shall submit the first work plan [... ..] days after signing the Contract, and shall update the work plan every [... ..] weeks during the period of the Contract.
GCC 22.1	[Enter here the agreed rates for non-scheduled items of work if known, if not known then make the statement “The rates for non-scheduled items of works shall be determined by the Engineer”.

GCC 25.2	<p>An advance payment of [insert percentage] % of the Contract Price will be made to the Contractor within (14) days of Contract signing date.</p> <p>The secured advance of Nu. [insert the amount of secured advance] of the cost of the materials brought at site shall be paid at [specify the date]</p> <p>[The mobilization advance payment is usually 10% of the contract price. The secured advance shall be upto 100% of the value of materials brought at site]</p>
GCC 28.1	<p>The Retention shall be [insert percentage] % of the Contract Price.</p>
GCC 29.1	<p>The liquidated damages for the whole of the Works are [percentage of the initial Contract Price] per day.</p> <p>The maximum amount of liquidated damages for the whole of the Works is [insert number] percent of the initial Contract Price.</p> <p>[Usually, liquidated damages are set between 0.05 percent to 0.10 percent per day and the total amount is not to exceed 10 percent of the Contract Price.]</p>
GCC 33.1	<p>The Defects Liability Period shall be [            ]</p> <p>[the defects liability period shall be a of minimum of twelve (12 months)]</p>
GCC 37.1	<p>The percentage to apply to the value of the work not completed, representing the Procuring Agency's additional cost for completing the Works, is [percent, it is generally 20% of the value of work not completed up to a maximum of 10% of the initial contract price]</p>

## **SECTION 7. CONTRACT FORMS**

This section contains forms which, once completed, will form part of the Contract. The forms for Performance Security and Advance Payment Security, when required, shall only be completed by the successful Bidder after Contract award.

### **Contract Forms**

- Form - 1 Letter of Acceptance
- Form - 2 Contract Agreements
- Form - 3 Bank Guarantee for Performance Security
- Form - 4 Bank Guarantee for Advance Payment

## Letter of Acceptance

Contract No:

Date:

To:

[name and address of Contractor]

This is to notify you that your Bid dated [insert date] for the execution of the Works for [name of project / Contract] for the Contract Price of Nu [amount in figures and in words], as corrected and modified in accordance with the Instructions to Bidder is hereby accepted by [name of the Procuring Agency].

You are requested to proceed with the execution of the Works on the basis that this letter of acceptance shall constitute the formation of a Contract, which shall become binding upon furnishing a Performance Security and signing the Contract Agreement within fifteen (15) working days, in accordance with ITB Clause 36.

We attach the Contract Agreement and Special Conditions of Contract for your perusal and signature.

*Signed*

*Duly authorised to sign for and on behalf of*  
*[name of Procuring Entity]*

*Date:*

## Contract Agreement

THIS AGREEMENT, made the [day] of [month] [year] between [name and address of Procuring Agency] (hereinafter called “the Procuring Agency”) of the one part and [name and address of Contractor] (hereinafter called “the Contractor”) of the other part.

WHEREAS, the Procuring Agency invited Tenders for certain Works, viz, [brief description of the Works] and has accepted a Tender by the Contractor for the execution of those works in the sum of Ngultrum [insert amount in figures and words], hereinafter called “the Contract Price.

NOW THIS AGREEMENT WITNESSETH as follows:

1. In this Agreement, words and expressions shall have the same meanings as respectively assigned to them in the General Conditions of Contract hereinafter referred to.
2. The documents forming the Contract shall be interpreted in the following order of priority:
  - (a) The signed Contract Agreement;
  - (b) The letter of Acceptance;
  - (c) The completed Bid form as submitted by the Bidder;
  - (d) The Special Conditions of Contract;
  - (e) The General Conditions of Contract;
  - (f) Specifications
  - (g) The Drawings; and
  - (h) Any other document listed in the SCC as forming part of the Contract.
3. In consideration of the payments to be made by the Procuring Agency to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Procuring Agency to execute and complete the Works and to remedy any defects therein in conformity in all respects with the provisions of the Contract.
4. The Procuring Agency hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS where of the Parties thereto have caused this Agreement to be executed in accordance with the laws of Bhutan on the day month and year first before written.

For the Procuring Agency

For the Contractor

*Signature*

*Print Name*

*Title*

*In the presence of (Name)*

*Address*

**Performance Demand Bank Guarantee**  
(Unconditional)

[The bank/successful Bidder providing the Guarantee shall fill in this form in accordance with the instructions indicated in brackets.]

[Bank's name, and address of issuing branch or office]

**Beneficiary:** [name and address of Procuring Agency]

**Date:** [date]

**PERFORMANCE GUARANTEE No.:** [Performance Guarantee number]

We have been informed that [name of Contractor] (hereinafter called "the Contractor") has entered into Contract No. [reference number of the Contract] dated [date of Contract] with you, for the execution of [name of Contract and brief description of Works] (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a Performance Guarantee is required.

At the request of the Contractor, we [name of Bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [amount in figures] ([amount in words]),<sup>12</sup> such sum being payable in the types and proportions of currencies in which the Contract Price is payable, 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(s) under the Contract, without you needing to prove or to show grounds for your demand or the sum specified therein.

This Guarantee shall expire no later than 30 days from the date of issuance of the Certificate of Completion, calculated based on a copy of such Certificate which shall be provided to us, or on the [number] day of [month], [year]<sup>13</sup>, whichever occurs first. Consequently, any demand for payment under this Guarantee must be received by us at this office on or before that date. The Guarantor agrees to a one-time extension of this Guarantee for a period as required by the Procuring agency, in response to the Procuring Agency's written request for such extension, such request to be presented to the Guarantor before the expiry of the Guarantee.

[signature(s) of an authorized representative(s) of the bank]

<sup>12</sup>The Guarantor (bank) shall insert an amount representing the percentage of the Contract Price specified in the Contract and denominated either in the currency (ies) of the Contract or a freely convertible currency acceptable to the Procuring Agency.

<sup>13</sup>Insert the date 30 days after the expected Completion date. The Procuring Agency should note that in the event of an extension of the time for completion of the Contract, the Procuring Agency would need to request an extension of this Guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the Guarantee.

## Bank Guarantee for Advance Payment

The **bank/successful Bidder** providing the Guarantee shall fill in this form in accordance with the instructions indicated in brackets.

[bank's name, and address of issuing branch or office]

**Beneficiary:** [name and address of Procuring Agency] Date: [date]

**ADVANCE PAYMENT GUARANTEE No.:** [number]

We have been informed that [name of Contractor] (hereinafter called "the Contractor") has entered into Contract No. [reference number of the contract] dated [date of Contract] with you, for the execution of [name of contract and brief description of Works] (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment is to be made against an advance payment guarantee in the sum or sums indicated below.

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 figures] ([amount in words]<sup>14</sup>) upon receipt by us for your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation 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 in its account number [account number] at [name and address of Bank].

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 interim statements or payment certificates which shall be presented to us. This Guarantee shall expire, at the latest, upon our receipt of a copy of the Interim Payment Certificate indicating that eighty percent (80%) of the Contract Price has been certified for payment, or on the [number] day of [month], [year],<sup>15</sup> whichever is earlier. Consequently, any demand for payment under this Guarantee must be received by us at this office on or before that date. We agree to a one-time extension of this Guarantee as required by the Procuring agency, in response to the Procuring Agency's written request for such extension, such request to be presented to us before the expiry of the Guarantee.

[insert signature(s) of authorized representative(s) of bank]

<sup>14</sup>The Guarantor shall insert an amount representing the amount of the Advance Payment and denominated either in the currency (ies) of the Advance Payment as specified in the Contract, or in a freely convertible currency acceptable to the Procuring Agency.

<sup>15</sup>Insert the expected expiration date of the Time for Completion. The Procuring Agency should note that in the event of an extension of the Time For Completion of the Contract, the Procuring Agency would need to request an extension of this Guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the Guarantee.



## SECTION 9. DRAWINGS

### Notes on Drawings

Insert here a list of Drawings. The actual Drawings, including site plans, should be attached to this section or annexed in a separate folder. The Drawings shall be dated, numbered and show the revision number.