



Islamic Republic of Afghanistan  
Independent Election Commission

<b>ITB Number:</b>	Ref: 04 IEC-P		
<b>ITB Title:</b>	Construction of four (4) K-Span Warehouses at IEC HQ		
<b>Issued By:</b>	IEC HQ Procurement Unit		
<b>Date Issued:</b>	15 <sup>th</sup> June 2011	<b>Date Revised</b>	N/A
<b>Dead line and opening date.</b>	The offeror must submit the bids during public bid opening, the sealed bids to be submitted to the assigned bid opening committee. Public Bid Opening on 25 <sup>th</sup> June 2011 at 10:00pm		
<b>Project Code:</b>	<b>IEC-P 04</b>		

**Attention to: All Interested Companies,**

Dear Sir/Madam,

1. The Independent Election Commission (IEC) of Afghanistan (hereafter called the "Client") has received financing (Hereinafter called the "Grant") hereby solicits your Bid for Construction of four K-Span Warehouses in IEC Compound (HQ), Kabul as per the attached Scope of Works .
2. The Client hereby requests your organization (hereafter called the "Contractor") to submit Bids to implement the Project as detailed in this Tender Document.
3. To enable you to submit a bid, please find enclosed:

Section 1 General Information /Instruction to the Bidders

Section 2 Preparation of Tenders

Section 3 Bid Data Sheet

Section 4 Technical Specifications including Scope of Works

Section 5 Pricing Proposal (BOQ) – Removal of Rub Halls and Construction of KSPAN

Section 6 Work Method Statement

Section 7 Bid Submission Form

Section 8 Drawings

Section 9 Performance Guarantee

Section 10 Performance Security Forms

Section 11 Model Contract for Works and Conditions of Contract

## **SECTION- 1-GENERAL INFORMATION / INSTRUCTION TO BIDDERS**

### **1. Project and Location**

- 1.1. The project is for the removal of four (4) rub halls and the construction of four (4) K-Span Ware houses at the IEC
- 1.2. The location of the Project is a Independent Election Compound located to the east of the UNAMA compound on the Jalalabad road, Kabul (34.54738°N – 69.27876°E)

### **2. IEC Point of Contact**

- 2.1. The IEC Site Supervisor, Site Engineer is the Contractor's main point of contact. The Site Supervisor will be the only one individual to provide the Contractor with day-to-day on-site instruction or clarification of the scope of work.
- 2.2. The PMU members are the point of contact for all issues relating to the terms and conditions of the contract.

### **3. Contractor Dairy**

- 3.1. The Contractor will maintain a daily progress journal to be signed daily by the Site Supervisor and Contractor. This journal will be in Pashto/Dari/English.

### **4. Site Access**

- 4.1. One day is for site visit and all technical questions regarding the construction of the four K-span warehouses from PMU, Date on 15 June 2011 from 10:00am.
- 4.2. The Site Supervisor will approve space at the site for the vehicles, equipment and materials.
- 4.3. The Site Supervisor reserves right to postpone work, due to movement restrictions, The Contractor will be notified, at least 24 hours in advance, concerning any movement restrictions in working area. The Contractor will be given 24 hours notice prior to being allowed access to working area.

### **5. Contractor's Representative**

- 5.1. All the times during the project, the Contractor will have a suitably qualified engineer on site, as the site manager.
- 5.2. The Site Supervisor reserves the right, at the Contractor's expense, to stop work if the Site Manager is not present on site.
- 5.3. The Contractor's Site Manager will have the authority to make all decisions concerning the project.

6. At the times during the project, the Contractor should have ability to discuss and explain all issues in Dari/Pashto/English speaking representative on site.
7. The Site Supervisor reserves the right, at the Contractor's expenses, to stop work if the Contractor fails to have an English/Dari/Pashto-speaking representative on site.

## **8. Debris Removal**

- 8.1. The working area will be kept clean and clear at all time.
- 8.2. It is the Contractor's responsibility to remove debris and rubbish from the work site at the end of each day. Under no circumstances shall the remains of means be left anywhere on the site.

## **9. Meeting and Control of Work**

- 9.1. A site office will be established by the Contractor at the work site. The location of the site office will be identified by the Site Supervisor to the Contractor. The office will have a complete set of the contract documents.
10. A site meeting will be held weekly, to review the following:
  11. Technical issues;
  12. Commercial issues;
  13. Schedule. The contractor and the IEC Site Supervisor will use schedule to manage the work. The Contractor will update weekly.
  14. Quality of work
  15. Meetings will be attended by the Contractor's Director, Contractor's Site Manager and IEC Site Supervisor.
  16. The IEC Site Supervisor will issue all information and instructions to the Contractor. It is the Contractor's responsibility to communicate with any Sub-Contractors.
  17. All IEC equipment purchased for the project and stored at the work site will be protected from elements.
  18. Photographs may only be taken during the works with IEC permission and supervision. All photographs are subject to inspection.

## **19. Toilets, Washrooms and First Aid**

19.1.The Contractor is required to provide adequate toilet and washroom facilities for his staff, failure to provide or use these facilities by the Contractor or any member of the Contractor's staff will result in their immediate removal from site. These facilities shall be kept clean and serviceable at all times.

19.2.The Contractor is required to provide adequate first aid equipment on-site, failure of the Contractor to ensure the availability of first aid equipment on-site will result in an immediate 'stop work' order being issued. All cost and time delays resulting from any such 'stop work' order are entirely the Contractor's responsibility.

19.3.The Contractor shall specify in his documents his intention to work during dark hours. The number of hours and numbers of shifts to be worked each day shall be stated.

## **20. Scope of Tender**

21. The Construction of the four (4) K-Span Warehouses should be built according the BOQ, Technical Specification and Drawings.

22. The contractors shall supply all the materials as specified in the Tender document and carry out the Construction works to the satisfaction the client.

## **23. Cost of Tendering**

24. The Contractor shall bear all costs associated with the preparation and submission of the tender/Proposal Document in compliance with tender requirements and the client will in no case be responsible or liable for these costs, regardless of the conduct or outcome of the tendering process.

## **25. Eligible Contractor**

26. The tender will be announced widely through the following websites:

A) IEC: <http://www.iec.org.af> ,

a) PDT: <http://afghanistan.buildingmarkets.org>

b) UNDP: <http://www.undp.org.af/operations/procurement/notices>

## **SECTION-2 PREPARATION OF TENDERS**

### **1. Language of Tender**

The tender prepared by the Bidder and all correspondence and documents relating to the tender exchanged between the Bidder and the client shall be written in either of the three languages, English, Dari and Pashto.

### **2. Tender Prices**

1.2 Prices quoted by the Contractor shall be firm and not subject to variation on any account. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected,

2.2 The Contractor should submit the price schedule (BoQ) as per the format provided herein (ITB); deviation shall not be accepted.

### **3. Currencies of Tender and Payment**

3.1 Prices shall be quoted in AFGHANI and payments shall be made in AFGHANI CURRENCY. Companies submitting currency(s) in any other currencies, their bid shall not be deemed qualified for evaluation.

### **4. Period of Validity of Tenders**

4.1 Tenders shall remain valid for a period of 120 days as mentioned in the Bid Data Sheet. A tender valid for a shorter period may be rejected as non responsive. In exceptional circumstances, the client may solicit the Contractor's consent to an extension of the period of validity of the tender. The request and the responses thereto shall be made in writing (by e- mail)

## **5. Modification and Withdrawal of Tenders**

5.1 No Bid may be modified after the deadline for submission of bids.

The proposals will not be modified after submission of the price.

## **6. TENDER OPENING AND EVALUATION**

6.1 The client will open tenders, including submissions in the presence of Contractor representatives who choose to attend, in the place specified in the Bid Data Sheet.

6.2 The Contractors representatives who are present shall sign an attendance register. In the event of the specified date of Tender opening declared a holiday, the tenders shall be opened at the specified time and location on the next working day.

6.3 Bids shall be opened on the opening day. The client (the evaluation /Bid opening committee) shall evaluate the Bids and identify the responsive Bids.

6.4 The client shall prepare minutes of the tender opening, including the information and disclose to those present.

## **7. Confidentiality of the Process**

7.1 Information relating to the examination, evaluation and comparison of tenders and recommendations for the award of a contract shall not be disclosed to Contractor or any other person not officially concerned with such process until the award to the successful Bidder has been announced.

7.2 Any effort by a Bidder to influence the client in processing of tenders or award decisions may result in the rejection of his tender.

## **8. Clarification of Tenders**

8.1 To assist in the examination, evaluation and comparison of tenders, the client shall, at its discretion, ask the Bidder for clarification of his tender.

8.2 The request for clarification and the response shall be in writing and no change in price or substance of the tender shall be sought, offered or permitted, for evaluation of the tenders.

## **9. Documents Comprising the Bid:**

The Bid must comprise the following documents:

- (a) Bid Submission form;
- (b) Price Schedule (BOQ) completed in accordance with Section 7 in this tender document.
- (c) documentary evidence established that the Bidder is eligible to and is qualified to perform the contract if its Bid is accepted,

## **10. Documents Establishing Bidder's Eligibility and Qualifications:**

The Bidder shall furnish documentary evidence of its status as a qualified Contractor to perform the contract and that the Bidder has the financial, technical, production capability and licenses necessary to perform the contract to the required specifications and within the required time period.

In this regard, the Bidder shall furnish evidence of its qualification by submitting the following information and documents with their bids:

- 10.1 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;;
- 10.2 Total monetary value of construction works performed during the last three (3) years;
- 10.3 Experience in works of a similar nature and size for reach of the last three (3) years and details of works under way or contractually committed; and clients who may be contacted for further information on those contracts;
- 10.4 Major items of construction equipment proposed to carry out the contract as specified in the BDS;
- 10.5 Qualifications and experience of key site management and technical personnel proposed for the contract as specified in the BDS;

- 10.6 Reports on the financial standing of the Bidder for the last two (2) years as specified in the BDS, such as profit and loss statements and certified auditor's reports for the past two (2) years.
- 10.7 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;
- 10.8 Authority to seek references from the Bidder's bankers
- 10.9 Information regarding any litigation, current or during the last five (5) years, in which the bidder was/is involved, the parties concerned, and the disputed amounts and awards.
- 10.10 Proposals for subcontracting components of the Works.

#### **11. Documents Establishing Conformity of Equipment/Goods Incorporated in the Works:**

The Bidder shall also furnish as part of its Bid, documents establishing the conformity to the Bidding Documents of all equipment/goods 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 detailed description of the essential technical and performance characteristics of the equipment/goods as follows:

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

#### **12. Bid Security:**

- a) The Bidder shall furnish as part of its Bid a Bid Security to the Client in the amount of AFN 465,000.00 (Four Hundred Sixty Five Thousand AFN ONLY)
- b) The Bid Security is to protect the Client against the risk of the Bidder's conduct which would warrant the security's forfeiture.
- c) The Bid Security shall be denominated in the currency of the Bid or in a freely convertible currency and shall be in one of the following forms:

- d) Unsuccessful Bidder Bid Security will be discharged or returned as promptly as possible but not later than thirty (30) days after the expiration of the period of Bid Validity prescribed by the Client in this tender .
- e) Bid security must be submitted in form of letter from a reputable bank, IEC shall not accept cheque and cash.
- f) The successful Bidder's Bid Security will be discharged or returned upon the Bidder signing the Contract,
- g) The Bid Security may be forfeited:
  - 1) If a Bidder withdraws its offer during the period of the Bid Validity specified by the Bidder on the Bid Submission Form, or,
  - 2) In the case of a successful Bidder, if the Bidder fails:
    - i. to sign the Contract or,
    - ii. to furnish Performance Security
    - iii. to furnish evidence of adequate insurance coverage in the form required.

### **13. Examination of Tenders and Determination of Responsiveness**

- 13.1 Prior to the detailed evaluation of tenders the client shall determine whether each Tender,
  - (A) Has been properly signed.
  - (B) Is substantially responsive to the requirements of the documents
  - (C) Completeness of the offer with all required documents
- 13.2 A substantially responsive tender is one which confirms to all the terms, conditions and specifications of the tender documents.
- 13.3 If a tender is not substantially responsive, it will be rejected by the Procurement
- 13.4 Committees, and may not subsequently be made responsive by correction or withdrawal of the non conforming deviation or reservation.

## 14. Correction of Errors

14.1 Tenders determined to be substantially responsive will be checked by the Procurement Committee, for any arithmetic errors.

14.2 Errors will be corrected by the Procurement Committee as Follows:

14.3 Where there is a discrepancy between the amounts in figures and in words, the amounts in words will govern,

14.4 Where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity.

14.5 The unit rate as quoted will govern

14.6 unless in the opinion of IEC there is an obviously gross misplacement of the decimal point in the unit rate, in which case the line item total as quoted will govern and the unit rate will be corrected.

14.7 The amount stated in the form of tender adjusted in accordance with the above procedure with the concurrence of the Bidder shall be considered as binding upon the Bidder. If the Bidder does not accept the corrected amount of tender price his tender will be rejected, If the total tender price increases due to corrections of above mistakes, the corrections should be readjusted within the tendered price in consultation with the Bidder.

14.8 Where the adjusted price is lower than the tendered price the adjusted figure will be the tender price. If the Contractor does not agree for such adjustments, his tender will be rejected.

## 15. Evaluation and Comparison of Tenders

**Evaluation of Bids:** Determination of compliance with the Solicitation Documents is based on the content of the Bid itself without recourse to extrinsic evidence.

Evaluation Criteria	
1	Compliance with pricing conditions set in the ITB.
2	Compliance with requirements relating to technical design features and the Bidder's ability to satisfy functional requirements.
3	Compliance with Special and General Conditions specified by these Solicitation Documents.
4	Ability to comply with the time schedule requirements.( Projected Work schedule to be submitted with Bids)

<b>Evaluation Criteria</b>	
5	Demonstrated ability to honor important responsibilities and liabilities required of the Contractor in this ITB (e.g. performance guarantees, warranties, or insurance coverage, etc).
6	Evidence of ability to comply with project guarantee and warranty requirements; compliance with tax-free status of the UN
7	Copy of company's registration required by law and issued by authorized agency. This document is mandatory for administrative compliance and starting of technical evaluation of bids.
8	Company's general and specific experience: the company's general reliability, experience and technical and financial capacity in implementing similar projects in the past three years.
9	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 clear work plan.
10	Key personnel, machinery and capacity to implement. The qualification, competence and experience of the personnel proposed for the various assignments included in the project and capacity to deliver on time. Submit resumes (VS) 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. The key personnel that will appointed for this project must have at least 3 years of experience for the construction of K-span warehouse or relevant experience. In addition to above, must proof that they own K-span roofing machine that will be used for construction of K-span warehouse.
11	Reference list and value of projects implemented in the last three (3) years Include the list of project with similar scope i.e. K-span warehouse, completion period and list of equipment engaged in this projects; include name of project, type of executed works, name, telephone, email of client, value of executed work (use USD or local currency) and duration of executing work (from , month/year – month/year)
12	Reference list and value of ongoing projects contracted by the bidder Include list of projects, name of clients, value of contracted works (use USD or local currency) and deadline for completion of construction works (from, month/year – month/year), it is highly advised that companies to provide list of past contract for similar construction work (K-span warehouse)
13	Local knowledge: proven experience of organization and involved personnel in work in the Afghanistan or evidence of local presence
14	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 bid reparation. In case of unbalanced pricing (ie. Despite an acceptable total evaluated price, the price of one or more BoQ line items is significantly over or understated), IEC has the right to reject the unbalanced bid if it determines that the lack of balance does pose an unacceptable risk.

## **16. AWARD OF CONTRACT**

### **16.1 Post Qualification**

The client shall determine to its satisfaction whether the Bidder selected as having submitted the lowest evaluated tender is qualified to satisfactorily perform the contract.

The determination shall take into account the Contractor's technical, financial, and performance capabilities. It shall be based upon an examination of the documentary evidence of the Contractor's qualifications submitted with the tender. An affirmative determination shall be a prerequisite for award of the contract to the Bidder. If not qualified shall result in rejection of the tender, in which event client shall proceed to the next lowest evaluated tender to make a similar determination of that Contractor's capabilities to perform satisfactorily.

### **16.2 Purchaser's Right to Vary Estimated Quantities:**

The Purchaser reserves the right during the term of the Contract to increase or decrease by up to 25 % the estimated quantity of goods specified in the Schedule of Prices without any change in unit price or other terms and conditions.

### **16.3 Award Criteria**

The client shall award the contract to the Bidder whose tender has been determined to be the lowest evaluated tender provided that the tender is eligible in accordance with the post qualifying clause stated in this document.

### **16.4 Rights of the client to accept or reject any or all Tenders**

IEC reserves the right to accept or reject any tender or reject all the tenders at any time prior to the award of contract, without incurring any liability to any Bidder.

### **16.5 Notification of Award**

Prior to the expiration of the period of tender validity, client shall notify the successful Bidder by registered post, by e mail that his tender has been accepted.

This notification, herein after called the 'Letter of Acceptance' will state the contract sum to be paid to the contractor in consideration of the execution and completion of the works as per the payment schedule prescribed by the contract. The notification of award shall constitute the formation of the Contract.

## 16.6 Signing of Contract

The successful bidder shall be required to sign a Contract Agreement which will be prepared by the client. The Contract Agreement must be executed within five (5) days after the receipt of the Letter of Acceptance.

## 17. Performance Guarantee

17.1 Performance Security: The successful Bidder shall provide the Performance Security on the Performance Security Form provided for in these Solicitation Documents, within 10 days of receipt of the Contract from the Client

17.2 Failure of the successful Bidder to comply with the requirement above shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security, in which event the Purchaser may make the award to the next lowest evaluated Bidder or call for new Bids.

17.3 Time for Completion: The Time for Completion in line with the projected work schedule submitted with Bids. The completion of the Works shall be 135 days from the start date stipulated in the contract between IEC/UNDP.

17.4 Material, Labour and Facilities: No material, labour or facilities will be furnished by the IEC or its clients unless specified in the ITB.

## 18. Payment Schedule

### Payment:

18.1 **Time of Payment:** Unless otherwise indicated in the Special Terms and Conditions of this ITB, IEC/UNDP will normally effect payment within 30 days after receipt of a commercial invoice, certification of site works (if applicable) and other supporting documents.

18.2 **Letter of Credit:** IEC/UNDP does not accept Letter of Credit terms.

18.3 **Advance Payment:** It is not the normal policy of IEC/UNDP to approve advance payments, unless specifically stated in the payment terms.

18.4 **Currency of Payment:** Payment will be made in the currency in which the Contract is issued.

18.5 The payments shall be made available through UNDP rules and regulations.

### SECTION-3-BID DATA SHEET

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

Relevant clause(s) of Instruction to Bidders	Specific data complementing, supplementing, or amending instructions to Bidders
Language of the Bid	English/Dare/Pashtu.
Bid Price	The prices quoted shall include all labour, materials, equipment, supplies, overhead, and other costs to fully furnish and install the works as described in the Contract documents. The Bid Submission Form in Section 6 and the Bid Price Schedule in Section 7 must be completed as part of the bid.
Site Visit	20 June 2011 at 10:00 am (local time) at the Independent Electoral Commission (IEC) HQ. Kabul- Jalalbad Road Afghanistan next to UNEMA main office. Companies must contact the following numbers to escort them inside IEC for site visit. Tel # +93(0)706 758 357
Bid and Contract Currency	<b>AFN for local companies</b> Other currencies shall not be accepted.
Qualification Criteria	Please refer to Instructions to Bidders
Documents Establishing Bidder's Eligibility & Qualifications	Required. A listing of the Bidder's previous experience with projects of similar size and scope performed in the past years. The Bidders' Experience/past performance Form in this document must be completed as part of the bid.

Bid Validity Period.	120 days	
Bid Security	Required. In the amount of AFN 465,000.00 or equivalent in foreign currency.	
Sealed Bids to be received at / Bids to be marked:	IEC Afghanistan	<p>“Attention” Procurement Unit Sealed Bid No.</p> <p>Bids to be hand delivered to bid opening committee during the bid opening meeting.</p> <p>Marked: NOT TO BE OPENED BY REGISTRY</p>
Deadline for Submission of Bids	<p>Bids must be delivered to the above office on or before 21 June 2011 at 12:00 noon local time. Late bids shall be rejected. Bids by fax will not be accepted.</p> <p>For any queries please only send email to : <a href="mailto:iec.procurement@iec.org.af">iec.procurement@iec.org.af</a> 5 prior to the deadline. Maximum size of each email must not exceed 2MB.</p> <p><b>Physical Address: Procurement Unit - east of the UNAMA compound on the Jalalabad road, Kabul (34.54738oN – 69.27876oE)</b></p> <p>It is the bidder’s responsibility to ensure timely submissions of electronic bids in order to avoid congestion.</p>	
Public Bid Opening	25 June 2011 at 10:00pm (Library of Training Department at the Independent Election Commission (IEC) HQ)	
Preliminary Examination – completeness of bid.	Partial bids not permitted.	

## **SECTION- 4- TECHNICAL SPECIFICATIONS (INCLUDING SCOPE OF WORKS)**

### ***Scope of Works for Removal of the four (4) rub halls and Construction of four (4) K-Span Warehouses at IEC***

#### **1. BACKGROUND:**

The objective of this Invitation to Bid is to construct four (4) new K-Span warehouses at the Independent Election Commission. The Contractor is required to provide all construction services to assure the successful construction of this project.

The removal of the existing four (4) rub halls and the construction of four (4) K-Span warehouses carried out under this contract are designed to contribute to long term infrastructure reconstruction.

#### **2. OBJECTIVE SERVICES:**

The awarded company will have to provide following construction services under this agreement:

Removal of four (4) existing rub halls – dimension of each rub hall is 20.50m x 46m (WxL) = 943 Sqm and the construction of four K-Span warehouses (20x46) M, currently there are four huge rub halls (a large moveable tent-like structure) at the IEC HQ which are in a state of disrepair. They have been used for the past seven years. They are specified for uses as emergency warehousing and are not intended as a long term storage solution. The rub halls are degrading now due to snow and strong UV light, and are in bad condition.. They are absolutely essential during operational periods and their storage capacity has also been mentioned for use during the upcoming CVR projects (in conjunction with provincial office projects). Thus their rehabilitation would be useful not only for the IEC but for any future elections, census and CVR projects.

The best option would be to replace them with K-Span warehouses which are fast to construct and they resist weather conditions very well.

#### **3. STATEMENT OF WORK:**

The contractor shall provide all work, labor, material, equipment, construction services, transportation and supervision necessary in accordance with provided site specifications, site drawings and plans to removal the four (4) rub halls and to construct four new K-Span galvanized steel warehouses

#### **4. SCOPE OF WORK:**

This project consists of below components:

1. Mobilization
2. Removal of four (4) rub halls
3. Construction of Identified K-Span galvanized steel Project.
4. Description of Worksite/Project Maintenance during Project Performance.
5. Provision of personnel who will Operate, Maintain Equipment and Accomplish Planned Work.
6. Safety of Workers at Worksite
7. Quality Assurance/Quality Control
8. Scheduling

#### **5. TECHNICAL REQUIREMENTS:**

The contractor shall be responsible for all personnel, equipment, materials, logistics, and supplies for use in carrying upgrading and construction of mentioned K-Span warehouses. This project will include the removal of the existing four (4) rub halls as well as the construction of four(4) K-Span galvanized steel warehouses. The specific site description and data (Site description, typical cross sections, plans and relevant details will be attached to this SOW).

##### ***Pre-Positioning and Mobilization***

- Establishing a technical team and developing working relationships with relevant workers.
- Identify immediate priorities and mobilizing resources to the construction site.
- Pre-position staff and equipment in the area to carry out the construction tasks identified; and
- Prior to commencing work, and continuing throughout the duration of the project, establish a safe, well signed work zone that mitigates, to the extent possible, traffic disruptions.

##### **Worksite/Project Maintenance during Project Performance**

- Project work sites will be cleaned of all trash and construction debris each day, and hauled to the area specified by the responsible IEC Engineer.
- Contractor shall ensure safety considerations are enforced through all aspects of the project.
- The site should be left in a clean condition upon completion of the work.

##### **Personnel who will Operate and Maintain Equipment and Accomplish Planned Work**

- The Contractor will ensure that the road construction is managed by experienced, licensed and registered engineers with significant professional experience in the design and construction of K-Span galvanized steel structures in Afghanistan. These lead engineers should have fluency in local language(s) and English.

### ***Safety and Security of Worksite and Workers***

The contractor is responsible for monitoring all internal safety program procedures and shall develop a security plan to safeguard all project operations and comply with all governmental regulations, and consideration should also be given to the following:

- The contractor is responsible for the safety and security of all his materials and equipment.
- Under the direction of IEC, the contractor shall implement any required mitigation measures for adverse environmental impacts caused by negligence in construction, materials and equipment storage, and on-site maintenance of equipment.
- Under the direction of IEC, the contractor will take measures to mitigate any adverse environmental impacts of this project as directed in the site-specific Environmental Impact Mitigation Plan.
- The contractor is responsible for any damages that may occur at the site during the work.
- Contractor assumes all responsibility for the day-to-day safety of the workers during the conduct of this Project. Contractor shall be liable for providing medical care for workers injured on the job. Contractor is expected to train his employees and workers as well as to pre-plan all work to minimize the potential personal injury and property damages.
- It is emphasized that this is a governmental working area where officials, employees and pedestrians are often present. Prior to mobilization, as part of the detailed design package, a safety plan (drawing) showing barricades, fences, and temporary walkways will be provided to IEC for their review and amendment or approval.
- The contractor shall fence off the entire area of construction using orange construction fence. He shall provide and use safety devices such as gloves, boots, helmets, orange vests, protective barriers, close-toed shoes, and danger signs to protect and warn personnel around the construction site. A First Aid Kit shall be maintained at the project site.
- Prior to work beginning the IEC Engineer shall verify that all personal and site safety provisions have been met.
- All of the equipment, tools, shall be checked and machinery shall be equipped with necessary alarms and signals.
- Phone Numbers: The phone numbers shall be existed at the project site for emergency cases to contact.

### ***Quality Assurance/Quality Control (QA/QC):***

The contractor's QA/QC Program shall be an integral component of the management of construction activities and the contractor shall develop and submit to IEC for approval a comprehensive listing of criteria for developing a QA/QC program in support of this project to include at a minimum the following:

- Contractor shall maintain a log identifying complaints regarding the contractor and contractors' work. This log shall identify the complaint and the corrective action taken. This document shall be current and included in the regular reports provided to the IEC Project Engineer.
- The contractor shall inspect, measure and monitor all materials and construction activities to assure that work is in accordance with the contract and consistent with good engineering practices. Materials quality, compaction specifications, and all other field specifications shall be verified by the IEC Project Engineer.
- Inspections: Onsite inspections of the progress of construction will be conducted by the IEC Project Engineers. The inspections ensure quality of the project and will be done on an as needed basis and assure that all work is being conducted in accordance with the approved project plans and specifications as laid out in the contract or as otherwise identified by the Project Engineer.
- On-site testing: The contractor shall facilitate all third-party materials sampling and testing including: quality of materials including aggregate and concrete mixture; and other on-site testing as directed by the IEC Project Engineer. These quality control tests shall be carried out as efficiently as possible to prevent delays in construction while test results are pending.
- The contractor shall notify the IEC Project Engineer of any construction delays immediately upon identification. The contractor shall submit progress and construction schedules along with weekly progress meeting minutes to the IEC Project Engineer within three (3) business days of the progress meeting or whenever there is a significant change.
- The contractor shall establish and maintain a complete and effective quality control program to ensure that the requirements of the contract are provided as specified. One copy of the contractor's Quality Control plan, English and Pashto text, shall be provided to the IEC Engineer prior to the commencement of any construction.
- IEC/UNDP will conduct a final inspection and performance evaluation for the contractors. IEC will develop a team of individuals having knowledge in this area to examine all work for completion and conformance to contract requirements.

***Scheduling:***

- Any work during night hours must be coordinated with the IEC Engineer. All workers will wear reflective vests which must be provided by the contractor.
- Contractor will coordinate project schedule and construction once the contract has been let and a notice to proceed has been issued.

***Warranty:***

The contractor shall warrant that the work performed under this agreement conforms to the contract requirements and is free from any defect in equipment, material, design, finish or workmanship performed by or the responsibility of the contractor. The contractor shall remedy at the contractor's expense any loss of or damage to private or government owned or controlled real or personal property when such loss or damage is incurred as the result of contractor's failure to conform to contract requirements, any defect in materials, design or workmanship, or the result of contractor's negligence.

***Final Inspection:***

The contractor will notify the IEC Engineer and when the project is ready to be turned over to the IEC. A final inspection will be performed by the UNDP and IEC, any remaining items of work will be identified on a "punch list". Based on the punch list, IEC/UNDP will determine if any supplemental inspections are required. Punch list items will be corrected and/or repaired in a timely manner (3-5 days) at no cost to the IEC/UNDP. Once the punch list items have been corrected or completed to the satisfaction of UNDP and IEC, the project will be considered to have been successfully completed.

**MATERIAL SPECIFICATIONS**

**Concrete:**

Portland Cement Concrete (PCC) Proportioning: Proportion PCC using one of the options below. Meet the UNDP-approved mix design proportions and restrictions or submit a mix design proposal for approval.

This section describes the constituents to be used in concrete, the procedures to be used in manufacturing concrete, and the equipment and procedures to place, texture, and cure concrete for K-Span galvanized steel warehouse foundations.

Compressive Strength of the Concrete: The concrete to be used in this rigid pavement should have a compressive strength of 30 MPa= 4300 PSI.

**Note: The contractor can submit their own mix design which should comply 30 MPa compressive strength as required.**

**Cement:**

**NORMAL SPECIFICATION OF ORDINARY PORTLAND CEMENT:**

**A. Setting time**

- a) Initial setting time : Not less than 45 minutes
- b) Final setting time : Not more than 375 minutes

**Aggregate:**

One of the most important factors in determining the quality and economy of concrete is the selection of a suitable aggregate source. The aggregate should be provided in two size groups:

coarse and fine. The coarse aggregate should consist of at least 90 percent by weight retained on the 4.75 mm (No. 4) sieve. The fine aggregate should consist of at least 90 percent by weight passing the 4.75 mm (No. 4) sieve. The two size groups will allow some flexibility in blending the aggregate to control the combined aggregate grading while minimizing the number of aggregate quality control checks needed. A primary consideration should be that regardless of the grading limits imposed, the grading of the aggregate delivered to the project site be maintained relatively consistent by restrictions on the range of fineness modulus throughout the production of concrete. This is an important factor in maintaining control of the workability of the concrete mixture.

### Coarse Aggregate:

Composition: Coarse aggregate must be crushed gravel. The crushing of gravel tends to improve the quality and the bond characteristics and generally results in a higher flexural strength of concrete than if uncrushed gravel is used. When mixture proportioning studies or local experience indicates that a low flexural strength will be obtained with uncrushed gravel, the possibility of obtaining higher strength by crushing the gravel will be investigated. Particles with a width-to-thickness ratio in excess of 3 may not exceed 20 percent by weight as determined by ASTM D 4791.

This requirement is an attempt to avoid introducing structural planes of weakness in the finished concrete, workability problems associated with an excess of particles of these shapes, and durability problems that may develop if air and water are trapped under flat and elongated particles.

For RCC, the nominal maximum aggregate size should not exceed 19 mm (3/4 inch). The aggregate used in proportioning the mixture should represent the current production of whichever source the contractor selects. Quality tests and grading test results should be submitted showing that the aggregates meet specification requirements.

### Slump:

The concrete slump shall not exceed 75 mm. Within this maximum limit, the slump will be maintained at the lowest practical value suitable for prevailing weather conditions and for equipment and methods used in placement of the concrete. For small structural areas, slump in excess of 75 mm (2 inch) may be permitted, but in no case will the slump exceed 75 mm (3 inch). The concrete slump will be determined in the field by the method described in ASTM C 143.

### *Water Content:*

The water content of a concrete mixture is typically a function of the nominal maximum aggregate size, the required air content, and the required slump. The relative importance of each of these items is affected by the specific method of mixture proportioning. In the range of normal-weight concrete, a given combination of aggregate requires an approximately constant

amount of water per unit volume of concrete to achieve a given slump, regardless of the water-cement ratio.

### *Air Content:*

The specified air content will be  $6 \pm 1\frac{1}{2}$  percent for concrete pavements located in regions where resistance to freezing and thawing is a prime consideration. The specified air content will be  $5 \pm 1\frac{1}{2}$  percent for concrete pavements located in regions where frost action is not a factor and air entrainment is used primarily to improve the workability and placeability of freshly mixed concrete.

### *Admixtures:*

The admixtures used in proportioning the mixture should be from the same stock that the contractor has purchased for use on the project. All admixtures should meet the project specifications and the dosages should be listed.

## **6. Pre-Construction Work**

- i. The IEC Site Supervisor and Contractor will carry out a joint condition-in survey using video or digital photographs to record the condition of the site upon handover to the Contractor. This will determine the state of the site that the Contractor must hand back to IEC upon completion of the works.
- ii. The Contractor will prepare a site survey. The survey will show all necessary elevations and distances just on site visit time and date as motioned above.
- iii. A Pre-Construction Meeting will be held between the IEC Site Supervisor and the Contractor to review the following information:
  1. Condition-in Survey
  2. Site Survey
  3. Work Method Statement
  4. Schedule
  5. Schedule of Materials and installed Equipment

- iv. If the IEC Site Supervisor approves the above documentation, then the Contractor will be issued with the Notice to Proceed. If the documentation is incomplete, the Contractor will have 3 calendar days to review and resubmit the documentation for approval.
- v. The contract period begins on the day the Notice to Proceed is issued.
- vi. The Contractor must mobilize on the project site within 5 calendar days of the date of issue of the Notice to Proceed.

## SECTION- 5 Bill of Quantities (BOQ):

The quantities and items listed here are estimated amounts of the significant portions of the project to evaluate contractor bids.

The quantity is for single K-Span warehouses and should be multiplied by four for four (4) K-Span warehouses:

15.06.2011		برآورد انجام کارساختمان گدام ها از آهن چادر					
The estimation volume of the warehouses construction (Iron sheet)							
S.No	Description of Work	مشخصات فعالیت	Unit	Quantity	unit cost(Afn)	Total cost(Afn)	Remarks
1	Excavation of foundation,Walkways	کندکاری خرجه با امور ایجابی	Cub	600			
2	RCC Concrete (1:2:4) of foundation	کانکریت سیخدار تهادب با مخلوط 1:2:4 بالامور ایجابی	Cub	400.6			
3	PCC Concrete (1:3:4) of foundation	کانکریت بدون سیخ (شیتته) تحت تهادب با مخلوط 1:3:4 بالامور ایجابی	Cub	60			
4	RCC Concrete (1:2:4) of Floor,(steel ) 14mm ,15c/c	کانکریت سیخدار فرش با مخلوط 1:2:4 بالامور ایجابی (سیخ گول قطر 14 ملی متر) 15c/c	Cub	641			
5	The Russian iron sheet has 0.60 width,with(18-20) gage	آهن چادر 18 یا 20 گیج روسی دارای عرض 0.60 متر	M/L	21032			
6	Steel gate(2x4)m (4x4)m , according to map	دروازه فلزی (2*4) متر دو په ای کنسی (4*4) متر مطابق نقشه	Ea	8			
7	Fine and coarse aggregate	چفتن خورد و بزرگ دانه	Cub	60			
8	Wire (2x2.5)	ویرنگ کاری توسط سیم جریدار 2*2.5 بالامور ایجابی	M/L	480			
9	Wire (2x1.5)	ویرنگ کاری توسط سیم جریدار 2*1.5 بالامور ایجابی	M/L	460			
10	Flower light(105w , 110-240v )	نصب گروپ خوشه ای ( 105w , 110-240v )	Ea	64			
11	Electric rad (60w)	نصب نیون جمبه 4 دانه ای 60 وات 4 فت کیفیت عالی بالامور ایجابی	Ea	32			
12	Saket under plaster	نصب سلکت زیر پلاستر با کیفیت عالی بالامور ایجابی	Ea	120			
13	Internet sakate	نصب سلکت اینترنت	Ea	16			
14	the extncion of the internet cable	تمدید لین اینترنت	M/L	80			
15	Swich	نصب سویچ	Ea	16			
16	Main Swich	نصب مین سوچ بالامور ایجابی	Ea	4			
17	Fuse (10Am & 20Am) Automatic	نصب فیوزهای اتومات 10 و 20 آمپر بالامور ایجابی	Ea	48			
18	Joint Box	نصب جابنت بلکن بالامور ایجابی	Ea	4			
19	AC 24000 SAMSUNG (DIYANAT)	نصب کردن ایرکندیشن 24000 سامسونگ دیانت	Ea	8			
20	Chalkyboards ,thickness(10)mm	نصب کردن تخته های گچی دارای ضخامت (10) ملی متر امورات ایجابی	Sqm	661			
21	Fitting of Sandawage panelboards for ceiling	نصب کردن تخته های سندویچ پل برای سقف با امورات ایجابی	Sqm	170			
22	PVC Window(1.5X1.5)m	نصب کلکین های (1.5*1.5) PVC متر	Ea	16			
23	PVC Door(1X2)m	نصب دروازه های (2*1) PVC متر	Ea	8			
24	Installation of fly screen with chutti complete	نصب چلی مگن معه چفتی بالامور ایجابی	Sqm	36			
25	Carpet for inside of rooms	فرش سطح اتاق ها از موکت دارای جنسیت عالی	Sqm	170			
<b>Grand Total Cost</b>							AFN

ENG:Hamid Hakimi

Head of Logistic: Moshtaq Ahmad Bilal

## BOQ for Removal of Rub Halls

07.06.2011

### The estimation plan for removing of Rub halls

برآورد برداشتن اجسام کار رپ هال ها

S.No	Description of Work	مشخصات فعالیت	Unit	Quantity	unit cost(Afn)	Total cost(Afn)	Remarks
1	Removing of Almunium profile (Frams), size(10x19)cm	برداشتن چوکات های پروفیل آلومینیومی (10x19) سانتیمتر	M/L	1176			
2	Removing of Almunium profile (Frams), size(7x11)cm	برداشتن چوکات های پروفیل آلومینیومی (7x11) سانتیمتر	M/L	1988			
3	Removing of Rub halls (Tent)	برداشتن رپ هال	Sqm	6064			
<b>Grand Total Cost</b>							AFN

ENG:Hamid Hakimi

Head of Logistic: Moshtaq Ahmad Bilal

**Basis of Bid:**

- 1.1 After issuing of official work order the construction work will start on the mentioned time on work order it will take 2- 3 working days after the contract signed
- 1.2 The contract is a fixed price and as such is not subject to re-measurement. No additional payments will be made if the actual quantities are different from those given in this Bill of Quantities.
- 1.3 Where an alternative design is prepared, then the bidder will prepare the necessary modifications to the Bill of Quantities and submit it with their Bid Submission as an alternative method.

## **Section 6**

### **6.1. Work Method Statement**

- 6.1.1 Contractors shall provide detailed description for major activities, including:
- 6.1.2 Methodology for works/ Work Plan/Management Plan and work schedule
- 6.1.2 Off-site workshops
- 6.1.3 Use of sub-contractors
- 6.1.4 Testing and quality control
- 6.1.5 Provide mark-up of site plan to show areas required for temporary facilities, construction office, secure area, stockpiles, etc.

### **6.2 Critical Path Schedule**

- 6.2.1 Bidders will submit a work schedule in MS Project CPM format. The attached Schedule is provided to the Bidders for information only and the Bidders may use it to prepare their schedule for the bid.
- 6.2.2 The schedule will identify the critical path, the equipment and labor resources needed for each activity

### **6.3 Schedule of Materials and Installed Equipment**

- 6.3.1 Bidders will identify suppliers and provide typical material data sheets for their proposed material sources, including all mentioned in BOQ and specification just be according T/S. and work should be done according Drawings

## 6.4

6.4.1 Bio-Data of key technical staff assigned to this project and attach certified photocopies of their certificates.

S. No.	Name	Title	Qualification	Experience	Experience in same Field



**6.6 DETAILS OF SIMILAR WORKS COMPLETED (AND ON-GOING) Projects DURING THE LAST THREE YEARS MEANS ALL 3 years past performance with proof Contracts copies.**

Name & Address of Employ	Name & Detail of Contract	As Main Contractor /Sub-Contractor	Contract Value	Period of Contract. Specify the years From: To:	Status (Completed/ongoing etc.)	Certificate Received Yes/No

**6.7 FINANCIAL DATA**

Company Name/Name of joint Venture

Partner \_\_\_\_\_

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

**Summary of assets and liabilities on basis of the audited financial statement<sup>1</sup> of the latest three financial years**

<b>Assets &amp; Liabilities</b>	<b>Year 2008</b>	<b>Year 2009</b>	<b>Year 2010</b>
1. Fixed Assets with proof (if assets are leased the bidder must provide copy of the lease contract, if the company owns the equipment, they must submit commercial invoice for the purchased item.)			
2. Current Assets with proof			
<b>3.Total Assets (1+2)</b>			
4.Current Liabilities			
5.Long Term Liabilities			
<b>6.Total Liabilities (4+5)</b>			
<b>7.Working Capital (3-6)</b>			

1. Current Banks Statement ( last three years Bank Statements of company with proof, the currency type is not important but all statements must be issued just by official banks.)
2. Set special and general condition by these solicitation documents Construction registration license (update construction AISA license or international construction Co. License)
3. Company Profile should be completed.
4. List of staff assigned for this project specially Engineers: CVs, diploma, certificates ,with supervisor as well
5. Three years post performance with proof (certificates copies, contracts copies if it be for the same construction it is our top aim)
6. All equipments list for this project.
7. Work Plan/work methodology for this project
8. Confirmation for 135 working days for construction of mentioned project, with price validity for 120 days (be sure 120 days are working days it not include official holydays)
9. Arrange with pricing condition set on the BOQ all prices should be in Afghani currency
10. Arrange all requirements as set in ITB

## SECTION- 7 BID / PROPOSAL SUBMISSION FORM

To IEC, Kabul Afghanistan

Dear Sir / Madam

Having examined the Bedding Documents, the receipt of which is hereby duly acknowledged we, the undersigned, offer to supply and deliver *{description of services}* 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

We undertake, if our Bid is accepted, to deliver the services in accordance with the Schedule of Requirements.

We agree to abide by this Bid for a period of 120 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.

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

Dated this .....day of ..... *{Year}*

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

.....  
Signature

.....  
*{in the capacity of}*

**SECTION- 8** DRAWINGS – Please refer to attachment

## **SECTION- 9- Performance Guarantee -Payment Schedule and Penalty**

1. All payments will be made in line with the contract as per UNDP rules and regulations.
2. Late delivery, late construction, or if construction all materials are not in accordance with the given specifications based upon the agreed schedule of work will attract liquidated damages per day penalty will be charged/processed at AFN 5,000 per day. Contractor cannot leave the contract in case of rejection or failure to contract; IEC has the right not to pay Performance guarantee (issued by a recognized bank) for non compliance with his obligations in accordance with the contract. (The completion timeline is 70 working days. If there is a delay in completion the amount stipulated above will be deducted per day as penalty.
- 3. Extra Work**
  - a) If the Contractor requests extra works, the Contractor will submit a proposal written in the English language/Dari or Pashto to the IEC Site Supervisor, additional costs for all extra works are to be based upon the BoQ unit prices.
  - b) The IEC Site Supervisor will evaluate the proposal and make a recommendation to the IEC Head of Logistics Department.
  - c) The IEC Head of Logistics Department will review and approve or decline the proposal.
  - d) If approved, the IEC PMU will incorporate the extra work into the contract.
  - e) The Contractor will start the work, only after issuing the work order by IEC.

**SECTION- 10-PERFORMANCE SECURITY FORMS**

**PERFORMANCE BANK GUARANTEE**

To:.....

[INSERT FULL NAME AND ADDRESS OF IEC authority]]

WHEREAS.....[INSERT NAME AND ADDRESS OF THE CONTRACTOR] (hereinafter called "the Contractor") has undertaken, in pursuance of Contract No....., dated....., to execute.....[INSERT TITLE OF CONTRACT AND BRIEF DESCRIPTION OF WORKS], (hereinafter called "the Contract");

AND WHEREAS it has been stipulated by you in the said Contract that the Contractor shall furnish you with a Bank Guarantee by a recognized Bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract;

AND WHEREAS we have agreed to give the Contractor such a Bank Guarantee;

NOW THEREFORE we hereby irrevocably affirm that we are the Guarantor and responsible to you, on behalf of the Contractor, up to a total of.....[INSERT AMOUNT OF GUARANTEE IN FIGURES AND IN WORDS], such sum being payable in the types and proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of .....[INSERT AMOUNT OF GUARANTEE] 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.

SIGNATURE AND SEAL OF THE GUARANTOR

.....

NAME OF BANK .....

ADDRESS .....

DATE .....

## SECTION- 11- MODEL CONTRACT AND CONDITIONS OF CONTRACT

Date \_\_\_\_\_

Dear Sir/Madam,

Ref.: \_\_\_\_\_/ \_\_\_\_\_/ \_\_\_\_\_ [INSERT PROJECT NUMBER AND TITLE]

The Independent Elections Commission (hereinafter referred to as "IEC "), wishes to engage your company, duly incorporated under the Laws of \_\_\_\_\_ [INSERT NAME OF THE COUNTRY] (hereinafter referred to as the "Contractor") in order to perform \_\_\_\_\_ [INSERT SUMMARY DESCRIPTION OF THE WORKS] (hereinafter referred to as the "Works"), in accordance with the following Contract:

### **1.Contract Documents**

- 1.1 This Contract is subject to the General Conditions for Civil Works, \_\_\_\_\_], 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 IEC/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 [ref. ....dated.....], attached hereto as Annex II;
  - c) the Contractor's Tender \_\_\_\_\_ [IF THE CONTRACT IS ON THE BASIS OF UNIT PRICE, INSERT: including the Priced Bill of Quantities] [ref....., dated .....], as clarified by the agreed minutes of the negotiation meeting<sup>1</sup> [dated.....], not attached hereto but known to and in the possession of both parties.
- 1.3 All the above shall form the Contract between the Contractor and IEC/UNDP, superseding the contents of any other negotiations and/or agreements, whether oral or in writing, pertaining to the subject of this Contract.

\_\_\_\_\_  
\_\_\_\_\_  
[INSERT NAME AND ADDRESS OF THE CONTRACTOR]

**2. Obligations of the Contractor**

- 2.1 The Contractor shall commence work within \_\_\_\_ **[INSERT NUMBER OF DAYS]** 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 by .././.... **[INSERT DATE]**, 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 by .././.... **[INSERT DATE]**.
- 2.3 The Contractor represents and warrants the accuracy of any information or data provided to IEC/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 In full consideration of the complete and satisfactory performance of the Works under this Contract, IEC/UNDP shall pay the Contractor a fixed contract price of \_\_\_\_\_ **[INSERT CURRENCY & AMOUNT IN FIGURES AND WORDS]**.
- 3.2 The price of this Contract is not subject to any adjustment or revision because of price or currency fluctuations or the actual costs incurred by the Contractor in the performance of the Contract.
- 3.3 Invoices shall be submitted by the Contractor to the Engineer upon achievement of the corresponding milestones and for the following amounts:

<u>MILESTONE</u>	<u>AMOUNT</u>	<u>DATE</u>
.....	.....	.././....
Upon substantial completion of Works	.....	.././....
Upon final completion of Works	.....	.././....

**4. Special conditions**

4.1 The Performance [**GUARANTEE**] referred to in Clause 10 of the General Conditions shall be submitted by the Contractor for an amount of \_\_\_\_\_ [**INSERT -PERCENTAGE OF THE TOTAL**]

**ESTIMATED OR FIXED PRICE OF THE CONTRACT IN THE CASE OF A GUARANTEE**

4.2 The Contractor may submit invoices for materials and plant stored at the Site, provided they are necessary and adequate for the performance of the Works and they are protected from weather conditions and duly insured as per the instructions of the Engineer.

4.3 The liability insurance referred to in Clause 23 of the General Conditions shall be taken out by the Contractor for an amount of.....[**CONSULT THE ENGINEER FOR APPROPRIATE AMOUNT**].

4.4 According to Clause 45 of the General Conditions, the liquidated damages for delay shall be \_\_\_ [**INSERT PERCENTAGE**] of the price of the Contract per week of delay, up to a maximum of 10% of the final price of the Contract.

**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 8.2.

5.2 Invoices submitted by fax shall not be accepted by IEC/UNDP.

**6. Time and manner of payment**

6.1 Invoices shall be paid within thirty (30) days of the date of their receipt and acceptance by IEC/UNDP.

6.2 All payments shall be made by UNDP to the following Bank account of the Contractor:

\_\_\_\_\_ [**NAME OF THE BANK**]

\_\_\_\_\_ [**ACCOUNT NUMBER**]

\_\_\_\_\_ [**ADDRESS OF THE BANK**]

**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 IEC/UNDP.

**8. Notifications**

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

**For the IEC:**

\_\_\_\_\_ [INSERT NAME OF AUTHORISED  
iec AUTHORITY]  
Independent Elections Commission

Ref. \_\_\_\_/\_\_\_\_/\_\_\_\_ [INSERT CONTRACT REFERENCE & NUMBER]

Telex: \_\_\_\_\_

Fax: \_\_\_\_\_

Cable: \_\_\_\_\_

**For the Contractor:**

\_\_\_\_\_  
[Insert Name, Address and Telex,  
Fax and Cable Numbers]

8.2 For the purposes of communications with the Engineer, the address of the Engineer shall be as follows:

\_\_\_\_\_  
[Insert Name, Address and Telex,  
Fax and Cable Numbers of the Engineer]

**OR**

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,

**[INSERT NAME OF AUTHORISED IEC PERSONNEL]**

For [Insert name of the company/organization]

Agreed and Accepted:

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

### **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 IEC/UNDP
68. Termination by the IEC/UNDP
69. Termination by the Contractor

- 70. Rights and Remedies of the IEC/UNDP
- 71. Settlement of Disputes
- 72. Privileges and Immunities

Appendix I: Formats of Performance Security  
Performance Bank Guarantee

## 1. DEFINITIONS

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

- a) "Employer" means the Independent Elections Commission (IEC) and 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 IEC 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 his functions in accordance with the contract between the Employer and the Engineer.

e) 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.

f) 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.

g) 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.

h) 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.

i) 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.

j) In the event of termination of the employment of the Engineer, the Employer shall appoint another suitable professional to perform the Engineer's duties.

k) 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 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.

l) 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.

m) 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

- a) **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.
- b) **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.
- c) **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.
- d) **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.
- e) **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.

- f) **Use of Name, Emblem or Official Seal of IEC/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 IEC/United Nations or any abbreviation of the name of the Employer or the IEC/United Nations for advertising purposes or any other purposes.
- g) **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**

### **a) 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.

### **b) 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.

### **c) 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**

### **a) 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.

**b) 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.

**c) 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 IEC 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 therefore 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 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.

b) 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**

### **a) 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.

### **b) 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.

### **c) 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, pre-constructed 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**

#### **a) Engagement of Labour**

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

#### **b) 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.

#### **c) 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.

**d) Arms and Ammunition**

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

**e) 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.

**f) 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.

**g) 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.

**h) Observance by Sub-Contractors**

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

**i) 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**

a) **Materials and Workmanship** 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.

c) **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.

d) **Cost of Tests** The Contractor shall bear the costs of any of the following tests:

- i) Those clearly intended by or provided for in the Contract Documents.
- ii) 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**

a) **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:

- i) 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;
- ii) The substitution of proper and suitable materials; and
- iii) 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.

### **b) 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**

#### **a) 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.

**b) Way leaves, 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.

**c) 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**

##### **a) 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.

**b) 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:

- i) a separate time for completion is provided in the Contract in respect of such Section or part of the Works;
- ii) 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**

**a) 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.

**b) 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.

**c) 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.

**d) 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.

**e) 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**

a) **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:

- (i) increase or decrease the quantity of any work under the Contract;
- (ii) omit any such work;

- (iii) change the character or quality or kind of any such work;
- (iv) change the levels, lines, positions and dimensions of any part of the Works;
- (v) 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.

**b) 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.

**c) 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.

**d) 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**

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. 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.

a) **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.

b) **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.

c) **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**

- a. 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.
- b. 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.
- c. 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.
- d. 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**

- a. 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:
  - i. 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;
  - ii. If the Contractor makes arrangements with his creditors or agrees to carry out the Contract under an inspection committee of his creditors;
  - iii. 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;
  - iv. 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;
  - v. 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;
  - vi. 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;
  - vii. If the Contractor is not executing the work in accordance with standards of workmanship specified in the Contract;

- viii. 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.

- b. **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.
- c. **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**

- a. 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.
- b. 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.
- c. 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.
- d. 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 IEC any records or information, oral or written, which the IEC may reasonably request in respect of the Works or the Contractor's performance thereof.

The Contractor shall allow the IEC/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 IEC 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 IEC 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 IEC/UNDP substantiated costs of maintenance of the Contractor's equipment and of per diem of the Contractor's permanent personnel rendered idle by such suspension;

(b) The Contractor shall within fifteen (15) days of the notice to the IEC/UNDP of the occurrence of the force majeure submit a statement to the IEC/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;

(c) 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;

(d) 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 IEC/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

(e) For the purpose of the preceding sub-paragraph, the IEC/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 IEC/UNDP**

The IEC/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 IEC/UNDP' 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 IEC/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 IEC 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 IEC/UNDP**

The IEC/UNDP may, notwithstanding any suspension under Clause 67 above, terminate this Contract for cause or convenience in the interest of the IEC/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 IEC/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 IEC detailing the nature and the circumstances of the breach or other situation. Upon acknowledgement in writing by the IEC of the existence of such breach and the IEC inability to remedy it, or upon failure of the IEC 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 sub-paragraph (b) of Clause 68 hereof shall apply.

## **70. RIGHTS AND REMEDIES OF THE IEC/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 IEC/UNDP.

The IEC/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.

### **a. 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.

### **b. 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.

### **c. 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.

### **d. 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 Independent Election Commission and the United Nations of which the UNDP is an integral part.