



Damak Municipality Office

Damak, Jhapa

Invitation for Sealed Bids for the Construction of Municipal Office Building, Damak, Jhapa.

Contract Identification No: DMO/JHAPA/BC/01/072-073.

Date of publication: 18th January 2016 (4th Magh 2072)

1. Damak Municipality has received the Grant from The government of Nepal, Ministry of Federal Affairs & Local Development for the Construction of Office Building and intends to apply the funds to cover eligible payments under the Contract for Construction of Municipal Office building (Three Storied RCC Framed Structure) of Damak Municipality, contract identification number of Contract: DMO/JHAPA/BC/01/072-073, Bidding is open to all eligible Bidders.

2. Damak Municipality, Damak, Jhapa invites sealed bids from eligible bidders for the construction of building (Three Storied RCC Framed Structure) of Damak Municipality Office Building, Qualification requirements include minimum required average annual turnover, experience in similar nature works (Building construction works), minimum number of essential equipment, qualification and experience of key professional staffs, minimum amount of liquid assets and/ or credit facilities as specified in the bidding documents. Qualification requirement details can be obtained from E-procurement section of PPMO's Web Site <http://www.bolpatra.gov.np>.

3. Eligible Bidders may obtain further information and inspect the Bidding Documents at the office of Damak Municipality, Technical Section, Jhapa, Telephone No: 023-580044 Fax No: 023-580146 within office hours. The bidders may visit the E-Procurement Section of PPMO's Web Site <http://www.bolpatra.gov.np>.

4. A complete set of Bidding Documents may be purchased from the office of Damak Municipality, Damak, Jhapa upon payment of a non-refundable fee of NRs. 3000.00 on or before 16th February 2016 (4th Falgun 2072) with in office hours. For the purpose of Bidders who choose to submit their bid electronically through E-procurement section of PPMO's Web Site <http://www.bolpatra.gov.np>.

5. The Bidders may purchase the hard copy of bidding documents or may choose to down load the necessary part of bidding documents, prepare their bids and submit their electronic bids as specified in the instructions to Bidders. In case the Bidder chooses to download and submit bid electronically, the Bidder shall be required to deposit the cost of bidding document in the Municipality's Rajaswa (revenue) account either by direct deposit or by tele-transfer of deposit in the Municipality's account for the purchase the bids as specified below and electronic scanned copy (PDF format) of the Bank deposit voucher or Tele-transfer certificate shall also be submitted along with the electronic bid files.

Information to deposit the cost of bidding document in Bank:

Name of the Bank: Rastriya Banijya Bank, Damak, Jhapa (Bank Code Number: 0430504)

Name of Office: Damak Municipality, Damak, Jhapa .Office Account no. 306030403004301. Bids must be delivered to the Office of the Damak Municipality, Damak, Jhapa on or before 12:00 hrs of 17th February 2016 (5th Falgun 2072) and The bid opening shall take place at: 13:00 hrs of 17th February 2016 (5th Falgun 2072) on Damak Municipality office, Damak, Jhapa. Alternatively, bidders may submit their bid electronically through E-procurement section Web Site

<http://www.bolpatra.gov.np>, as specified in the Instruction to Bidders. Late bids will be rejected. Bids will be opened physically and electronically immediately after bid submission deadline in the presence of representatives including bidders' (who choose to attend in person) at Municipality Office, Jhapa.

6. All bids shall be accompanied by a valid bid security of an amount not less than the amount as specified below. The bid security guarantee shall confirm to the standard format as specified in the bid document. The bid security guarantee issued by only the commercial bank approved by Nepal Rastra Bank shall be accepted by the employer. If the bidder wishes to submit the bid security in the form of cash, the bidder has to deposit cash in deposit account no : 3060303000301 of Damak Municipality, Jhapa in Rastriya Banijya Bank, Damak, Jhapa and shall submit bank deposit voucher along with the bid

7. Bids shall be valid upto 17th May 2016 (5th Jestha 2073) and bid security shall remain valid at least up to 17th June 2016 (5th Ashad 2073).

8. Pre-bid meeting will be held in the office of Damak Municipality Office, Jhapa at 14:00 hrs on 10th February 2016 (27th Magh 2072). Detail Information about submission process of bid electronically (e-submission) shall be provided to all interested bidders who choose to attend this pre-bid meeting.

9. If the specified date for pre-bid meeting, last date of submission and opening falls on a Government holiday then the same time on the next working day shall be considered for such events. In such case the validity of bid security shall be considered from already specified last date for bid submission.

10. Any intimidation, collusion and cartelling during bidding process shall be punishable by law.

11. The details of work and qualification requirements are as given below:

Contract No.	Description of Works	Minimum bid security amount	Average Annual Construction Turnover Required,	Same Nature Work Experience Required	Minimum Amount of Liquid assets and/or credit facilities required
DMO/JHAPA/BC/01/072-073.	Construction of Municipal Office Building (Three Storied RCC Framed Structure) of Damak Municipality, Damak, Jhapa	NRs. 905,000/-	NRs 54,300,000/- (Average of Best 3 Years out of Last 10 Years)	Successful completion of at least one building construction project, within the last ten years, with a value of at least NRS 36,200,000/-	NRs. 10,900,000.00

Executive Officer
(Damak municipality, Jhapa)

Section 1 - Instructions to Bidders

A. General

- 1. Scope of Bid**
- 1.1 In connection with the Invitation for Bids indicated in the Bid Data Sheet (BDS), the Employer, as indicated in the BDS, issues this Bidding Document for the procurement of Works as specified in Section 5 (Works Requirements). The name, identification, and number of Contracts of the National Competitive Bidding (NCB) are provided in the BDS.
- 1.2 Throughout this Bidding Document:
- (a) the term “in writing” means communicated in written form and delivered against receipt;
 - (b) except where the context requires otherwise, words indicating the singular also include the plural and words indicating the plural also include the singular; and
 - (c) “day” means calendar day.
- 2. Source of Funds**
- 2.1 DP Funded: The GoN has applied for or received financing (hereinafter called “funds”) from the Development Partner (hereinafter called “the DP”) **indicated in the BDS** toward the cost of the project **named in the BDS**. The GoN intends to apply a portion of the funds to eligible payments under the contract(s) for which this Bidding Document is issued.
- 2.2 DP Funded: Payment by the DP will be made only at the request of the GoN and upon approval by the DP in accordance with the terms and conditions of the financing grant agreement between the GoN and the DP (hereinafter called the “Grant Agreement”), and will be subject in all respects to the terms and conditions of that Grant Agreement. No party other than the GoN shall derive any rights from the Grant Agreement or have any claim to the funds.
- 2.3 Public Entity' own Resource Funded.
- 3. Fraud and Corruption**
- 3.1 Anticorruption related laws require that GoN's officials (including beneficiaries of funds), as well as bidders, suppliers, and contractors and their sub-contractors under GoN/DP-financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, this bidding document;
- (a) defines, for the purposes of this provision, the terms set forth below as follows:
- (i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
 - (ii) “fraudulent practice” means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;

- (iii) “coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- (iv) “collusive practice” means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.
- (v) “obstructive practice” means:
 - (aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a GoN/DP investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
 - (bb) acts intended to materially impede the exercise of the GoN's/DP's inspection and audit rights provided for under sub-clause 3.5 below.
- (b) will reject bid(s) if it determines that the bidder has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- (c) will sanction a firm or individual, including declaring ineligible, for a stated period of time, to be awarded a GoN/DP-financed contract if it at any time determines that the firm has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for, or in executing, a GoN/DP-financed contract.

3.2 The Bidder shall not carry out or cause to carry out the following acts with an intention to influence the implementation of the procurement process or the procurement agreement :

- (a) give or propose improper inducement directly or indirectly,
- (b) distortion or misrepresentation of facts,
- (c) engaging in corrupt or fraudulent practice or involving in such act,
- (d) interference in participation of other competing bidders,
- (e) coercion or threatening directly or indirectly to cause harm to the person or the property of any person to be involved in the procurement proceedings,
- (f) collusive practice among bidders before or after submission of bids for distribution of works among bidders or fixing artificial/uncompetitive bid price with an intention to deprive the Employer the benefit of open competitive bid price,
- (g) contacting the Employer with an intention to influence the Employer with regards to the bids or interference of any kind in examination and evaluation of the bids during the period from the time of opening of the bids until the notification of award of contract.

3.3 Without prejudice to any other rights of the Employer, GoN may **blacklist** a Bidder for a period of one (1) to three (3) years for its conduct on the following grounds and seriousness of the act committed by the bidder:

- (a) if convicted by a court of law in a criminal offence which disqualifies the Bidder from participating in the contract,
- (b) if it is established that the contract agreement signed by the Bidder was



based on false or misrepresentation of Bidder's qualification information,

- 3.4 A bidder declared blacklisted and ineligible by the GoN, Public procurement Monitoring Office (PPMO) and/or the DP in case of DP funded project, shall be ineligible to bid for a contract during the period of time determined by the GoN, PPMO and/or the DP.
- 3.5 The Contractor shall permit the GoN/DP to inspect the Contractor's accounts and records relating to the performance of the Contractor and to have them audited by auditors appointed by the GoN/DP, if so required by the GoN/DP.
- 3.6 DP Funded: In pursuance of the fraud and corruption policy, the DP.
 - (a) will reject a proposal if it determines that the bidder recommended for award has directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
 - (b) will cancel the portion of the Grant/ credit/ grant allocated to a contract if it determines at any time that representative(s) of the GoN or of a beneficiary of the fund engaged in corrupt, fraudulent, collusive, or coercive practices during the procurement or the execution of that contract, without the GoN having taken timely and appropriate action satisfactory to the DP to address such practices when they occur.

4. Eligible Bidders

- 4.1 A Bidder may be a natural person, private entity, or government-owned entity—subject to ITB 4.5—or any combination of them in the form of a Joint Venture (JV) under an existing agreement, or with the intent to constitute a legally-enforceable joint venture. In the case of a JV:
 - (a) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms. Maximum number of JV shall be three. The qualification requirement of the parties to the JV shall be as specified in the BDS, and
 - (b) the JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the parties of the JV during the bidding process and, in the event the JV is awarded the Contract, during Contract execution.
- 4.2 A Bidder, and all parties constituting the Bidder, shall have the nationality of any country or eligible countries mentioned in the BDS. A Bidder shall be deemed to have the nationality of a country if the Bidder is a citizen or is constituted, or incorporated, and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed sub Contractors or suppliers for any part of the Contract including related services.
- 4.3 A Bidder shall not have a conflict of interest. A Bidder found to have a conflict of interest shall be disqualified. A Bidder may be considered to be in a conflict of interest with one or more parties in this bidding process, if:
 - (a) they have controlling partners in common; or
 - (b) they receive or have received any direct or indirect subsidy from any of them; or
 - (c) they have the same legal representative for purposes of this bid; or
 - (d) they have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the Bid of another Bidder, or influence the decisions of the

Employer regarding this bidding process; or

- (e) a Bidder participates in more than one bid in this bidding process. Participation by a Bidder in more than one Bid will result in the disqualification of all Bids in which the party is involved. However, this does not limit the inclusion of the same sub Contractor in more than one bid; or
- (f) a Bidder or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the Contract that is the subject of the Bid; or
- (g) a Bidder or any of its affiliates has been hired (or is proposed to be hired) by the Employer as Engineer for the Contract.

- 4.4 A firm that is under a declaration of ineligibility by the GoN/DP in accordance with ITB 3, at the date of the deadline for bid submission or thereafter, shall be disqualified.
- 4.5 Enterprises owned by Government shall be eligible only if they can establish that they are legally and financially autonomous and operate under commercial law, and that they are not a dependent agency of the GoN.
- 4.6 Bidders shall provide such evidence of their continued eligibility satisfactory to the Employer, as the Employer shall reasonably request.
- 4.7 In case a prequalification process has been conducted prior to the bidding process, this bidding is open only to prequalified Bidders.
- 4.8 Firms shall be excluded in any of the cases, if
 - (a) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Employer's country prohibits any import of goods or Contracting of works or services from that country or any payments to persons or entities in that country.
 - (b) DP Funded: as a matter of law or official regulation, Nepal prohibits commercial relations with that country, provided that the DP is satisfied that such exclusion does not preclude effective competition for the supply of goods or related services required;
 - (c) DP Funded: a firm has been determined to be ineligible by the DP in relation to their guidelines or appropriate provisions on preventing and combating fraud and corruption in projects financed by them.
- 4.9 The Domestic Bidder who has obtained Permanent Account Number (PAN) and Value Added Tax (VAT) Registration Certificate(s) and Tax Clearance Certificate from the Inland Revenue Office or proof of submission of audited PL report to the Inland Revenue Office shall only be eligible. The foreign bidder submitting the documents indicated in the BDS at the time of bid submission and a declaration to submit the document(s) indicated in the BDS at the time of contract agreement shall only be eligible.

5. Eligible Materials, Equipment and Services

- 5.1 The materials, equipment and services to be supplied under the Contract shall have their origin in any source countries as defined in ITB 4.2 above and all expenditures under the Contract will be limited to such materials, equipment, and services. At the Employer's request, Bidders may be required to provide evidence of the origin of materials, equipment and services.
- 5.2 For purposes of ITB 5.1 above, "origin" means the place where the materials and equipment are mined, grown, produced or manufactured, and from which



the services are provided. Materials and equipment are produced when, through manufacturing, processing, or substantial or major assembling of components, a commercially recognized product results that differs substantially in its basic characteristics or in purpose or utility from its components.

B. Contents of Bidding Document

6. **Sections of Bidding Document** 6.1 The Bidding Document consist of Parts I, II, and III, which include all the Sections indicated below, and should be read in conjunction with any Addenda issued in accordance with ITB 8.

Content of bidding documents

Section 1 - Instructions to Bidders (ITB)

Section 2 - Bid Data Sheet (BDS)

Section 3 – Minimum Qualification Criterias

Section 4 - Bidding Forms (BDF)

Section 5 – Preambles to Bill of Quantities (BOQ)

Section 6 - General Conditions of Contract (GCC)

Section 7 - Special Conditions of Contract (SCC)

Section 8 - Contract Forms (COF)

- 6.2 The Invitation for Bids issued by the Employer is not part of the Bidding Document.
- 6.3 The Employer is not responsible for the completeness of the Bidding Document and their Addenda, if they were not obtained directly from the source stated by the Employer in the Invitation for Bids.
- 6.4 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Document. Failure to furnish all information or documentation required by the Bidding Document may result in the rejection of the bid.
7. **Clarification of Bidding Document, Site Visit, Pre-Bid Meeting** 7.1 A prospective Bidder requiring any clarification of the Bidding Document shall contact the Employer in writing at the Employer's address indicated in ITB 7.5 or raise any question or curiosity during the pre-bid meeting if provided for in accordance with ITB 7.4. The Employer shall be required to make available as soon as possible the answer to such question or curiosity in writing to any request for clarification, provided that such request is received as mentioned in BDS. The Employer shall forward copies of its response to all Bidders who have acquired the Bidding Document in accordance with ITB 6.3, including a description of the inquiry but without identifying its source. Should the Employer deem it necessary to amend the Bidding Document as a result of a request for clarification, it shall do so following the procedure under ITB 8 and ITB 22.2.
- 7.2 The Bidder is encouraged to visit and examine the Site of Works and its surroundings and obtain for itself, on its own risk and responsibility, all information that may be necessary for preparing the bid and entering into a Contract for construction of the Works. The costs of visiting the Site shall be at

the Bidder's own expense.

- 7.3 The Bidder and any of its personnel or agents will be granted permission by the Employer to enter upon its premises and lands for the purpose of such visit, but only upon the express condition that the Bidder, its personnel, and agents will release and indemnify the Employer and its personnel and agents from and against all liability in respect thereof, and will be responsible for death or personal injury, loss of or damage to property, and any other loss, damage, costs, and expenses incurred as a result of the inspection.
- 7.4 The Bidder's designated representative is invited to attend a pre-bid meeting, if provided for in the BDS. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 7.5 The Bidder is requested, as far as possible, to submit any questions in writing, to reach the Employer as mentioned in BDS.
- 7.6 Minutes of the pre-bid meeting, including the text of the questions raised, without identifying the source, and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Bidders who have acquired the Bidding Document in accordance with ITB 6.3. Any modification to the Bidding Document that may become necessary as a result of the pre-bid meeting shall be made by the Employer exclusively through the issue of an addendum pursuant to ITB 8 and not through the minutes of the pre-bid meeting.
- 7.7 Non attendance at the pre-bid meeting will not be a cause for disqualification of a Bidder.

8. Amendment of Bidding Document

- 8.1 At any time prior to the deadline for submission of bids, the Employer may amend the Bidding Document by issuing addenda.
- 8.2 Any addendum issued shall be part of the Bidding Document and shall be communicated in writing to all who have obtained the Bidding Document from the Employer in accordance with ITB 6.3.
- 8.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their bids, the Employer may, at its discretion, extend the deadline for the submission of bids, pursuant to ITB 22.2

C. Preparation of Bids

9. Cost of Bidding

- 9.1 The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the Employer shall in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

10. Language of Bid

- 10.1 The Bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Employer, shall be written in the language specified in the BDS. Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified in the BDS, in which case, for purposes of interpretation of the Bid, such translation shall govern.

11. Documents Comprising the Bid

- 11.1 The Bid shall comprise the following:
 - (a) Letter of Bid;



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- (b) completed Schedules, in accordance with ITB 12 and 14, or as stipulated in the BDS;
- (c) Bid Security, in accordance with ITB 19;
- (d) alternative bids, at Bidder's option and if permissible, in accordance with ITB 13;
- (e) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB 20.2;
- (f) documentary evidence in accordance with ITB 17 establishing the Bidder's qualifications to perform the Contract;
- (g) Technical Proposal in accordance with ITB 16;
- (h) In the case of a bid submitted by a JV, the JV agreement, or letter of intent to enter into a JV including a draft agreement, indicating at least the parts of the Works to be executed by the respective partners; and
- (i) Any other document required in the BDS.

12. Letter of Bid and Schedules

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

13. Alternative Bids

13.1 Unless otherwise indicated in the BDS, alternative bids shall not be considered.

13.2 When alternative times for completion are explicitly invited, a statement to that effect will be included in the BDS, as will the method of evaluating different times for completion.

13.3 When specified in the BDS pursuant to ITB 13.1, and subject to ITB 13.4 below, Bidders wishing to offer technical alternatives to the requirements of the Bidding Document must first price the Employer's design as described in the Bidding Document and shall further provide all information necessary for a complete evaluation of the alternative by the Employer, including drawings, design calculations, technical specifications, breakdown of prices, and proposed construction methodology and other relevant details. Only the technical alternatives, if any, of the lowest evaluated Bidder conforming to the basic technical requirements shall be considered by the Employer.

13.4 When specified in the BDS, Bidders are permitted to submit alternative technical solutions for specified parts of the Works. Such parts will be identified in the BDS and described in Section 5 (Employer's Requirements). The method for their evaluation will be stipulated in Section 3 (Evaluation and Qualification Criteria).

14. Bid Prices and Discounts

14.1 The prices and discounts quoted by the Bidder in the Letter of Bid and in the Schedules shall conform to the requirements specified below.

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

items and prices in the Bill of Quantities.

- 14.3 The price to be quoted in the Letter of Bid shall be the total price of the Bid, excluding any discounts offered.
- 14.4 Unconditional discounts, if any, and the methodology for their application shall be quoted in the Letter of Bid, in accordance with ITB 12.1.
- 14.5 If so indicated in ITB 1.1, bids are invited for individual Contracts or for any combination of Contracts (packages). Bidders wishing to offer any price reduction for the award of more than one Contract shall specify in their bid the price reductions applicable to each package, or alternatively, to individual Contracts within the package. Price reductions or discounts shall be submitted in accordance with ITB 14.3, provided the bids for all Contracts are submitted and opened at the same time.
- 14.6 Unless otherwise provided in the BDS and the Conditions of Contract, the prices quoted by the Bidder shall be fixed. If the prices quoted by the Bidder are subject to adjustment during the performance of the Contract in accordance with the provisions of the Conditions of Contract, the Bidder shall furnish the indices and weightings for the price adjustment formulae in the Table of Adjustment Data in Section 4 (Bidding Forms) and the Employer may require the Bidder to justify its proposed indices and weightings.
- 14.7 The bidder is subject to taxes such as VAT, social charges or income taxes on non-resident international personnel, and also duties, fees, levies on amounts payable by the employer under the Contract.

All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, as of the date mentioned in BDS prior to the deadline for submission of bids, shall be included in the rates and prices and the total bid price submitted by the Bidder.

15. Currency of Bid and Payment

- 15.1 The currency of the bid and payment shall be in Nepalese Rupees.

16. Documents Comprising the Technical Proposal

- 16.1 The Bidder shall furnish a Technical Proposal including a statement of work methods, equipment, personnel, schedule and any other information as stipulated in Section 4 (Bidding Forms), in sufficient detail to demonstrate the adequacy of the Bidders' proposal to meet the work requirements and the completion time.

17. Documents Establishing the Qualifications of the Bidder

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

18. Period of Validity of Bids

- 18.1 Bids shall remain valid for the period specified in the BDS after the bid submission deadline date prescribed by the Employer. A bid valid for a shorter period shall be rejected by the Employer as nonresponsive.
- 18.2 In exceptional circumstances, prior to the expiration of the bid validity period, the Employer may request Bidders to extend the period of validity of their Bids. The request and the responses shall be made in writing. If a bid security is requested in accordance with ITB 19, it shall also be extended 30 days beyond the deadline of the extended validity period. A Bidder may refuse the request without forfeiting its bid security. A Bidder granting the request shall not be required or permitted to modify its Bid.



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19. Bid Security

19.1 Unless otherwise specified in the BDS, the Bidder shall furnish as part of its bid, in original form, a bid security as specified in the BDS. In the case of a bid security, the amount shall be as specified in the BDS.

19.2 If a bid security is specified pursuant to ITB 19.1, the bid security shall be, at the Bidder's option, in any of the following forms:

(a) original copy of an unconditional bank guarantee from "A" class commercial bank or;

(b) original copy of cash deposit voucher in the Employer's Account as specified in BDS.

In the case of a bank guarantee, the bid security shall be submitted either using the Bid Security Form included in Section 4 (Bidding Forms) or in another substantially similar format approved by the employer prior to bid submission. The form must include the complete name of the Bidder. The bid security shall be valid for minimum thirty (30) days beyond the original validity period of the bid, or beyond any period of extension if requested under ITB 18.2.

19.3 The bid security issued by any foreign Bank outside Nepal must be counter guaranteed by an "A" class commercial Bank in Nepal.

19.4 Any bid not accompanied by an enforceable and substantially compliant bid security, if required in accordance with ITB 19.1, shall be rejected by the Employer as nonresponsive.

19.5 If a bid security is specified pursuant to ITB 19.1, the bid security of unsuccessful Bidders shall be returned within three days, once the successful bidder has furnished the required performance security and signed the Contract Agreement pursuant to ITB 38.1.

19.6 The bid security may be forfeited:

(a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Letter of Bid, except as provided in ITB 18.2 or

(b) if the successful Bidder fails to:

(i) sign the Contract in accordance with ITB 39.1; or

(ii) furnish a performance security in accordance with ITB 38.1.

19.7 The Bid Security of a JV shall be in the name of the JV that submits the bid. If the JV has not been legally constituted at the time of bidding, the Bid Security shall be in the names of all future partners as named in the letter of intent mentioned in ITB 4.1.

20. Format and Signing of Bid

20.1 The Bidder shall prepare one original of the documents comprising the bid as described in ITB 11 and clearly mark it "ORIGINAL". Alternative bids, if permitted in accordance with ITB 13, shall be clearly marked "ALTERNATIVE". In addition, the Bidder shall submit copies of the bid in the number specified in the BDS, and clearly mark each of them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.

20.2 The original and all copies of the bid shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder. This authorization shall consist of a written confirmation as specified in the BDS and shall be attached to the bid. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the bid, except for unamended printed literature, shall be signed or



initialed by the person signing the bid.

20.3 Any amendments such as interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the bid.

D. Submission and Opening of Bids

- 21. Sealing and Marking of Bids**
- 21.1 Bidders may always submit their bids by mail or by hand or by courier. When so specified in the BDS, bidders shall have the option of submitting their bids electronically. Procedures for submission, sealing and marking are as follows:
- (a) Bidders submitting bids by mail, by hand or by courier shall enclose the original and each copy of the Bid, including alternative bids, if permitted in accordance with ITB 13, in separate sealed envelopes, duly marking the envelopes as "ORIGINAL", "ALTERNATIVE" and "COPY." These envelopes containing the original and the copies shall then be enclosed in one single envelope. The rest of the procedure shall be in accordance with ITB sub-Clauses 21.2 and 21.3.
- Bidders submitting bids electronically shall follow the electronic bid submission procedures specified in the BDS.
- 21.2 The inner and outer envelopes shall:
- (a) bear the name and address of the Bidder;
 - (b) be addressed to the Employer as provided in BDS 22.1;
 - (c) bear the specific identification of this bidding process indicated in BDS 1.1; and
 - (d) bear a warning not to open before the time and date for bid opening.
- (d) If all envelopes are not sealed and marked as required, the Employer will assume no responsibility for the misplacement or premature opening of the bid.
- 22. Deadline for Submission of Bids**
- 22.1 Bids must be received by the Employer at the address and no later than the date and time indicated in the BDS.
- 22.2 The Employer may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Document in accordance with ITB 8, in which case all rights and obligations of the Employer and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.
- 23. Late Bids**
- 23.1 The Employer shall not consider any bid that arrives after the deadline for submission of bids, in accordance with ITB 22. Any bid received by the Employer after the deadline for submission of bids shall be declared late, rejected, and returned unopened to the Bidder.
- 24. Withdrawal, and Modification of Bids**
- 24.1 A Bidder may withdraw, or modify its bid after it has been submitted by sending a written notice in a sealed envelope, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITB 20.2, (except that withdrawal notices do not require copies). The corresponding modification of the bid must accompany the respective written notice. All notices must be:
- (a) prepared and submitted in accordance with ITB 20 and ITB 21 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked "WITHDRAWAL", "MODIFICATION;"



and

(b) received by the Employer prior to the deadline prescribed for submission of bids, in accordance with ITB 22.

24.2 Bids requested to be withdrawn in accordance with ITB 24.1 shall be returned unopened to the Bidders after completion of the bid opening.

24.3 No bid may be withdrawn, or modified in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Letter of Bid or any extension thereof.

25. Bid Opening

25.1 The Employer shall open the bids in public at the address, date and time specified in the BDS in the presence of Bidders' designated representatives and anyone who choose to attend. Any specific electronic bid opening procedures required if electronic bidding is permitted in accordance with ITB 21.1, shall be as specified in the BDS.

25.2 First, envelopes marked "WITHDRAWAL" shall be opened and read out. and the envelope with the corresponding bid shall not be opened, but returned to the Bidder. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at bid opening. Next, envelopes marked "MODIFICATION" shall be opened and read out with the corresponding bid. No bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at bid opening. Only envelopes that are opened and read out at bid opening shall be considered further.

25.3 All other envelopes shall be opened one at a time, reading out: the name of the Bidder; the Bid Price(s), including any discounts and alternative bids and indicating whether there is a modification; the presence of a bid security and any other details as the Employer may consider appropriate. Only discounts and alternative offers read out at bid opening shall be considered for evaluation.

Unless otherwise specified in the BDS, all pages of the Letter of Bid and Bill of Quantities are to be initialed by representative of the Bidder and Employer attending the bid opening.

No bid shall be rejected at bid opening except for late bids, in accordance with ITB 23.1.

The Employer shall prepare a record of the bid opening that shall include, as a minimum: the name of the Bidder and whether there is a withdrawal, or modification; the Bid Price, per Contract if applicable, including any discounts and alternative offers; and the presence or absence of a bid security, if one was required. The Bidders' representatives who are present shall be requested to sign the record. The omission of a Bidder's signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Bidders.

E. Evaluation and Comparison of Bids

26. Confidentiality

26.1 Information relating to the examination, evaluation, comparison, and post-qualification of bids and recommendation of Contract award, shall not be disclosed to Bidders or any other persons not officially concerned with such process until information on Contract award is communicated to all Bidders.

26.2 Any attempt by a Bidder to influence the Employer in the evaluation of the bids or



Contract award decisions may result in the rejection of its bid.

- 27. Clarification of Bids**
- 26.3 Notwithstanding ITB 26.2, from the time of bid opening to the time of Contract award, if any Bidder wishes to contact the Employer on any matter related to the bidding process, it may do so in writing.
- 27.1 To assist in the examination, evaluation, and comparison of the bids, and qualification of the Bidders, the Employer may, at its discretion, ask any Bidder for a clarification of its bid. Any clarification submitted by a Bidder that is not in response to a request by the Employer shall not be considered. The Employer's request for clarification and the response shall be in writing. No change in the prices or substance of the bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the bids, in accordance with ITB 31.
- 27.2 If a Bidder does not provide clarifications of its bid by the date and time set in the Employer's request for clarification, its bid may be rejected.
- 28. Deviations, Reservations, and Omissions**
- 28.1 During the evaluation of bids, the following definitions apply:
- (a) "Deviation" is a departure from the requirements specified in the Bidding Document;
 - (b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Document; and
 - (c) "Omission" is the failure to submit part or all of the information or documentation required in the Bidding Document.
- 29. Determination of Responsiveness**
- 29.1 The Employer's determination of a bid's responsiveness is to be based on the contents of the bid itself, as defined in ITB11.
- 29.2 A substantially responsive bid is one that meets the requirements of the Bidding Document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that,
- (a) if accepted, would:
 - (i) Affect in any substantial way the scope, quality, or performance of the Works specified in the Contract; or
 - (ii) limit in any substantial way, inconsistent with the Bidding Document, the Employer's rights or the Bidder's obligations under the proposed Contract; or
 - (b) if rectified, would unfairly affect the competitive position of other Bidders presenting substantially responsive bids.
- 29.3 The Employer shall examine the technical aspects of the bid submitted in accordance with ITB 16, Technical Proposal, in particular, to confirm that all requirements of Section 5 (Works Requirements) have been met without any material deviation, reservation or omission.
- 29.4 If a bid is not substantially responsive to the requirements of the Bidding Document, it shall be rejected by the Employer and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.



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30. Nonconformities, Errors, and Omissions

- 30.1 Provided that a bid is substantially responsive, the Employer may waive any nonconformity in the bid.
- 30.2 Provided that a bid is substantially responsive, the Employer may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities in the bid related to documentation requirements. Requesting information or documentation on such nonconformities shall not be related to any aspect of the price of the bid. Failure of the Bidder to comply with the request may result in the rejection of its bid.
- 30.3 Provided that a bid is substantially responsive, the Employer shall rectify quantifiable nonmaterial nonconformities related to the Bid Price. To this effect, the Bid Price may be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component. The adjustment shall be made using the methods indicated in Section 3 (Evaluation and Qualification Criteria).
- 30.4 If minor discrepancies are found such as in technical specification, description, feature which does not make the bid to be rejected, then the cost, which is calculated to the extent possible due to such differences, shall be included while evaluating the bid.
- 30.5 If the value of such nonconformities is found more than fifteen percent the quoted amount of the bidder on account of small differences pursuant to ITB 30.4, such bid shall be considered ineffective in substance and shall not be involved in evaluation.

31. Correction of Arithmetical Errors

- 31.1 Provided that the bid is substantially responsive, the Employer shall correct arithmetical errors on the following basis:
- (a) only for unit price Contracts, if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Employer there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;
 - (b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
 - (c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.
- 31.2 If the Bidder that submitted the lowest evaluated bid does not accept the correction of errors, its bid shall be disqualified and its bid security may be forfeited.

32. Evaluation of Bids

- 32.1 The Employer shall use the criteria and methodologies listed in this Clause. No other evaluation criteria or methodologies shall be permitted.
- 32.2 To evaluate a bid, the Employer shall consider the following:
- (a) the bid price, excluding Provisional Sums and the provision, if any, for contingencies in the Summary Bill of Quantities, and Value Added Tax for Unit Rate Contracts, or Schedule of Prices for lump sum Contracts, but including Day work items, where priced competitively;
 - (b) price adjustment for correction of arithmetic errors in accordance with ITB

31.1;

- (c) price adjustment due to discounts offered in accordance with ITB 14.4;
- (d) adjustment for nonconformities in accordance with ITB 30.3;
- (e) application of all the evaluation factors indicated in Section 3 (Evaluation and Qualification Criteria);

32.3 The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be taken into account in bid evaluation.

32.4 If this Bidding Document allows Bidders to quote separate prices for different Contracts, and to award multiple Contracts to a single Bidder, the methodology to determine the lowest evaluated price of the Contract combinations, including any discounts offered in the Letter of Bid, is specified in Section 3 (Evaluation and Qualification Criteria).

32.5 If the bid for an Unit Rate Contract, which results in the lowest Evaluated Bid Price, is seriously unbalanced, front loaded or substantially below updated estimates in the opinion of the Employer, the Employer may require the Bidder to produce detailed price analysis for any or all items of the Bill of Quantities, to demonstrate the internal consistency of those prices with the construction methods and schedule proposed. After evaluation of the price analysis, taking into consideration the schedule of estimated Contract payments, the Employer may require that the amount of the performance security be increased at the expense of the Bidder to a level sufficient as mentioned in BDS to protect the Employer against financial loss in the event of default of the successful Bidder under the Contract.

33. Comparison of Bids 33.1 The Employer shall compare all substantially responsive bids in accordance with ITB 32.2 to determine the lowest evaluated bid.

34. Qualification of the Bidder 34.1 The Employer shall determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated and substantially responsive bid meets the qualifying criteria specified in Section 3 (Evaluation and Qualification Criteria).

34.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB 17.1.

34.3 An affirmative determination of qualification shall be a prerequisite for award of the Contract to the Bidder. A negative determination shall result in disqualification of the bid, in which event the Employer shall proceed to the next lowest evaluated bid to make a similar determination of that Bidder's qualifications to perform satisfactorily.

35. Employer's Right to Accept Any Bid, and to Reject Any or All Bids 35.1 The Employer reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to Contract award, without thereby incurring any liability to Bidders. In case of annulment, all bids submitted and specifically, bid securities, shall be promptly returned to the Bidders.

F. Award of Contract

36. Award Criteria 36.1 The Employer shall award the Contract to the Bidder whose offer has been determined to be the lowest evaluated bid and is substantially responsive to the Bidding Document, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.



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37. Letter of Intent to Award the Contract/ Notification of Award

- 37.1 The Employer shall notify the concerned Bidder whose bid has been selected in accordance with ITB 36.1 within seven days of the selection of the bid, in writing that the Employer has intention to accept its bid and the information regarding the name, address and amount of selected bidder shall be given to all other bidders who submitted the bid.
- 37.2 If no bidder submits an application pursuant to ITB 40 within a period of seven days of the notice provided under ITB 37.1, the Employer shall, accept the bid selected in accordance with ITB 36.1 and Letter of Acceptance shall be communicated to the selected bidder prior to the expiration of period of Bid validity, to furnish the performance security and sign the contract within fifteen days.
- 37.3 At the same time, the Employer shall affix a public notice on the result of the award on its notice board and may make arrangements to post the notice into its website, if it has; and if it does not have, into the website of the Public Procurement Monitoring Office, identifying the bid and lot numbers and the following information: (i) name of each Bidder who submitted a Bid; (ii) bid prices as read out at Bid Opening; (iii) name and evaluated prices of each Bid; (iv) name of bidders whose bids were rejected and the reasons for their rejection; and (v) name of the winning Bidder, and the Price it offered, as well as the duration and summary scope of the Contract awarded.

38. Performance Security

- 38.1 Within Fifteen (15) days of the receipt of Letter of Acceptance from the Employer, the successful Bidder shall furnish the performance security from A class Commercial Bank in accordance with the conditions of Contract using Sample Form for the Performance Security included in Section 9 (Contract Forms), or another form acceptable to the Employer.
- 38.2 Failure of the successful Bidder to submit the above-mentioned Performance Security or to sign the Contract Agreement shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security. In that event the Employer may award the Contract to the next lowest evaluated Bidder whose offer is substantially responsive and is determined by the Employer to be qualified to perform the Contract satisfactorily. The process shall be repeated according to ITB 37.

39. Signing of Contract

- 39.1 The Employer and the successful Bidder shall sign the Contract Agreement within the period as stated ITB 38.1.
- Within thirty (30) days from the date of issuance of notification pursuant to ITB 37.1 unsuccessful bidders may request in writing to the Employer for a debriefing seeking explanations on the grounds on which their bids were not selected. The Employer shall promptly respond in writing to any unsuccessful Bidder who, requests for debriefing within 30 days of publication of the contract award.

40. Complain Review

- and 40.1 If a Bidder is dissatisfied with the Procurement proceedings or the decision made by the Employer in the intention to award the Contract, it may file an application to the Chief of the Public Entity within Seven (7) days of providing the notice under ITB 37.1 by the Public Entity, for review of the proceedings stating the factual and legal grounds.
- 40.2 Late application filed after the deadline pursuant to ITB 40.1 shall not be processed.
- 40.3 The chief of Public Entity shall, within five (5) days after receiving the application, give its decision with reasons, in writing pursuant to ITB 40.1:
- (a) whether to suspend the procurement proceeding and indicate the

procedure to be adopted for further proceedings; or

(b) to reject the application.

The decision of the chief of Public Entity shall be final for the Bid amount up to the value as stated in BDS.

- 40.4 If the Bidder is not satisfied with the decision of the Public Entity in accordance with ITB 40.3, or the decision by the Employer is not given within five (5) days of receipt of application pursuant to ITB 40.1, it can, within seven (7) days of receipt of such decision, file an application to the Review Committee of the GoN, stating the reason of its disagreement on the decision of the chief of Public Entity and furnishing the relevant documents, provided that its Bid amount is more than Rupees **Thirty Million (Rs. 30,000,000)**. The application may be sent by hand, by post, by courier, or by electronic media at the risk of the Bidder itself.
- 40.5 Late application filed after the deadline pursuant to ITB 40.4 shall not be processed.
- 40.6 Within three (3) days of the receipt of application from the Bidder, pursuant to ITB 40.4, the Review Committee shall notify the concerning Public Entity to furnish its procurement proceedings, pursuant to ITB 40.3.
- 40.7 Within three (3) days of receipt of the notification pursuant to ITB 40.6, the Public Entity shall furnish the copy of the related documents to the Review Committee.
- 40.8 The Review Committee, after inquiring from the Bidder and the Public Entity, if needed, shall give its decision within one (1) month of the receipt of the application filed by the Bidder, pursuant to ITB 40.4.
- 40.9 The Bidder, filing application pursuant to ITB 40.4, shall have to furnish a cash amount or Bank guarantee from "A" class commercial bank equivalent to zero point five percent (0.5%) amount of its quoted Bid amount with the validity period of at least ninety (90) days from the date of the filing of application pursuant to ITB 40.4.
- 40.10 If the claim made by the Bidder pursuant to ITB 40.4 is justified, the Review Committee shall have to return the security deposit to the applicant, pursuant to ITB 40.9, within seven (7) days of such decision made.

41. Provision of PPA and LBFAR

If any provisions of this document are inconsistent with Public Procurement Act (PPA), 2063 and Local Body Financial Act and Regulation-2064 and the provision of this documents shall be void to the extent of such inconsistency and the provision of PPA and LBFAR shall prevail.



Section 2 - Bidding Data Sheet

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

A. General

ITB 1.1	The number of the Invitation for Bids is : DMO/JHAPA/BC/01/2072-073
ITB 1.1	The Employer is: Damak Municipality Office, Damak, Jhapa
ITB 1.1	The name of the bidding process is: NCB The identification number of the bidding process is: DMO/JHAPA/BC/01/2072-073
ITB 2.1	The name of the Project is: Construction of Municipal Building (Office Building, Three Storied RCC Framed Structure) of Damak Municipality, Damak, Jhapa. The DP is: GoN, Ministry of Federal Affairs & Local Development The implementing agency is: Damak Municipality Office, Damak, Jhapa.
ITB 4.1	Eligible countries : Nepal
ITB 4.1 (a)	Lead partner of the joint venture at least 40 (fourty) percent. Other partner of the joint venture at least 25 (twenty five) percent.
ITB 4.9	The foreign bidder is to submit: NA

B. Bidding Document

ITB 7.1	For clarification purposes only, the Employer's address is: Attention: Executive Officer Address: Technical Section, Damak, Jhapa. Country: Nepal Telephone: : 023-580044/Mobile-9852670044,9852670365 , Facsimile number: 023-580146 Electronic mail address: info@mundamak.gov.np
ITB 7.4	A Pre-Bid meeting shall held. Pre bid meeting will take place at the following date, time and place: Date: on 10 th February 2016 (27 th Magh 2072). Time: 14:00 Hours Place: Damak Municipality Office, Damak, Jhapa. A site visit " shall not be " organized by the Employer. Contractors are advised to visit the



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site before bid in their own cost.

ITB 7.5	Time for request: Requests for clarification should be received by the Employer no later than: 10 days prior to the deadline for submission of bids.
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C. Preparation of Bids

ITB 10.1	The language of the bid is: <u>(English / Nepali)</u>
ITB 11.1 (b)	In accordance with ITB 12 and ITB 14, the following schedules shall be submitted with the bid, including the priced Bill of Quantities for Unit Rate Contracts and Schedule of Prices for lump sum contracts: NA
ITB 13.1	Alternative bids “shall not be” permitted.
ITB 13.2	Alternative times for completion “shall not be” permitted.
ITB 13.4	Alternative technical solutions shall be permitted for the following parts of the Works: If alternative technical solutions are permitted, the evaluation method will be as specified in Section 3 (Evaluation and Qualification Criteria).
ITB 14.5	The prices quoted by the Bidder shall be: “shall not be” subject to price adjustment.
ITB 14.6	The prices quoted by the Bidder “shall not be” subject to adjustment during the performance of the Contract.
ITB 14.7	The date for all duties, taxes, and other levies payable by the Contractor under the contract or for any other cause, as of the date 30 days prior to the deadline for submission of bids
ITB 18.1	The bid validity period shall be: upto 17th May 2016 (5th Jestha 2073)
ITB 19.1	The Bidder shall furnish a bid security, from "A" class commercial bank with a minimum of NRs. 905,000/-, which shall be valid minimum upto 17 th June 2016 (5 th Ashad 2073).
ITB 19.2 (b)	Account Name : Deposit Account, Bank Name : Rastriya Banijya Bank Bank Address : Damak, Jhapa, Account Number : 3060303000301
ITB 20.1	In addition to the original of the bid, the number of copy/ies is/are: 1. Incase of e-bidding, one original plus one copy is not mandatory.
ITB 20.2	The written confirmation of authorization to sign on behalf of the Bidder shall indicate: (a) The name and description of the documentation required to demonstrate the authority of the signatory to sign the Bid such as a Power of Attorney; and (b) In the case of Bids submitted by an existing or intended JV, an undertaking signed by all parties (i) stating that all parties shall be jointly and severally liable, and (ii) nominating a Representative who shall have the authority to conduct all business for and on behalf of any and all the parties of the JV during the bidding process and, in the event the JV is awarded the Contract, during contract execution.”



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D. Submission and Opening of Bids

ITB 21.1	Bidders “shall” have the option of submitting their bids electronically.																																																							
ITB 21.1 (b)	<p>The bidders shall have the option of submitting their bids electronically, the electronic bidding submission procedures shall be:</p> <p>i) Interested bidders may either purchase the bidding documents from the Employer's office as specified in the Invitation for Bids or choose to download the necessary part of Bidding Documents from e-procurement section of PPMO's Web Site http://www.bolpatra.gov.np. In case the Bidder chooses to download the bidding documents, prepare his Bids on the downloaded documents and submit his Bid electronically, the Bidder shall be required to deposit the cost of bidding documents as specified in the Invitation for Bids, in the Employer's revenue account as specified below. In addition, electronic scanned copy (in PDF format) of the bank deposit voucher or tele-transfer certificate shall be required to be submitted along with the electronic Bid files.</p> <p><u>Information to deposit the cost of bidding document in Bank:</u> Name of the Bank: Rastriya Banijya Bank, Damak, Jhapa Name of Office: Damak Municipality Office, Damak, Jhapa Office Account no. 306030403004301 Rajaswa (revenue) account</p> <p>ii) At the Pre-Bid meeting, attending Bidders shall be explained on the details of e-Submission procedures.</p> <p>iii) The Bidder shall fill the following documents and forms, get them signed by the authorized representative and seal with the company seal,</p> <p>a) Bill of Quantity (BOQ) with rate, amount</p> <p>b) Forms of Bid, Qualification Information in attached format</p> <p>iv) The Bidder shall scan the completed forms and original documents into PDF files (with Adobe Acrobat version 4.0 or above) with appropriate filename as shown in the table below.</p> <table border="1"><thead><tr><th>SN</th><th>Document</th><th>PDF File name</th><th>Requirement</th><th>Remarks</th></tr></thead><tbody><tr><td>1</td><td>Form of Bid</td><td>Bid form -1</td><td>Mandatory</td><td></td></tr><tr><td>2</td><td>Bid Security (Bank Guarantee)</td><td>Bid security-2</td><td>Mandatory</td><td></td></tr><tr><td>3</td><td>Company registration,</td><td>Company reg-3</td><td>Mandatory</td><td>All firms in case of JV</td></tr><tr><td>4</td><td>VAT registration,</td><td>VAT reg-4</td><td>Mandatory</td><td>All firms in case of JV</td></tr><tr><td>5</td><td>Tax clearances certificate,</td><td>Tax-5</td><td>Mandatory</td><td>All firms in case of JV</td></tr><tr><td>6</td><td>Power of Attorney of Bid signatory</td><td>Power of att-6</td><td>Mandatory</td><td></td></tr><tr><td>7</td><td>Joint venture agreement</td><td>JV doc-7</td><td>Mandatory</td><td>In case of JV</td></tr><tr><td>8</td><td>Qualification Information</td><td>Qualifications-8</td><td>Mandatory</td><td></td></tr><tr><td>9</td><td>BOQ with rate, amount and total amount</td><td>BOQ-9</td><td>Mandatory</td><td></td></tr><tr><td>10</td><td>Declaration form</td><td>Declaration form</td><td>Mandatory</td><td>All firms if JV</td></tr></tbody></table>	SN	Document	PDF File name	Requirement	Remarks	1	Form of Bid	Bid form -1	Mandatory		2	Bid Security (Bank Guarantee)	Bid security-2	Mandatory		3	Company registration,	Company reg-3	Mandatory	All firms in case of JV	4	VAT registration,	VAT reg-4	Mandatory	All firms in case of JV	5	Tax clearances certificate,	Tax-5	Mandatory	All firms in case of JV	6	Power of Attorney of Bid signatory	Power of att-6	Mandatory		7	Joint venture agreement	JV doc-7	Mandatory	In case of JV	8	Qualification Information	Qualifications-8	Mandatory		9	BOQ with rate, amount and total amount	BOQ-9	Mandatory		10	Declaration form	Declaration form	Mandatory	All firms if JV
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Note: Mandatory means the mentioned files must be included in the e-submission. Non submission of such file shall be considered as non-responsive bid.

- i) The Bidder shall register in the e-procurement section of PPMO's Web Site <http://www.bolpatra.gov.np>.
- ii) After preparing all the required documents in PDF files as specified in (iii) and (iv), the Bidder shall upload them and submit his/her complete Bid electronically through e-procurement section of Web Site <http://www.bolpatra.gov.np>.
- iii) Within the specified date and time.

Requirements and Conditions for electronic submission of Bids:

- i) The Bidder shall submit his bid electronically in PDF files in the manner specified above, and submission of hard copy of "original plus one copy of bid" is not mandatory.
- ii) In case, if both the electronic bid and original bid in hard copy are submitted to the Employer within the bid submission dead line, the Bidder's electronic bid and original bid in hard copy will be accepted for evaluation provided if the facts and figures in hard copy confirm to the PDF files in electronic bid. If there is any discrepancy in fact and figures in the electronic bid and original bid in hard copy it will be treated as two separate bids from one Bidder and hence, both the electronic bid and original bid in hard copy shall be disqualified.
- iii) The Bidder shall attach the Bid Security Guarantee in the format attached in the Bid Document. The Bid Security may be forfeited under the following conditions:

if the Bidder does not respond and/or submit the documents and or clarifications when requested by the Employer.

if major discrepancy is found between e-submitted bid information and documents/ clarifications provided by the Bidder during verification process as requested by the Employer

In case of a system failure and the decision to extend the bid closing time will be that of the tender authority responsible of the individual projects.

ITB 22.1	For bid submission purposes only, the Employer's address is: Attention: Executive Officer Address: Damak Municipality, Damak, Jhapa Country: Nepal The deadline for bid submission is: Date: 17 th February 2016 (5 th Phalgun 2072) Time: 12:00 hours.
ITB 25.1	The bid opening shall take place at: Address: Damak Municipality Office, Damak, Jhapa Country: Nepal Date: 17 th February 2016 (5 th Phalgun 2072) Time: 13:00 hours.
ITB 25.1	If electronic bid submission is permitted in accordance with ITB 21.1, the specific bid opening procedures shall be: i) Electronically submitted bid shall be opened at first in the same time and date as specified above.



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	<p>ii) The e-procurement system allows the Employer to download the e-submitted bid files from the Bidders only after the time for opening the bids.</p> <p>iii) The e-submitted bids must be readable through open standards interfaces. Unreadable and or partially submitted bid files (not complying as per ITB Clause 19.1) shall be considered incomplete and rejected for further bid evaluation.</p> <p>After opening of e-submitted bids files, all files shall be printed and recorded at the time of bid opening.</p>
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E. Evaluation and Comparison of Bids

ITB 32.5	The amount of the performance security can be increased by Eight (8) percent of the quoted bid price.
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F. Award of Contract

ITB 40.3	The bid amount up to Nepalese Rupees Twenty Million (NRs. 2,00,00,000).
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Section 3 - Minimum Qualification Criteria:

Name of Project: **Construction of Municipal Office building (Three Storied RCC Framed Structure) of Damak Municipality** Contract ID Number: **DMO/JHAPA/BC/01/072-073.**

Criteria	Compliance Requirements				Documents
	Single Entity	Joint Venture			
Requirement			All Partners Combined	Other Partner	Lead Partner
2.3.1 Historical Financial Performance					
Submission of audited balance sheets and income statements, for the last 10 years to demonstrate the current soundness of the applicant's financial position. As a minimum, a Bidder's net worth calculated as the difference between total assets and total liabilities should be positive.	must meet requirement	not applicable	must meet requirement	not applicable	
2.3.2 Average Annual Construction Turnover					
Minimum average annual construction turnover of NRS 54,300,000/- calculated as total certified payments received for construction contracts in progress or completed, within best three years out of last ten years	must meet requirement	must meet requirement	must meet 25% of the requirement	must meet 40% of the requirement	
2.3.3 Financial Resources					
The Bidder must demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other financial means, other than any contractual advance payments to meet at least NRS 10,900,000.00	must meet requirement	must meet requirement	must meet 25% of the requirement	must meet 40% of the requirement	



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Experience

2.4.1 General Construction Experience

Criteria	Compliance Requirements				Documents	
	Single Entity	Joint Venture				Submission Requirements
		All Partners Combined	Other Partner	Lead Partner		
Experience under construction contracts in the role of contractor, subcontractor, or management contractor for at least the last 5 years prior to the applications submission deadline.	must meet requirement	not applicable	must meet requirement	not applicable		

2.4.2 Specific Construction Experience

(a) Contracts of Similar Size and Nature

Participation as Prime contractor in at least one building construction project, within the last ten years, with a value of at least NRS 36,200,000/- that have been successfully completed and that is similar to the proposed works. The similarity shall be based on the physical size, complexity, methods, technology or other characteristics.	must meet requirement	must meet requirement	must meet 25% of the requirement	must meet 40% of the requirement	
---	-----------------------	-----------------------	----------------------------------	----------------------------------	--

2.5 Personnel

The Bidder must demonstrate that it has the personnel for the key positions that meet the following requirements:

No.	Position	Total Work Experience [years]	Experience In Similar Works [years]
1	Site Manager/ Engineer -01 (Minimum BE Civil or equivalent)	Minimum 5 Yrs	Minimum 3 Yrs
2	Electrical Sub-Engineer -01 (Minimum IE Electrical or equivalent)	Minimum 2 Yrs	Minimum 1 Yrs
3	Site Supervisor- 1 No (Minimum SLC with 3 yrs experience in building construction)	Minimum 2 Yrs	Minimum 1 Yrs

The Bidder shall provide curriculum Vitae of the proposed personnel and their experience records in the relevant Information Forms included in Section 4 (Bidding Forms). Engineer must be registered in engineering council. Curriculum Vitae must be certified by concerned person.



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2.6 Equipment

The Bidder must demonstrate that it has the key equipment in workable condition listed hereafter: The condition of equipment must be certified by either mechanical engineer or registered mechanical workshop. No equipment should be older than 10 years. Agreement should be included if equipment are proposed from lease.

No.	Equipment Type and Characteristics	Minimum Number Required
1	Level Machine / Theodolite	01 No
2	Water pump	02 Nos
3	Concrete Mixture	02 Nos
4	Concrete Vibrator	03 Nos
5	Truck/Tractor/Tripper	01 Nos
6	Plate Compactor/ Monkey Jumper	02 Nos

The Bidder shall provide further details of proposed items of equipment using the relevant Form in Section 4 (Bidding Forms)



Section 4 - Bidding Forms

1.0 STANDARD FORM: CONTRACTOR'S BID (Please use letterhead of the bidder)

Date _____

To
The Executive officer
Damak municipality, Damak, Jhapa.

We offer to execute Construction of Municipal Office Building in Damak Municipality, Damak, Jhapa Contract ID Number: DMO/JHAPA/BC/01/072-073. in accordance with the Conditions of Contract accompanying this Bid for the Contract Price of NRs..... **[in numbers]**
(_____) **[in words]**

We offer a discount of% if we are awarded contract no : DMO/JHAPA/BC/01/072-073.

The Contract shall be paid in the following currencies:

Currency	Percentage payable in currency	Rate of exchange: one foreign equals [insert NRs]	Inputs for which foreign currency is required
(a) <u>Nepali Rupees</u>	_____	<u>1 : 1</u>	_____
(b) _____	_____	_____	_____

The Advance Payment required is:

Amount	Currency
_____	_____

We accept the appointment of _____ as the Adjudicator.

[OR]

We do not accept the appointment of _____ as the Adjudicator, and propose instead that _____ be appointed as Adjudicator whose daily fees and biographical data are attached.



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2.0 STANDARD FORM: DECLARATION BY THE BIDDER
(Please use letterhead of the bidder)

Date _____

To
The Executive officer
Damak municipality, Damak, Jhapa.

We hereby declare, to comply with the provisions 40.2.e of Public Procurement Rules 2064 that our firm/JV firms as bidder is/are not eligible to participate in the bid, has no conflict of interest in the proposed bid, procurement proceedings and has not been punished for the profession for the business related offence.

Authorized Signature : _____

Name and Title of Signatory : _____

Name of Bidder : _____

Address: _____



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3.0 STANDARD FORM : QUALIFICATION INFORMATION

1. For Individual Bidders or Individual Members of Joint Ventures

1.1 Constitution or legal status of Bidder **[attach copy]**

Place of registration: _____
Principal place of business: _____
Power of attorney of signatory of Bid **[attach copy]**

1.2 Total annual volume of construction work performed in the last five years, in NRs:

Fiscal Year	2062/063	_____
	2063/064	_____
	2064/065	_____
	2065/066	_____
	2066/067	_____
	2067/068	_____
	2068/069	_____
	2069/070	_____
	2070/071	_____
	2071/072	_____

1.3 Work performed as prime Contractor on works of similar nature and volume over the last ten years. The value should be indicated in the same currency used for Item 1.2 above. Also list details of work under way or committed, including expected completion date.

Project name and country	Name of client and contact person	Type of work performed	Agreement date	Completion date	Value of contract

1.4 Major items of Contractor's Equipment proposed for carrying out the Works. The equipment shown in the table shall be required at the minimum. List all information requested below. Refer also to Sub-Clause 4.3 (d) of the Instructions to Bidders. If requirement is to be leased / hired, submit papers making specific arrangement for leasing/hiring.

Item of Equipment	Description make and age (years)	Condition (new, good, poor) and number available	Owned, leased (from whom?) or to be purchased (from whom)



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Qualifications and experience of key personnel proposed for site management, administration and execution of the Contract. Attach biographical data and detailed curriculum vitae. Refer also to Sub-Clauses 4.3 (e) and 4.5 (d) of the Instructions to Bidders and Sub-Clause 9.1 of the Conditions of Contract.

Position	Name	Years of experience (general)	Years of experience in proposed position

1.6 Proposed subcontracts and firms involved. NA

Sections of the works	Value of subcontract	Subcontractor (name and address)	Experience in similar works

1.7 Financial reports for the last ten years: balance sheet, profit and loss statements, auditors' reports, etc. List them below and attach copies.

1.8 Evidence of access to financial resources to meet the qualification requirements: cash in hand, lines of credit, etc. List below and attach copies of support documents.

1.9 Names, addresses and telephone, telex and facsimile numbers of banks that may provide references if contacted by the Employer.

1.10 Information on current litigation in which the Bidder is involved.



Other party (ies)	Cause of dispute	Amount involved

1.11 Statement of compliance with the requirements of Sub-Clause 4.3 of the Instructions to Bidders.

1.12 Proposed Program (work method and schedule). Descriptions, drawings and charts as necessary to comply with the requirements of the bidding documents.

2. Joint Ventures

2.1 The information listed in 1.1 - 1.11 above shall be provided for each partner of the joint venture.

2.2 The information in 1.12 above shall be provided for the joint venture.

2.3 Attach the power of attorney of the signatory (ies) of the Bid authorizing signature of the Bid on behalf of the joint venture.

2.4 Attach the Agreement among all partners of the joint venture (and which is legally binding on all partners), which shows that:

- (a) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms:
- (b) one of the partners will be nominated as being in charge, authorized to incur liabilities and receive instructions for and on behalf of any and all partners of the joint venture; and
- (c) the execution of the entire Contract including payment shall be done exclusively with the partner in charge.

3. Additional Requirements

3.1 Bidders should provide any additional information required in the Bidding Data or to fulfill the requirements of Sub-Clause 4.1 of the Instructions to Bidders.



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4.0 Letter of Intention to Award

Date:

To: [name and address of the Contractor]

This is to notify you that as per Bid evaluation committee's recommendation, it is our intention to award the contract [name of the Contract and identification number, as given in the Contract Data] to you as your Bid price of [amount in numbers and words in Nepalese Rupees], as corrected and modified in accordance with the Instructions to Bidders, is determined to be substantially responsive and lowest evaluated Bid price.

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Agency: _____

Note: The copy of the letter of Intention to Award should be given to all bidders.



5.0 LETTER OF ACCEPTANCE

_____ [Date]

To: _____ **[name of the Contractor]**
_____ **[address of the Contractor]**

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

(a) We accept that _____ **[name proposed by the Bidder]** be appointed as the
Adjudicator.

(b) We do not accept that _____ **[name proposed by the Bidder]** be appointed
as Adjudicator, and by sending a copy of this letter of acceptance to _____ **[insert the
name of the Appointing Authority]**, we are hereby, requesting _____, the
Appointing Authority, to appoint the Adjudicator in accordance with Clause 36.1 of the Instructions to Bidders.

You are hereby instructed to proceed with the execution of the said Works in accordance with the Contract
documents.

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Agency: _____

Attachment: Agreement



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6.0 STANDARD FORM : AGREEMENT

THIS AGREEMENT, made the _____ day of _____ 19 _____, between _____ **[name and address of Employer]** (hereinafter called "the Employer") and _____ **[name and address of Contractor]** (hereinafter called "the Contractor") of the other part.

WHEREAS the Employer is desirous that the Contractor execute _____ **[name and identification number of Contract]** (hereinafter called "the Works") and the Employer has accepted the Bid for _____ **[Insert the amount in Nepalese Rupees in Numbers and Words]** by the Contractor for the execution and completion of such Works and the remedying of any defects therein.

NOW THIS AGREEMENT WITNESSES as follows:

1. In this Agreement, words and expressions shall have same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to, and they shall be deemed to form and be read and construed as part of this Agreement.
2. In consideration of the payments to be made by the Employer to the Contractors hereinafter mentioned, the Contractor hereby covenants with the Employer to execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract.
3. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects wherein the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties thereto have caused this Agreement to be executed the day and year first before written.

The Common Seal of _____ was hereunto affixed in the presence of : _____

Signed, Sealed, and delivered by the said _____ in the presence of : _____

Binding Signature of the Employer : _____

Binding Signature of the Contractor : _____



21.7.2020

70 STANDARD FORM : JOINT VENTURE AGREEMENT

This AGREEMENT, is made on the -----day of ----- 20----, between -----[**name and address of Partner In-charge**] (hereinafter called “the Partner In-charge”) of one part and -----
---[**name and address of Secondary Partner**] (hereinafter called “the Secondary Partner”) of the other part.

WHEREAS, -----[**name and address of Employer**] (hereinafter called “the Employer”) has invited the bid for the ----- [**name and identification number of contract**](hereinafter called the Works)

NOW WE UNDERSIGNED, responsible and authorized representatives of the “Joint Venture Partners” namely Partner In-charge and Secondary Partners **DO AGREE** as follows:

1. The purpose of the Joint Venture Agreement is to supplement and enhance the technical, financial and administrative capability of the joint venture partners in order to successfully participate in the bidding process and to enter into contract agreement and execution of the Works, in case of the Contract is awarded.
2. The application for bid shall be submitted in the name of joint venture, which shall be as follows:
----- [**name and address of joint venture**]
All correspondence documents shall be addressed in this name.
3. The ratio of participation of each individual joint venturing partners expressed, as percentage of total contract value shall be as follows:

(a)	Partner In-charge	-	-----[percentage] of total Works
(b)	Secondary Partner	-	-----[percentage] of total Works
(C)	third partner	-	-----[percentage] of total Works

Nevertheless, all partners shall be liable jointly and severally for the execution of the Works under the Contract.

4. The Partner In-charge shall have the exclusive authority to deal with the Employer and incur liabilities and receive instruction for and on behalf of any and all partners, including receive payments and incur expenses, and shall be overall responsible for the entire execution of the Contract.
5. This agreement will come into force from the date of signing of this agreement and shall be enforced till the date of issuance of the Certificate of Completion, in case the Contract is awarded to the joint venture.

IN WITNESS whereof, the parties thereto have caused this Agreement to be executed the day and year first before written.

The Common Seal of ----- was hereunto affixed in the presence of: -----

Signed, Sealed, and delivered by the said -----in the presence of: -----

.....
Binding Signature of Partner In-charge
Name:
Designation:

.....
Binding Signature of Secondary Partner
Name:
Designation:

.....
Binding Signature of Secondary Partner
Name:
Designation:



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Section 5 – Preamble to the Bill of Quantities

Notes on the Bill of Quantities for Unit Rate Contracts

General

1. The Bill of Quantities shall be read in conjunction with the Instructions to Bidders, General and special Conditions of Contract, Technical Specifications, and Drawings.
2. The quantities given in the Bill of Quantities are estimated and provisional, and are given to provide a common basis for bidding. The basis of payment will be the actual quantities of work ordered and carried out, as measured by the Contractor and verified by the Engineer and valued at the rates and prices bid in the priced Bill of Quantities, where applicable, and otherwise at such rates and prices as the Engineer may fix within the terms of the Contract.
3. The rates and prices bid in the priced Bill of Quantities shall, except as otherwise provided under the Contract, include all construction equipment, labor, supervision, materials, erection, maintenance, insurance, profit, taxes, and duties, together with all general risks, liabilities, and obligations set out or implied in the Contract.
4. A rate or price shall be entered against each item in the priced Bill of Quantities, whether quantities are stated or not. The cost of items against which the Contractor has failed to enter a rate or price shall be deemed to be covered by other rates and prices entered in the Bill of Quantities.
5. The whole cost of complying with the provisions of the Contract shall be included in the Items provided in the priced Bill of Quantities, and where no Items are provided, the cost shall be deemed to be distributed among the rates and prices entered for the related Items of Work.
6. General directions and descriptions of work and materials are not necessarily repeated nor summarized in the Bill of Quantities. References to the relevant sections of the Contract documentation shall be made before entering prices against each item in the priced Bill of Quantities.
7. Provisional Sums included and so designated in the Bill of Quantities shall be expended in whole or in part at the direction and discretion of the Engineer in accordance with the Conditions of Contract.
8. The method of measurement of completed work for payment shall be in accordance with specification and other government's procedures.



Objectives

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The objectives of the Bill of Quantities are

- a) to provide sufficient information on the quantities of Works to be performed to enable Bids to be prepared efficiently and accurately; and
- b) when a Contract has been entered into, to provide a priced Bill of Quantities for use in the periodic valuation of Works executed.

In order to attain these objectives, Works should be itemized in the Bill of Quantities in sufficient detail to distinguish between the different classes of Works, or between Works of the same nature carried out in different locations or in other circumstances which may give rise to different considerations of cost. Consistent with these requirements, the layout and content of the Bill of Quantities should be as simple and brief as possible.

Day work Schedule

A Day work Schedule should be included only if the probability of unforeseen work, outside the items included in the Bill of Quantities, is high. To facilitate checking by the Employer of the realism of rates quoted by the Bidders, the Day work Schedule should normally comprise the following:

- a) A list of the various classes of labor, materials, and equipment for which basic Day work rates or prices are to be inserted by the Bidder, together with a statement of the conditions under which the Contractor will be paid for work executed on a day work basis.
- b) Nominal quantities for each item of Day work, to be priced by each Bidder at Day work rates as bid. The rate to be entered by the Bidder against each basic Day work item should include the Contractor's profit, overheads, supervision, and other charges.
- c) The total amount assigned to such competitive Day work is normally 3-5 percent of the estimated base contract price and is regarded as a Provisional Sum for contingencies to be expended under the direction and at the discretion of the Engineer. A limitation on quantity should not apply, and the unit rate quoted should be invariable whatever quantities of work are ordered.

Provisional Sums

A general provision for physical contingencies (quantity overruns) may be made by including a provisional sum in the Summary Bill of Quantities. Similarly, a contingency allowance for possible price increases should be provided as a provisional sum in the Summary Bill of Quantities. The inclusion of such provisional sums often facilitates budgetary approval by avoiding the need to request periodic supplementary approvals as the future need arises. Where such provisional sums or contingency allowances are used, the SCC should state the manner in which they will be used, and under whose authority (usually the Project Manager's).

The estimated cost of specialized work to be carried out, or of special goods to be supplied, by other contractors should be indicated in the relevant part of the Bill of Quantities as a particular provisional sum with an appropriate brief description. A separate procurement procedure is normally carried out by the Employer to select such specialized contractors. To provide an element of competition among the Bidders in respect of any facilities, amenities, attendance, etc., to be provided by the successful Bidder as prime Contractor for the use and convenience of the specialist contractors, each related provisional sum should be followed by an item in the Bill of Quantities inviting the Bidder to quote a sum for such amenities, facilities, attendance, etc.



Section 6 - General Conditions of Contract

A. General

1. Definitions

- 1.1 Boldface type is used to identify defined terms.
- (a) The **Accepted Contract Amount** means the amount accepted in the Letter of Acceptance for the execution and completion of the Works and the remedying of any defects.
 - (b) The **Activity Schedule** is a schedule of the activities comprising the construction, installation, testing, and commissioning of the Works in a lump sum contract. It includes a lump sum price for each activity, which is used for valuations and for assessing the effects of Variations and Compensation Events.
 - (c) The **Adjudicator** is the person appointed jointly by the Employer and the Contractor to resolve disputes in the first instance, as provided for in GCC 23.2 hereunder.
 - (d) **Bill of Quantities** means the priced and completed Bill of Quantities forming part of the Bid.
 - (e) **Compensation Events** are those defined in GCC 42 hereunder.
 - (f) The **Completion Date** is the date of completion of the Works as certified by the Project Manager, in accordance with GCC 53.1.
 - (g) The **Contract** is the Contract between the Employer and the Contractor to execute, complete, and maintain the Works. It consists of the documents listed in GCC 2.3 below.
 - (h) The **Contractor** is the party whose Bid to carry out the Works has been accepted by the Employer.
 - (i) The **Contractor's Bid** is the completed bidding document submitted by the Contractor to the Employer.
 - (j) The **Contract Price** is the Accepted Contract Amount stated in the Letter of Acceptance and thereafter as adjusted in accordance with the Contract.
 - (k) **Days** are calendar days; months are calendar months.
 - (l) **Day works** are varied work inputs subject to payment on a time basis for the Contractor's employees and Equipment, in addition to payments for associated Materials and Plant.
 - (m) A **Defect** is any part of the Works not completed in accordance with the Contract.
 - (n) The **Defects Liability Certificate** is the certificate issued by Project Manager upon correction of defects by the Contractor.
 - (o) The **Defects Liability Period** is the period calculated from the Completion Date where the Contractor remains responsible for remedying defects.
 - (p) **Drawings** include calculations and other information provided or approved by the Project Manager for the execution of the Contract.
 - (q) The **Employer** is the party who employs the Contractor to carry out the Works, as specified in the **SCC**.
 - (r) **Equipment** is the Contractor's machinery and vehicles brought

temporarily to the Site to construct the Works.

- (s) **Force Majeure** means an exceptional event or circumstance: which is beyond a Party's control; which such Party could not reasonably have provided against before entering into the Contract; which, having arisen, such Party could not reasonably have avoided or overcome; and, which is not substantially attributable to the other Party.
- (t) The **Initial Contract Price** is the Contract Price listed in the Employer's Letter of Acceptance.
- (u) The **Intended Completion Date** is the date on which it is intended that the Contractor shall complete the Works. The Intended Completion Date is specified in the **SCC**. The Intended Completion Date may be revised only by the Project Manager by issuing an extension of time or an acceleration order.
- (v) **Letter of Intent** is the letter of the Employer expressing his intention to award the contract.
- (w) **Letter of Acceptance** means the formal acceptance by the Employer of the Bid and denotes the formation of the contract at the date of acceptance.
- (x) **Materials** are all supplies, including consumables, used by the Contractor for incorporation in the Works.
- (y) "**Party**" means the Employer or the Contractor, as the context requires.
- (z) **SCC** means Special Conditions of Contract
- (aa) **Plant** is any integral part of the Works that shall have a mechanical, electrical, chemical, or biological function.
- (bb) The **Project Manager** is the person named in the **SCC** (or any other competent person appointed by the Employer and notified to the Contractor, to act in replacement of the Project Manager) who is responsible for supervising the execution of the Works and administering the Contract.
- (cc) **Retention Money** means the aggregate of all monies retained by the Employer pursuant to GCC 46.1.
- (dd) The **Site** is the area defined as such in the **SCC**.
- (ee) **Site Investigation Reports** are those that were included in the bidding documents and are factual and interpretative reports about the surface and subsurface conditions at the Site.
- (ff) **Specification** means the Specification of the Works included in the Contract and any modification or addition made or approved by the Project Manager.
- (gg) The **Start Date** is given in the **SCC**. It is the latest date when the Contractor shall commence execution of the Works. It does not necessarily coincide with any of the Site Possession Dates.
- (hh) A **Subcontractor** is a person or corporate body who has a Contract with the Contractor to carry out a part of the work in the Contract, which includes work on the Site.
- (ii) **Temporary Works** are works designed, constructed, installed, and removed by the Contractor that are needed for construction or installation of the Works.
- (jj) A **Variation** is an instruction given by the Project Manager which



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varies the Works.

- (kk) The **Works** are what the Contract requires the Contractor to construct, install, and turn over to the Employer, as defined in the **SCC**.

- 2. Interpretation**
- 2.1 In interpreting these GCC, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Project Manager shall provide instructions clarifying queries about these GCC.
- 2.2 If sectional completion is specified in the **SCC**, references in the GCC to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).
- 2.3 The documents forming the Contract shall be interpreted in the following order of priority:
- (a) This Contract Agreement,
 - (b) Letter of Acceptance,
 - (c) Invitation for bids
 - (d) Contractor's Bid,
 - (e) Special Conditions of Contract,
 - (f) General Conditions of Contract,
 - (g) Specifications,
 - (h) Drawings,
 - (i) Bill of Quantities (or Schedules of Prices for lump sum contracts), and
 - (j) Any other document listed in the **SCC** as forming part of the Contract.
- 3. Language and Law**
- 3.1 The language of the Contract and the law governing the Contract are stated in the **SCC**.
- 4. Project Manager's Decisions**
- 4.1 Except where otherwise specifically stated, the Project Manager shall decide contractual matters between the Employer and the Contractor in the role representing the Employer.
- 5. Delegation**
- 5.1 The Project Manager may delegate any of his duties and responsibilities to other people, except to the Adjudicator, after notifying the Contractor, and may cancel any delegation after notifying the Contractor.
- 6. Communications**
- 6.1 Communications between parties that are referred to in the Conditions shall be effective only when in writing. A notice shall be effective only when it is delivered.
- 7. Subcontracting**
- 7.1 The Contractor may subcontract with the approval of the Project Manager, but may not assign the Contract without the approval of the Employer in writing. Subcontracting shall not alter the Contractor's obligations.
- 8. Other Contractors**
- 8.1 The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the Employer between the dates given in the Schedule of Other Contractors, as **referred to in the SCC**. The Contractor shall also provide facilities and services for them as described in the Schedule. The Employer may modify the Schedule of Other Contractors, and shall notify



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the Contractor of any such modification.

- 9. Personnel and Equipment**
- 9.1 The Contractor shall employ the key personnel and use the equipment identified in its Bid to carry out the Works, or other personnel and equipment approved by the Project Manager. The Project Manager shall approve any proposed replacement of key personnel and equipment only if their relevant qualifications or characteristics are substantially equal to or better than those proposed in the Bid.
- 9.2 If the Project Manager asks the Contractor to remove a person who is a member of the Contractor's staff or work force, stating the reasons, the Contractor shall ensure that the person leaves the Site within seven days and has no further connection with the work in the Contract.
- 10. Employer's and Contractor's Risks**
- 10.1 The Employer carries the risks which this Contract states are Employer's risks, and the Contractor carries the risks which this Contract states are Contractor's risks.
- 11. Employer's Risks**
- 11.1 From the Start Date until the Defects Liability Certificate has been issued, the following are Employer's risks:
- (a) The risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to
- (i) use or occupation of the Site by the Works or for the purpose of the Works, which is the unavoidable result of the Works or
- (ii) Negligence, breach of statutory duty, or interference with any legal right by the Employer or by any person employed by or contracted to him except the Contractor.
- (b) The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the Employer or in the Employer's design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.
- 11.2 From the Completion Date until the Defects Liability Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is an Employer's risk except loss or damage due to
- (a) a Defect which existed on the Completion Date,
- (b) an event occurring before the Completion Date, which was not itself an Employer's risk, or
- (c) The activities of the Contractor on the Site after the Completion Date.
- 12. Contractor's Risks**
- 12.1 From the Starting Date until the Defects Liability Certificate has been issued, the risks of personal injury, death, and loss of or damage to property (including, without limitation, the Works, Plant, Materials, and Equipment) which are not Employer's risks are Contractor's risks.
- 13. Insurance**
- 13.1 The Contractor shall provide, in the joint names of the Employer and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles stated in the **SCC** for the following events which are due to the Contractor's risks:
- (a) loss of or damage to the Works, Plant, and Materials;
- (b) loss of or damage to Equipment;
- (c) loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract; and
- (d) personal injury or death.



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- 13.2 Policies and certificates for insurance shall be delivered by the Contractor to the Project Manager for the Project Manager's approval before the Start Date. All such insurance shall provide for compensation to be payable in the proportions of Nepalese Rupees required to rectify the loss or damage incurred.
- 13.3 If the Contractor does not provide any of the policies and certificates required, the Employer may effect the insurance which the Contractor should have provided and recover the premiums the Employer has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.
- 13.4 Alterations to the terms of an insurance shall not be made without the approval of the Project Manager.
- 13.5 Both parties shall comply with any conditions of the insurance policies.
- 14. Site Investigation Reports** 14.1 The Contractor, in preparing the Bid, shall rely on any Site Investigation Reports referred to in the **SCC**, supplemented by any information available to the Bidder.
- 15. Contractor to Construct the Works** 15.1 The Contractor shall construct and install the Works in accordance with the Specifications and Drawings.
- 16. The Works to Be Completed within Completion Date** 16.1 The Contractor may commence execution of the Works on the Start Date and shall carry out the Works in accordance with the Program submitted by the Contractor, as updated with the approval of the Project Manager, and complete them within the Completion Date specified in the **SCC**.
- 17. Approval by the Project Manager** 17.1 The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Project Manager, for his approval.
17.2 The project Managers approval shall not alter the Contractors responsibility for design of temporary works.
- 18. Safety** 18.1 The Contractor shall be responsible for the safety of all activities on the Site.
- 19. Discoveries** 19.1 Anything of historical or other interest or of significant value unexpectedly discovered on the Site shall be the property of the Employer. The Contractor shall notify the Project Manager of such discoveries and carry out the Project Manager's instructions for dealing with them.
- 20. Possession of the Site** 20.1 The Employer shall give possession of all parts of the Site to the Contractor. If possession of a part is not given by the date stated in the **SCC**, the Employer shall be deemed to have delayed the start of the relevant activities, and this shall be a Compensation Event.
- 21. Access to the Site** 21.1 The Contractor shall allow the Project Manager and any person authorized by the Project Manager access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out.
- 22. Instructions, Inspections and Audits** 22.1 The Contractor shall carry out all instructions of the Project Manager which comply with the applicable laws where the Site is located.
22.2 The Contractor shall permit the GoN/DP and/or persons appointed by the GoN/DP to inspect the Site and/or the accounts and records of the Contractor and its sub-contractors relating to the performance of the Contract, and to have such accounts and records audited by auditors appointed by the GoN/DP if



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required by the GoN/DP. The Contractor's attention is drawn to Sub-Clause 58.1 which provides, inter alia, that acts intended to materially impede the exercise of the GoN's/DP's inspection and audit rights provided for under this Sub-Clause constitute a prohibited practice subject to contract termination.

23. Dispute Settlement

- 23.1 The Employer and the Contractor shall attempt to settle amicably by direct negotiation any disagreement or dispute arising between them under or in connection with the Contract.
- 23.2 Any dispute between the Parties as to matters arising pursuant to this Contract which cannot be settled amicably within thirty (30) days after receipt by one Party of the other Party's request for such amicable settlement may be referred to the Adjudicator or Dispute Resolution Committee (DRC) by either Party as specified in the **SCC** within 15 days after the expiration of amicable settlement period.

24. Appointment of the Adjudicator/ DRC Members

- 24.1 The Adjudicator if specified in the **SCC** shall be appointed by the consensus of the Client and the Contractor. If the parties cannot reach an agreement on the appointment of the Adjudicator, the Client will request the Appointing Authority designated in the **SCC**, to appoint the Adjudicator within 15 days of receipt of such request.
- 24.2 DRC shall be formed which comprise of three members. Each Party shall appoint one member each and the third member who shall act as the Chairman shall be appointed by the two members appointed by the Parties.

25. Procedures for Disputes

- 25.1 If a dispute is referred to the Adjudicator or the DRC then the Adjudicator or the DRC shall give a decision in writing within 30 days of receipt of a reference of the dispute.
- 25.2 The Adjudicator or the DRC Members shall be paid by the hour at the rate specified in the **SCC**, together with reimbursable expenses of the types specified in the **SCC**, and the cost shall be divided equally between the Client and the Contractor, whatever decision is reached by the Adjudicator or DRC. Either party may refer a decision of the Adjudicator or DRC to an Arbitrator within 30 days of the Adjudicator's or DRC's written decision. If neither party refers the dispute to arbitration within the above 30 days, the Adjudicator's or the DRC's decision will be final and binding.
- 25.3 In case of arbitration, the arbitration shall be conducted in accordance with the arbitration procedures published by the institution named and at the place given in the **SCC**.

B. Time Control

26. Program

- 26.1 Within the time stated in the **SCC**, after the date of the Letter of Acceptance, the Contractor shall submit to the Project Manager for approval a Program showing the general methods, arrangements, order, and timing for all the activities in the Works. In the case of a lump sum contract, the activities in the Program shall be consistent with those in the Activity Schedule.
- 26.2 An update of the Program shall be a program showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining work, including any changes to the sequence of the activities.
- 26.3 The Contractor shall submit to the Project Manager for approval an updated Program at intervals no longer than the period stated in the **SCC**. If the Contractor does not submit an updated Program within this period, the Project Manager may withhold the amount stated in the **SCC** from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Program has been submitted. In the case of a lump sum contract, the Contractor shall provide an updated Activity Schedule within

15 days of being instructed to by the Project Manager.

- 26.4 The Project Manager's approval of the Program shall not alter the Contractor's obligations. The Contractor may revise the Program and submit it to the Project Manager again at any time. A revised Program shall show the effect of Variations and Compensation Events.
- 27. Extension of the Intended Completion Date**
- 27.1 The Project Manager shall extend the Intended Completion Date if a Compensation Event occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Intended Completion Date without the Contractor taking steps to accelerate the remaining work, which would cause the Contractor to incur additional cost.
- 27.2 The Project Manager shall decide whether and by how much to extend the Intended Completion Date within 21 days of the Contractor asking the Project Manager for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information at least 7 days prior to the intended completion date. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Intended Completion Date.
- 28. Acceleration**
- 28.1 When the Employer wants the Contractor to finish before the Intended Completion Date, the Project Manager shall obtain priced proposals for achieving the necessary acceleration from the Contractor. If the Employer accepts these proposals, the Intended Completion Date shall be adjusted accordingly and confirmed by both the Employer and the Contractor.
- 28.2 If the Contractor's priced proposals for acceleration are accepted by the Employer, they are incorporated in the Contract Price and treated as a Variation.
- 29. Delays Ordered by the Project Manager**
- 29.1 The Project Manager may instruct the Contractor to delay the start or progress of any activity within the Works.
- 30. Management Meetings**
- 30.1 Either the Project Manager or the Contractor may require the other to attend a management meeting. The business of a management meeting shall be to review the plans for remaining work and to deal with matters raised in accordance with the early warning procedure.
- 30.2 The Project Manager shall record the business of management meetings and provide copies of the record to those attending the meeting and to the Employer. The responsibility of the parties for actions to be taken shall be decided by the Project Manager either at the management meeting or after the management meeting and stated in writing to all who attended the meeting.
- 31. Early Warning**
- 31.1 The Contractor shall warn the Project Manager at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work, increase the Contract Price, or delay the execution of the Works. The Project Manager may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate shall be provided by the Contractor as soon as reasonably possible.
- 31.2 The Contractor shall cooperate with the Project Manager in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instruction of the Project Manager.

C. Quality Control

- 32. Identifying**
- 32.1 The Project Manager shall check the Contractor's work and notify the



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

33. Tests

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

34. Correction of Defects

34.1 The Project Manager shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion, and is defined in the **SCC**. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.

34.2 Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Project Manager's notice.

35. Uncorrected Defects

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

D. Cost Control

36. Contract Price

36.1 In the case of a Unit Rate contract, the Bill of Quantities shall contain priced items for the Works to be performed by the Contractor. The Bill of Quantities is used to calculate the Contract Price. The Contractor will be paid for the quantity of the work accomplished at the rate in the Bill of Quantities for each item.

36.2 In the case of a lump sum contract, the Activity Schedule shall contain the priced activities for the Works to be performed by the Contractor. The Activity Schedule is used to monitor and control the performance of activities on which basis the Contractor will be paid. If payment for Materials on Site shall be made separately, the Contractor shall show delivery of Materials to the Site separately on the Activity Schedule.

37. Changes in the Contract Price

37.1 In the case of an Unit Rate contract:

(a) If the final quantity of the work done differs from the quantity in the Bill of Quantities for the particular item by more than 25 percent, provided the change exceeds 2 percent of the Initial Contract Price, the Project Manager shall adjust the rate to allow for the change.

(b) The Project Manager shall not adjust rates from changes in quantities if thereby the Initial Contract Price is exceeded by more than 15 percent, except with the prior approval of the Employer.

(c) If requested by the Project Manager, the Contractor shall provide the Project Manager with a detailed cost breakdown of any rate in the Bill of Quantities.

37.2 In the case of a lump sum contract, the Activity Schedule shall be amended by the Contractor to accommodate changes of Program or method of working made at the Contractor's own discretion. Prices in the Activity Schedule shall not be altered when the Contractor makes such changes to the Activity Schedule.

38. Variations

38.1 All Variations shall be included in updated Programs, and, in the case of a



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lump sum contract, also in the Activity Schedule, produced by the Contractor.

- 38.2 The Contractor shall provide the Project Manager with a quotation for carrying out the Variation when requested to do so by the Project Manager. The Project Manager shall assess the quotation, which shall be given within seven (7) days of the request or within any longer period stated by the Project Manager and before the Variation is ordered.
- 38.3 If the Contractor's quotation is unreasonable, the Project Manager may order the Variation and make a change to the Contract Price, which shall be based on the Project Manager's own forecast of the effects of the Variation on the Contractor's costs.
- 38.4 If the Project Manager decides that the urgency of varying the work would prevent a quotation being given and considered without delaying the work, no quotation shall be given and the Variation shall be treated as a Compensation Event.
- 38.5 The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning.
- 38.6 In the case of an Unit Rate contract, if the work in the Variation corresponds to an item description in the Bill of Quantities and if, in the opinion of the Project Manager, the quantity of work above the limit stated in GCC 37.1 or the timing of its execution do not cause the cost per unit of quantity to change, the rate in the Bill of Quantities shall be used to calculate the value of the Variation. If the cost per unit of quantity changes, or if the nature or timing of the work in the Variation does not correspond with items in the Bill of Quantities, the quotation by the Contractor shall be in the form of new rates for the relevant items of work.
- 39. Cash Flow Forecasts**
- 39.1 When the Program, or, in the case of a lump sum contract, the Activity Schedule, is updated, the Contractor shall provide the Project Manager with an updated cash flow forecast. The cash flow forecast shall include as defined in the Contract in Nepalese Rupees.
- 40. Payment Certificates**
- 40.1 The Contractor shall submit to the Project Manager monthly statements of the estimated value of the work executed less the cumulative amount certified previously.
- 40.2 The Project Manager shall check the Contractor's monthly statement and certify the amount to be paid to the Contractor.
- 40.3 The value of work executed shall be determined by the Project Manager.
- 40.4 The value of work executed shall comprise:
- (a) In the case of an Unit Rate contract, the value of the quantities of work in the Bill of Quantities that have been completed; or
 - (b) In the case of a lump sum contract, the value of work executed shall comprise the value of completed activities in the Activity Schedule.
- 40.5 The value of work executed shall include the valuation of Variations and Compensation Events.
- 40.6 The Project Manager may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information.
- 41. Payments**
- 41.1 Payments shall be adjusted for deductions for advance payments and retention. The Employer shall pay the Contractor the amounts certified by the Project



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Manager within 30 days of the date of each certificate. If the Employer makes a late payment, the Contractor shall be paid interest as indicated in the **SCC** on the late payment in the next payment. Interest shall be calculated from the date by which the payment should have been made up to the date when the late payment is made at the prevailing rate of interest for commercial borrowing.

- 41.1.1 Project Manager or site Engineer shall certify volume of work and amount to be paid under recommendation of monitoring committee organized by the municipality.
- 41.2 If an amount certified is increased in a later certificate or as a result of an award by the Adjudicator or an Arbitrator, the Contractor shall be paid interest upon the delayed payment as set out in this clause. Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute.
- 41.3 Unless otherwise stated, all payments and deductions shall be paid or charged comprising the Contract Price.
- 41.4 Items of the Works for which no rate or price has been entered in BOQ shall not be paid for by the Employer and shall be deemed covered by other rates and prices in the Contract.
- 42.1 The following shall be Compensation Events:
- (a) The Employer does not give access to a part of the Site by the Site Possession Date pursuant to GCC 20.1.
 - (b) The Employer modifies the Schedule of Other Contractors in a way that affects the work of the Contractor under the Contract.
 - (c) The Project Manager orders a delay or does not issue Drawings, Specifications, or instructions required for execution of the Works on time.
 - (d) The Project Manager instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects.
 - (e) The Project Manager unreasonably does not approve a subcontract to be let.
 - (f) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Letter of Acceptance from the information issued to bidders (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site.
 - (g) The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the Employer, or additional work required for safety or other reasons.
 - (h) Other contractors, public authorities, utilities, or the Employer does not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor.
 - (i) The advance payment is delayed.
 - (j) The effects on the Contractor of any of the Employer's Risks.
 - (k) The Project Manager unreasonably delays issuing a Certificate of Completion.
- 42.2 If a Compensation Event would cause additional cost or would prevent the work being completed before the Intended Completion Date, the Contract Price shall be increased and/or the Intended Completion Date shall be extended. The Project Manager shall decide whether and by how much the Contract

Price shall be increased and whether and by how much the Intended Completion Date shall be extended.

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

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

43. Tax

43.1 The Project Manager shall adjust the Contract Price if taxes, duties, and other levies are changed between the date 30 days before the submission of bids for the Contract and the date of the last Completion certificate. The adjustment shall be the change in the amount of tax payable by the Contractor, provided such changes are not already reflected in the Contract Price or are a result of GCC 45.

44. Currency

44.1 The currency of Contracts shall be Nepalese Rupees.

45. Price Adjustment

45.1 Prices shall be adjusted for fluctuations in the cost of inputs only if provided for in the **SCC**. If so provided, the amounts certified in each payment certificate, before deducting for Advance Payment, shall be adjusted by applying the respective price adjustment factor to the payment amounts due.

45.2 **Adjustment Formulate**¹: "The adjustment to the Interim Payment Certificates in respect of changes in cost and legislation shall be determined from separate formulae for each of the types of construction work to be performed and Plant to be supplied. The formulae will be of the following general type:

$$pn = A + b \frac{Ln}{Lo} + c \frac{Mn}{Mo} + d \frac{En}{Eo} + etc.$$

Where:

pn is a price adjustment factor to be applied to the amount for the payment of the work carried out in the subject month, determined in accordance with Sub-Clause 41;

A is a constant, specified in the Bidding Forms- Table of Price Adjustment data., representing the nonadjustable portion in contractual payments;²

b, c, d, etc., coefficients representing the estimated proportion of each cost element (labour, materials, equipment usage, etc.) in the Works or sections thereof, net of Provisional Sums, as specified in the SCC;

Ln, Mn, En, etc., are the current cost indices or reference prices of the cost elements for month "n," determined pursuant to Sub-Clause 45.4, applicable to each cost element; and

Lo, Mo, Eo, etc., are the base cost indices or reference prices corresponding

¹ For complex Works involving several types of construction work with different inputs, a family of formulae will be necessary. The various items of Daywork may also require different formulae, depending on the nature and source of the inputs.

² Insert a figure for factor **A** only where there is a part of the Contractors' expenditures which will not be subject to fluctuation in cost or to compensate for the unreliability of some indices. **A** should normally be 0.15. The sum of **A, b, c, d, etc.**, should be one.



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to the above cost elements at the date specified in Sub-Clause 45.4.

- 45.3 **Sources of Indices and Weightings:** "The sources of indices shall be those listed in the Bidding Forms- Table of Price Adjustment data, as approved by the Engineer. Indices shall be appropriate for their purpose and shall relate to the Contractor's proposed source of supply of inputs on the basis of which his Contract shall have been computed. As the proposed basis for price adjustment, the Contractor shall have submitted with his bid the tabulation of Weightings and Source of Indices in the Bidding Forms, which shall be subject to approval by the Engineer."
- 45.4 **Base, Current and Provisional Indices:** "The base cost indices or prices shall be those prevailing on the day 30 days prior to the latest date for submission of bids. Current indices or prices shall be those prevailing on the day 30 days prior to the last day of the period to which a particular Interim Payment Certificate is related. If at any time the current indices are not available, provisional indices as determined by the Engineer will be used, subject to subsequent correction of the amounts paid to the Contractor when the current indices become available."
- 45.5 **Adjustment after Completion:** "If the Contractor fails to complete the Works within the time for completion prescribed under Clause 1.1 (u), adjustment of prices thereafter until the date of completion of the Works shall be made using either the indices or prices relating to the prescribed time for completion, or the current indices or prices, whichever is more favorable to the Employer, provided that if an extension of time is granted pursuant to Clause 27, the above provision shall apply only to adjustments made after the expiry of such extension of time."
- 45.6 **Weightings:** "The weightings for each of the factors of cost given in the Bidding Forms shall be adjusted if, in the opinion of the Engineer, they have been rendered unreasonable, unbalanced or inapplicable as a result of varied or additional work already executed or instructed under Clause 38 or for any other reason."
- 45.7 **Subsequent Legislation:** "If, after the date 30 days prior to the latest date for submission of bids for the Contract, there occur changes to any National Statute, Ordinance, Decree, or other Law or any regulation or by-law of any local or other duly constituted authority, or the introduction of any such Statute, Ordinance, Decree, Law, regulation or by-law which causes additional or reduced cost to the Contractor, other than under the preceding sub-clauses of this clause, in the execution of the Contract, such additional or reduced cost shall, after due consultation with the Employer and the Contractor, be determined by the Engineer and shall be added to or deducted from the Contract Price and the Engineer shall notify the Contractor accordingly, with a copy to the Employer. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same shall already have taken into account in the indexing of any inputs to the Price Adjustment Formulae in accordance with the provisions of Sub-Clauses 45.2."
- 45.8 Where, price adjustment provision is not applicable pursuant to Sub-clause 45.1 then the Contract is subject to price adjustment only for construction material in accordance with this clause. If the prices of the construction materials stated in the contract increase or decrease in an unexpected manner in excess of ten (10%) percent in comparison to the base price stated in the Bidding Form, then the price adjustment for the increase or decrease of price of the construction material beyond 10% shall be made by applying the following formulas:

For unexpected increase in price

$$P = [R1 - (R0 \times 1.10)] \times Q$$

For unexpected decrease in price

$$P = [R1 - (R0 \times 0.90)] \times Q$$

Where:

“P” is price adjustment amount

“R1” is the present price of the construction material (Source of indices shall be those listed in the Bidding forms)

“R0” is the base price of the construction material

“Q” is quantity of the construction material consumed in construction during the period of price adjustment consideration

45.9 The Price Adjustment amount shall be limited to a maximum of 25% of the initial Contract Amount unless otherwise is specified in the **SCC**.

45.10 The Price Adjustment provision shall not be applicable if the contract is not completed in time due to the delay caused by the contractor or the contract is a Lump sum Contract or a Fixed Budget Contract.

46. Retention

46.1 The Employer shall retain from each payment due to the Contractor the proportion stated in the **SCC** until Completion of the whole of the Works.

46.2 Upon the issue of a Defects Liability Certificate by the Project Manager, in accordance with GCC 55.1, half the total amount retained shall be repaid to the Contractor and half when the Contractor has submitted the Tax Clearance Certificate and the Project Manager has certified that all Defects notified by the Project Manager to the Contractor before the end of this period have been corrected. The Contractor may substitute retention money with an “on demand” bank guarantee.

47. Liquidated Damages

47.1 The Contractor shall pay liquidated damages to the Employer at the rate per day stated in the **SCC** for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount defined in the **SCC**. The Employer may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor's liabilities.

47.2 If the Intended Completion Date is extended after liquidated damages have been paid, the Project Manager shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate. The Contractor shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rates specified in GCC 41.1.

48. Bonus

48.1 The Contractor shall be paid a Bonus calculated at the rate per calendar day stated in the **SCC** for each day (less any days for which the Contractor is paid for acceleration) that the Completion is earlier than the Intended Completion Date. The Project Manager shall certify that the Works are complete, although they may not be due to be complete.

49. Advance Payment

49.1 The Employer shall make advance payment to the Contractor of the amounts stated in the **SCC** by the date stated in the **SCC**, against provision by the Contractor of an unconditional bank guarantee from 'A' class commercial Bank in a form and by a bank acceptable to the Employer in amounts equal to the



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advance payment. The guarantee shall remain effective until the advance payment has been repaid, but the amount of the guarantee shall be progressively reduced by the amounts repaid by the Contractor. Interest shall not be charged on the advance payment.

49.2 The Contractor is to use the advance payment only to pay for Equipment, Plant, Materials, and mobilization expenses required specifically for execution of the Contract. The Contractor shall demonstrate that advance payment has been used in this way by supplying copies of invoices or other documents to the Project Manager.

49.3 The advance payment shall be repaid by deducting proportionate amounts from payments otherwise due to the Contractor, following the schedule of completed percentages of the Works on a payment basis. No account shall be taken of the advance payment or its repayment in assessing valuations of work done, Variations, price adjustments, Compensation Events, Bonuses, or Liquidated Damages.

50. Securities

50.1 The Performance Security shall be provided to the Employer no later than the date specified in the Letter of Acceptance and shall be issued in an amount specified in the **SCC**, by a bank acceptable to the Employer, and denominated in Nepalese Rupees. The Performance Security shall be valid until a date 30 days from the date of issue of the Certificate of Completion in the case of a bank guarantee.

51. Dayworks

51.1 If applicable, the Day works rates in the Contractor's Bid shall be used for small additional amounts of work only when the Project Manager has given written instructions in advance for additional work to be paid for in that way.

51.2 All work to be paid for as Day works shall be recorded by the Contractor on forms approved by the Project Manager. Each completed form shall be verified and signed by the Project Manager within two days of the work being done.

51.3 The Contractor shall be paid for Day works subject to obtaining signed Day works forms.

52. Cost of Repairs

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

E. Finishing the Contract

53. Completion

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

54. Taking Over

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

55. Final Account

55.1 The Contractor shall supply the Project Manager with a detailed account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period. The Project Manager shall issue a Defects Liability Certificate and certify any final payment that is due to the Contractor within 60 days of receiving the Contractor's account if it is correct and complete. If it is not, the Project Manager shall issue within 60 days a schedule that states the scope of the corrections or additions that are necessary. If the Final Account is still unsatisfactory after it has been resubmitted, the Project Manager shall decide on the amount payable to the



Contractor and issue a payment certificate.

- 56. Operating and Maintenance Manuals**
- 56.1 If “as built” Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates stated in the **SCC**.
- 56.2 If the Contractor does not supply the Drawings and/or manuals by the dates **stated in the SCC** pursuant to GCC 55.1, or they do not receive the Project Manager’s approval, the Project Manager shall withhold the amount **stated in the SCC** from payments due to the Contractor.
- 57. Termination**
- 57.1 The Employer or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.
- 57.2 Fundamental breaches of Contract shall include, but shall not be limited to, the following:
- (a) the Contractor stops work for 30 days when no stoppage of work is shown on the current Program and the stoppage has not been authorized by the Project Manager;
 - (b) the Project Manager instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within 30 days;
 - (c) the Employer or the Contractor is made bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
 - (d) a payment certified by the Project Manager is not paid by the Employer to the Contractor within 84 days of the date of the Project Manager’s certificate;
 - (e) the Project Manager gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Project Manager;
 - (f) the Contractor does not maintain a Security, which is required; and
 - (g) the Contractor has delayed the completion of the Works by the number of days for which the maximum amount of liquidated damages can be paid, as defined in the **SCC**.
 - (h) if the Contractor, in the judgment of the Employer has engaged in corrupt or fraudulent practices in competing for or in executing the Contract, pursuant to GCC 58.1.
- 57.3 When either party to the Contract gives notice of a breach of Contract to the Project Manager for a cause other than those listed under GCC 57.2 above, the Project Manager shall decide whether the breach is fundamental or not.
- 57.4 Notwithstanding the above, the Employer may terminate the Contract for convenience.
- 57.5 If the Contract is terminated, the Contractor shall stop work immediately, make the Site safe and secure, and leave the Site as soon as reasonably possible.
- 58. Fraud and Corruption**
- 58.1 If the Employer determines that the Contractor has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices, in competing for or in executing the Contract, then the Employer may, after giving 14 days notice to the Contractor, terminate the Contractor’s employment under the Contract and expel him from the Site, and the provisions of Clause 56 shall apply as if such



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expulsion had been made under Sub-Clause 56.5 [Termination by Employer].

- 58.2 Should any employee of the Contractor be determined to have engaged in corrupt, fraudulent, collusive, coercive, or obstructive practice during the execution of the Works, then that employee shall be removed in accordance with Clause 9.
- 58.3 Without prejudice to any other rights of the Employer under this Contract, GoN may blacklist the Contractor for its conduct up to three (3) years on the following grounds and seriousness of the act committed by the Contractor:
- (a) if it is established that the Contractor has committed substantial defect in implementation of the Contract or has or has not substantially fulfilled its obligations under the Contract

For the purposes of this Sub-Clause:

- (i) “corrupt practice” is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
- (ii) “fraudulent practice”³ is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
- (iii) “collusive practice”⁴ is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- (iv) “coercive practice”⁵ is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- (v) “obstructive practice” is
- (aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
- (bb) acts intended to materially impede the exercise of the Bank’s inspection and audit rights provided for under Sub-Clause 22.2.

59. Black Listing

- 59.1 Without prejudice to any other rights of the Employer under this Contract, Public Procurement Monitoring Office (PPMO) may **blacklist** a Bidder on a recommendation of DDC Office, Jhapa for its conduct one (1) to three (3) years on the following grounds and seriousness of the act committed by the bidder:
- (c) if it is established that the Contractor has committed substantial defect in implementation of the contract or has not substantially fulfilled its obligations under the contract or the completed work is not of the

³ a “party” refers to a public official; the terms “benefit” and “obligation” relate to the procurement process or contract execution; and the “act or omission” is intended to influence the procurement process or contract execution.

⁴ “parties” refers to participants in the procurement process (including public officials) attempting to establish bid prices at artificial, non competitive levels.

⁵ a “party” refers to a participant in the procurement process or contract execution.



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specified quality as per the contract.

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| 60. Instructions, Inspections and Audits | 60.1 | The Contractor shall permit the GoN/DP to inspect the Contractor's accounts and records relating to the performance of the Contractor and to have them audited by auditors appointed by the GoN/DP, if so required by the GoN/DP. |
| 61. Payment upon Termination | 61.1 | If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Project Manager shall issue a certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as indicated in the SCC . Additional Liquidated Damages shall not apply. If the total amount due to the Employer exceeds any payment due to the Contractor, the difference shall be a debt payable to the Employer. |
| | 61.2 | If the Contract is terminated for the Employer's convenience or because of a fundamental breach of Contract by the Employer, the Project Manager shall issue a certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Contractor's personnel employed solely on the Works, and the Contractor's costs of protecting and securing the Works, and less advance payments received up to the date of the certificate. |
| 62. Property | 62.1 | All Materials on the Site, Plant, Equipment, Temporary Works, and Works shall be deemed to be the property of the Employer if the Contract is terminated because of the Contractor's default. |
| 63. Release from Performance | 63.1 | If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the Employer or the Contractor, the Project Manager shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all work carried out before receiving it and for any work carried out afterwards to which a commitment was made. |



Section 7 Special Conditions of Contract

A. General	
GCC 1.1 (q)	The Employer is Damak Municipality office, Damak, Jhapa.
GCC 1.1 (u)	The Intended Completion Date for the whole of the Works shall be <i>within 24 months after signing contract.</i>
GCCs 1.1 (bb) & 4.1	The Project Manager is <i>Executive Officer, Damak Municipality.Jhapa</i>
GCC 1.1 (dd)	The Site is located at <i>Damak Municipality, Ward no-1, Jhapa .</i>
GCC 1.1 (gg)	The Start Date shall be <i>as stated in contract agreement.</i>
GCC 1.1 (kk)	The Works consist of <i>Construction of Municipal Office building (RCC Three storied framed structure) including civil works, electrical and allied works, water supply and sanitation works.</i>
GCC 2.2	Sectional Completions are: The Intended Completion Date for the Whole of the Works shall be 24 months from the date of Signing of the Contract , with the following milestones: Milestone 1: 15% of the Works completed within one third of Contract duration. Milestone 2: 50% of the Works completed within two third of Contract duration. Milestone 3: Intended Completion Date
GCC 2.3(i)	The following documents also form part of the Contract: - Value Added Tax (VAT) certificate/PAN certificate/ Tax clearance certificate
GCC 3.1	The language of the contract is <u>ENGLISH/NEPALI</u> The law that applies to the Contract is the law of <i>NEPAL.</i>
GCC 8.1	Schedule of other contractors: NA
GCC 13.1	The minimum insurance amounts shall be: (a) for the Works, Plant and Materials: 115% (b) For loss or damage to Equipment: 100% (c) for loss or damage to property (except the Works, Plant, Materials, and Equipment) in connection with Contract 100% (d) for personal injury or death: (i) of the Contractor's employees including skilled and unskilled labor: At least NRs 5,40,000 (Nepalese Rupees Five Hundred Forty Thousand Only) for 10 persons with unlimited number of occurrences of other people for construction duration. (ii) of other people including Employer's staffs and Engineer staff : NRs. 500,000 (NRs. Five Hundred Thousand only) per person for 5 persons with unlimited number of occurrences of other people The minimum deductibles shall be: (a) for the Works, Plant and Materials: 115%. (b) For loss or damage to Equipment: 100%



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	<p>(c) for loss or damage to property (except the Works, Plant, Materials, and Equipment) in connection with Contract : 100%</p> <p>(d) for personal injury or death:</p> <p>i) of the Contractor's employees including skilled and unskilled labor: NRs. 5,40,000.</p> <p>ii) of third party insurance: NRs. 500,000 (NRs. Five Hundred Thousand only) per person for 10 persons with unlimited number of occurrences of other people</p>
GCC 14.1	Site Investigation Reports are: <i>None</i>
GCC 16.1	The completion date shall be within 24 months from signing of contract.
GCC 17.1	The following shall be designed by the Contractor: <i>NA</i>
GCC 20.1	The Site Possession Date(s) shall be: <i>Within 24 days after signing contract.</i>
GCC 23.2	A dispute of the procurement contract having contract price valuing up to one hundred million Rupees shall be resolved by the adjudicator and a dispute of the procurement contract having contract price more than that shall be resolved by a three-member dispute resolution committee.
GCC 24.1	Appointing Authority for the Adjudicator: Nepal Council of Arbitration (NEPCA).
GCC 24.2	Name of the Adjudicator or DRC Members will be appointed later by mutual understanding. If appointment through mutual understanding could not be done then appointment will be as per Arbitration Act of Nepal.
GCC 25.2	The Adjudicator/DRC Members shall be paid by the hour at the rate of: NRs. 3000 per hour
GCC 25.3	Institution whose arbitration procedures shall be used: NEPCA Sub-Clause 25.3 – Any dispute between the Employer and Contractor arising in connection with the present Contract shall be referred to arbitration in accordance with the rule of Nepal Council of Arbitration. The place of arbitration shall be: <i>As per decision of ADR (Alternate Dispute Resolution) members.</i>
B. Time Control	
GCC 26.1	The Contractor shall submit for approval a Program for the Works within 7 days from the date of the Letter of Acceptance.
GCC 26.3	The period between Program updates is 90 days. The amount to be withheld for late submission of an updated Program is <i>NRs 100000.00</i>
C. Quality Control	
GCC 34.1	The Defects Liability Period is: 365 days+30 days
D. Cost Control	
GCC 41.1	Interest rate is 2% per annum



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GCC 45.2 निमित्त कार्यकारी अधिकारी	The Contract <i>“is not”</i> subject to price adjustment
GCC 45.9	The Contract <i>“is not”</i> subject to price adjustment
GCC 46.1	The proportion of payments retained is: <u>5 (FIVE) PERCENT AND AN ADDITIONAL OF 8% IN CASE OF FRONT LOADING AND POST LOADING CASE</u>
GCC 47.1	The liquidated damages for the whole of the Works are 0.005% per day in first milestone, 0.025% per day in second milestone and 0.05% per day in third milestone. The maximum amount of liquidated damages for the whole of the Works is <u>10 PERCENT</u> of the final Contract Price.
GCC 48.1	Bonus : NA
GCC 49.1	The Advance Payments shall be: <i>As per the provisions specified in PPA-2063 and LBFAR-2064</i>
GCC 49.3	Proportionate amounts to be repaid : <i>Deduction will be started after 30% progress and will be completed within 80% progress.</i>
GCC 50.1	The Performance Security amount is <i>5% of Contract Price</i>
E. Finishing the Contract	
GCC 56.1	The date by which operating and maintenance manuals are required is : <i>NA</i> The date by which “as built” drawings are required is <i>within 1 month after Final payment.</i>
GCC 56.2	The amount to be withheld for failing to produce “as built” drawings and/or operating and maintenance manuals by the date required in GCC 58.1 is: <i>As per the provisions specified in PPA-2063, LBFAR-2064 and prevailing GoN rules</i>
GCC 57.2 (g)	The maximum number of days is: <i>NA</i>
GCC 61.1	The percentage to apply to the value of the work not completed, representing the Employer’s additional cost for completing the Works, will be decided later during the agreement.



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Section 8. Security Forms

Table of Forms

Annex A	Form :	Bid Security (Bank Guarantee)
Annex B	Form :	Performance Bank Guarantee (Unconditional)
Annex C	Form :	Bank Guarantee for Advance Payment
Annex D	Form :	Line of credit



ANNEXA FORM : BID SECURITY (BANK GUARANTEE)

WHEREAS, _____ [*name of Bidder*] (hereinafter called "the Bidder") has submitted his Bid dated _____ [*date*] for the construction of _____ [*name of Contract*] (hereinafter called "the Bid").

KNOW ALL PEOPLE by these presents that We _____ [*name of Bank*] of _____ [*name of country*] having our registered office at (hereinafter called "the Bank") are bound unto **Damak Municipality , Damak, Jhapa**, (hereinafter called "the Employer") in the sum of _____ for which payment well and truly to be made to the said Employer, the Bank binds himself, its successors, and assigns by these presents.

SEALED with the Common Seal of the said Bank this _____ day of _____ 19 _____ .

THE CONDITIONS of the obligation are:

- (1) If, after Bid opening, the Bidder withdraws his Bid during the period of Bid validity specified in the Form of Bid;
or
- (2) If the Bidder having been notified of the acceptance of his Bid by the Employer during the period of Bid validity:
 - (a) fails or refuses to execute the Form of Agreement in accordance with the Instructions to Bidders, if required; or
 - (b) fails or refuses to furnish the Performance Security, in accordance with the Instruction to Bidders; or
 - (c) does not accept the correction of the Bid Price pursuant to Clause 27.

We undertake to pay to the Employer up to the above amount upon receipt of his first written demand, without the Employer's having to substantiate his demand, provided that in his demand the Employer will note that the amount claimed by him is due to him owing to the occurrence of one or any of the two conditions, specifying the occurred condition or conditions.

The Guarantee will remain in force up to and including the date 120 days after the deadline for submission of Bids as such deadline is stated in the Instructions to Bidders or as it may be extended by the Employer, notice of which extensions(s) to the Bank is hereby waived. Any demand in respect of this Guarantee should reach the Bank not later than the above date.

DATE _____ SIGNATURE OF THE BANK _____

WITNESS _____ SEAL _____

[Signature, Name and Address]



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ANNEX B FORM : PERFORMANCE BANK GUARANTEE (UNCONDITIONAL)

To : _____ *[name of Employer]*
_____ *[address of Employer]*

WHEREAS _____ *[name and address of Contractor]* (hereinafter called "the Contractor"), has undertaken in pursuance of Contract No. _____ dated _____ to execute _____ *[name 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 affirm that we are the Guarantor and responsible to you, on behalf of the Contractor, up to a total of _____ *[amount of Guarantee]*, _____ *[amount 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 _____ *[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 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 there under or of any of the Contract documents which may be made between you and the Contractor shall in any way release us from liability under this Guarantee, and we hereby waive notice of any such change, addition or modification.

This Guarantee is valid until a date 28 day from the date of issue of the Certificate of Completion.

SIGNATURE AND SEAL OF THE GUARANTOR _____

Name of Bank _____

Address _____

Date _____



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ANNEX C

ANNEX C FORM : BANK GUARANTEE FOR ADVANCE PAYMENT

To: *The Executive Officer*
Damak Municipality
Damak, Jhapa

_____ *[name of Contract]*

Gentlemen,

In accordance with the provisions of the Conditions of Contract, Clause 51 ("Advance Payment") of the above-mentioned Contract, _____ *[name and address of Contractor]* (hereinafter called "the Contractor") shall deposit with *The Executive Officer, Damak Municipality, Damak, Jhapa*, (hereinafter called "the Employer") a Bank Guarantee to guarantee his proper and faithful performance under the said Clause of the Contract in an amount of _____ *[amount of Guarantee]* _____ *[amount in words]*.

We, the _____ *[Bank or Financial Institution]*, as instructed by the Contractor, agree unconditionally and irrevocably to guarantee as primary obligator and not as Surety merely, the payment to *[name of Employer]* on his first demand without whatsoever right of objection on our part and without his first claim to the Contractor, in the amount not exceeding _____ *[amount of Guarantee]* _____ *[amount in words]*.

We further agree that no change or addition to or other modification of the terms of the Contract or of Works to be performed there under or of any of the Contract documents which may be made between *[name of Employer]* 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 remain valid and in full effect from the date of the advance payment under the Contract until *[name of Employer]* receives full repayment of the same amount from the Contractor.

Yours truly,
SIGNATURE AND SEAL: _____

Name of Bank/Financial Institution: _____

Address: _____

Date: _____



Annex D: Liquid Assets / Credit Facilities

FORMAT FOR EVIDENCE OF ACCESS TO OR AVAILABILITY OF CASH FLOW

[To be given from a commercial bank duly approved/authorized by NRB]

Clause 4.5 (e) of Qualification of the Bidder under Section I –Instruction to Bidders

(1) AVAILABILITY OF CASH FLOW (WORKING CAPITAL)

To,
The Project Manager
Damak Municipality Office
Damak, Jhapa

This is to certify that M/s. _____ is a reputed company with a good financial standing.

If the contract for the works, namely _____ [funded by the World Bank] is awarded to the above firm, we shall be able to provide overdraft/credit facilities to the extent of Rs. equivalent _____ to meet their capital requirements for executing the above contract.

-- Sd. --

Name of Bank Manager

Senior Bank Manager

Address of the Bank

*** Change the text as follows for Joint venture:**

This is to certify that M/s. who has formed a JV with M/s. and M/s. for participating in this bid, is a reputed company with a good financial standing.

If the contract for the work, namely [funded by the World Bank] is awarded to the above Joint Venture, we shall be able to provide overdraft/credit facilities to the extent of Rs. to meet the working capital requirements for executing the above contract.

[This should be given by the JV members in proportion to their financial participation.]